

PATHOLOGICAL ALTRUISM AND PATHOLOGICAL REGULATION

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A concept recently developed by scholars in psychology and biology is “pathological altruism.” (Oakley 2013, Oakley et al. 2012). A pathological altruist is defined as “a person who sincerely engages in what he or she intends to be altruistic acts, but who harms the very person or group he or she is trying to help, often in unanticipated fashion; or harms others; or irrationally becomes a victim of his or her own altruistic actions.” (Oakley, Knafo, and McGrath 2012: 4). We may relate this concept to Buchanan’s Samaritan’s dilemma: Buchanan’s Samaritan is the altruist, and the pathology is that the recipient will be in the “no work” cell, so that the Samaritan becomes a victim of his own altruistic actions (Buchanan 1975).

So far as I know, this concept has not yet been used in economics. However, it can become an extremely useful tool for economists, and particularly public choice economists. This is because there are many public policies that are harmful in one or more of the senses above, and yet which are supported by well-meaning citizens and voters. The notion of pathological altruism is by no means a complete explanation for undesirable special interest legislation or regulation. However, it can be a valuable additional tool in the economist’s toolkit for explaining such legislation. This is because if an interest group can harness the altruistic beliefs of voters, it will be more successful in obtaining the benefits it desires. Because of voters’ limited

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attention and understanding, the actual act may be pathological in the sense defined above, and yet still appeal to voters. Voters are likely to pay attention to motives, not results, if there is a plausible connection between the policy and the goal.

Psychologists have developed many sources of pathological altruism and used it to explain many behaviors. Many of these are not directly relevant for economic analysis. However, one source that has been identified is simply error: “When people who feel empathy at witnessing another’s misfortunes falsely believe that they caused the other’s problems, or falsely believe that they have the means of to relieve the person of suffering, they have erred in their analysis of the situation” (O’Connor et al. 2012: 11). O’Connor et al. also relate this notion to guilt about inequality, where those with more wealth feel guilty with respect to those who have less (p. 16). They explain this guilt in evolutionary terms, arguing that in the evolutionary environment equality was an important social value. This is similar to arguments I have made elsewhere (Rubin 2002, 2003).

While Oakley et al. (2012) present many examples of pathological altruism for individuals in their day-to-day lives, one would expect the notion to be highly relevant for policy analysis. This is because of the standard notion of “rational ignorance.” If a policy can present a plausible altruistic justification, it generally does not pay for voters to further examine this basis. Moreover, policies are extremely difficult to analyze and even if voters desired to determine their effects, they would have a good deal of difficulty doing so. Knowledge of the effects of policies is not direct, but must be teased out of the data using statistical or econometric tools, and even then there is often disagreement among experts about the effects of policies. This disagreement is fueled by the incentives of participants in political debates to find or fund experts who will espouse their views. As a result, it would not be surprising if voters erroneously support counterproductive or pathologically altruistic policies.

The point is that policies need not actually benefit the purported beneficiaries. As long as a convincing story can be told about beneficiaries, the political process may adopt the policies. The notion of pathological altruism can be added to the public choice economist’s standard notion of rational ignorance to create a powerful new tool for analysis.

There is another potential benefit from applying the notion of pathological altruism to economic behavior. Scholars in fields such as

psychology and perhaps biology are generally more favorable disposed to regulation than are many economists. Many psychologists and others seem to already accept the notion of pathological altruism. One of the key papers was published in *Science* (Oakley 2013). If we economists can relate the notion of inefficient regulation to the notion of pathological altruism, we may be able to enlist some of these scholars in efforts to reform inefficient or undesirable regulation. Moreover, if we economists can point out that many regulations are a result of pathological altruistic processes, we may be able to gain allies in our attempts to eliminate inefficient regulations.

The Supply Side of Regulation

Since at least the important paper by Stigler (1971), economists studying regulation have focused on the demand side of regulation—that is, which industries have the political power to obtain the benefits of favorable regulation from the state. However, there is also a supply side. Certain forces make it easier for some industries to obtain regulation. In particular, there are characteristics of some industries that make it easier for the political process to regulate them. Understanding those characteristics will shed some light on the form of regulation for particular industries, and may also help suggest policies which can reduce inefficient regulation.

There are three fundamental political justifications for regulation: efficiency enhancement, altruism, and fear. Economists, of course, emphasize efficiency. However, efficiency does not have a large political constituency; most voters do not think in economic or efficiency terms (Rubin 2003, Caplan 2007). Indeed, even when there are efficiency justifications for some regulation (e.g., using antitrust to eliminate deadweight losses), political explanations are more likely to be in terms of altruistic redistribution—lowering prices for consumers (altruism), or taking away monopolists ill-gotten gains (fear). Since Stigler’s article economists have tended to treat justifications for regulation as a detail, and to concentrate on the power of various interest groups to achieve their goals. In this article, I argue that those altruistic justifications are more than a detail and can help us understand regulation, and perhaps improve it.

Virtually all special interest legislation is justified as some form of altruism towards some party. Humans are naturally altruistic in some circumstances (Rubin 2002). We are altruistic toward members of

our own group as a result of evolutionary pressures for kin selection. We are altruistic toward those who are less fortunate as a result of outside factors (but not because of shirking). We are also altruistic in circumstances where some assistance can help a person become productive again.

In some circumstances, humans are also prone to fear of dominants (Rubin 2003). If some party can be demonized as someone who wants to take unfair advantage of us, then it is easier to justify regulation. This is facilitated by our natural zero-sum thinking, so that profits made by the demonized industry or group can be viewed as having come from exploited consumers, rather than having been earned by increased productivity (which is not well understood by untrained people). The evolutionary environment was one of forced equality, with would-be dominants being punished (Rubin 2003, Boehm 2012).

It is necessary to tell some story about deservingness or about the danger of exploitation that makes the proposed regulation fit into one of these natural categories. However, we have very little intuitive understanding of efficiency (Rubin 2003). Politically it is much easier to justify some intervention if it can be cast in terms of benefits for some well-defined deserving group, or as protection from some other group, rather than as reducing deadweight loss or increasing efficiency.

Beneficiaries of Altruism

There are three basic types of altruism in relation to interest group legislation: (1) altruism toward members of the interest group, (2) altruism toward consumers of the product supplied by the interest group, and (3) altruism toward seemingly unrelated persons. I consider each.

Altruism toward Members of the Interest Group

Altruism may be aimed at members of the interest group if a case can be made that members are deserving of sympathy. As an example of altruism directed at suppliers, consider agriculture. The farm support program is unabashedly aimed at benefitting farmers. When the programs began, it was possible to speak about the family farm and the value of the virtues generated by family farms. “Supporters of farm subsidies have argued that such programs stabilize agricultural commodity markets, aid low-income farmers, raise unduly low

returns to farm investments, aid rural development, compensate for monopoly in farm input supply and farm marketing industries, help ensure national food security, offset farm subsidies provided by other countries, and provide various other services” (Summer 2008). The beneficiaries of those policies are then visualized as farmers who through no fault of their own are experiencing low incomes and therefore need assistance. Moreover, sometimes middlemen are blamed for low farm incomes, thus making use of the anti-exploitation branch of regulatory justifications.

Tariffs are also often presented as benefiting workers in the protected industry. Humans have no good intuitive understanding of the productivity of capital, as shown by the appeal of Marxism, so capital owners are not a good target for altruism, but displaced workers are, and this is often a selling point for protectionist measures. This altruism is strengthened when it is argued that a tariff is only needed for a short time, until the domestic industry can “catch up.” Moreover, in the case of tariffs and other import reducing activities, the natural tendencies of humans to aim altruism at members of their own group can be exploited to further advance the policies. This is also true of other policies, as when farmers are benefited because of alleged “unfair” foreign competition.

Consumers

Claims for consumer benefits are probably the most common altruistic justification for special interest legislation. Occupational licensing may be the most common form of protectionist legislation, and this is invariably justified as protecting consumers. Kleiner and Krueger (2009) show that licensing increases wages by about 14 percent, and that occupational licensing has been increasing, going from less than 5 percent of the U.S. labor force in the 1950s to 29 percent in 2008. Economic factors can explain much of the variation in which professions are licensed (Stigler 1971). Stigler’s factors explain the demand side of special interest regulation.

The ability to convince voters that protection is beneficial to consumers is a supply-side factor. The argument is that consumers will be harmed by incompetent (unlicensed) practitioners of some profession. Harmed or potentially harmed consumers are a natural target for altruistic beliefs. The more easily harms can be perceived by consumers and the more easily these harms can be described, the greater the willingness of consumers as voters to allow such regulation. For

example, much regulation is justified in terms of health and safety. Consumers can easily perceive the harms from incompetent medical practitioners or harmful drugs and so are willing and perhaps eager for such regulation. Much regulation is the result of some systemic malfunction, as when the FDA was given increased power as a result of the thalidomide disaster. The Type 2 error, the harm from lack of practitioners, is more difficult to explain or perceive. This may be because of consumers' zero-sum bias; they may not perceive that the number of practitioners can be influenced by regulatory variables.

Health and safety regulation can be justified as protecting consumers from careless or incompetent practitioners, such as physicians. However, regulation is sometimes justified as protecting consumers from those who would exploit them. A major theme in health regulation is that pharmaceutical companies are unscrupulous and would gleefully sell harmful drugs if only they were allowed to. Similar justifications are commonly used for financial regulation, where it is argued that financial firms or certain classes of lenders (e.g., "predatory" lenders) would harm consumers if they could, and only the government can protect consumers from this harm. This form of justification plays in part on humans' zero-sum thinking (Rubin 2003)—if drug firms or financial firms are making money, then it must be harming consumers. It also explains why politicians planning to regulate some industry will first spend resources criticizing this industry.

Seemingly Unrelated Third Parties

Finally, much special interest regulation is justified as benefitting seemingly unrelated parties. One form of such regulation that is well known is Bruce Yandle's (1983) famous "Bootleggers and Baptists" example, where sellers of illegal liquor form an informal alliance with religious persons who want to maintain the illegality of liquor sales on Sundays or with ministers who want to maintain their audiences and members.

Dudley and Brito (2012: 19) provide many examples of this phenomenon:

Modern-day stories of bootleggers and Baptists abound. Large biotechnology companies join with food safety activists to encourage stricter regulation of new foods involving genetic engineering, thus putting smaller competitors who cannot

afford the regulatory compliance costs at a disadvantage. Tobacco companies supported legislation that would have required cigarettes to receive FDA premarketing approval, which would make it harder for new brands to enter the market. Solar power manufacturers support regulation that inhibits the production of conventional, competing sources of power (oil, coal, and gas). Food and toy companies lobby for more regulation to ensure their products' safety, thereby keeping out foreign competitors that may not be able to demonstrate that their products meet the same standards. U.S. testing laboratories argue on safety grounds against European requests to permit manufacturers of low-risk workplace electrical products to self-certify compliance with regulations rather than subject them to third-party testing. Big box retailers with vast resources are the largest supporters of minimum wage laws that raise the costs of doing business for their mom-and-pop competitors.

Of course, unions are also supporters of minimum wages which make the cost of competitors (nonunion workers) more expensive. Traditionally, minimum wages have also had a geographic component, as northern high-wage workers wanted to disadvantage southern low-wage competitors. The justification, providing higher incomes to poor persons, is a natural form of altruism. An added justification is protecting workers from greedy employers who would exploit them by paying low wages.

In addition to minimum wages, there are other examples where interest groups sell policies as benefitting the poor. Food stamps are viewed as an antipoverty program, but food stamps must be used for American food and are administered by the Department of Agriculture—traditionally the source of benefits to agricultural interests, not to lower-income people. Various builders associations are great supporters of public housing.

Various environmental and green movements have spawned many “bootlegger-Baptist” alliances, in addition to those mentioned above. European food interests promulgated the label of “Franken foods” and lobbied for bans on genetically modified foods that competed with their more primitive technologies. Diaper delivery services claimed that disposable diapers clogged landfills. Some conservatives denigrate the notion of global warming because they believe it is a liberal ploy to generally increase government control of the economy. Of course, advocates of the dangers of global warming in conjunction

with producers of alternative energy sources demonize traditional energy producing firms. Municipalities impose bottle fees, ostensibly to reduce landfills usage, but also to increase revenues. Ackerman and Hassler (1981) documented the alliance between environmentalists and producers of high-sulfur coal. Ethanol was originally sold as an environmental benefit but actually benefits corn producers. In honor of ethanol, probably the most expensive such policy, I will call these “Green-Corn” alliances.

These are all examples of what I have called altruistic benefits for seemingly unrelated third parties. In many cases the third party does not actually gain, and most of these examples are socially inefficient. Therefore, these are all examples of pathological altruism.

Fear of Dominants

In addition to altruism, humans also have less desirable motivations. In particular, we are sometimes driven by fear of outsiders, or of excessive dominance by elites. Both of these emotions are based on our evolutionary history, in which there was more conflict than we like to admit. In some circumstances, voters can be made to fear some interest group, and this can be a justification for regulation. In recent times, President Obama has demonized the financial services industry in obtaining additional regulation of this industry. He has also recently attacked universities, and advocated pathologically altruistic policies that will lead to further increases in tuition.

Form of Benefits

If some special interest benefit is justified through an appeal to altruism, then this appeal determines the form of the benefit. Thus, the political justification for regulation is important in part because this justification determines the form of benefits. This explains why few benefits are in the form of direct cash transfers.

A major exception is agriculture. Here, the claim is that farmers’ incomes are too low, and so a direct transfer of income through increasing the prices of agricultural goods and buying up of surpluses is possible. To the extent that low-wage workers are the ostensible beneficiary of minimum wage laws, a direct increase in wages is also a feasible policy. However, note that in both cases the transfers are paid for by consumers who are forced to pay higher prices, not directly by taxation.

Regulation aimed at protecting consumers can take two forms, depending on the underlying purpose. If the purpose is to “protect” consumers from incompetent practitioners, then simple entry limitation can be successful. This may be in the form of testing or of educational requirements (or both) for entry into the industry. Once these are in place, there is little need for further regulation, and practitioner groups are sometimes criticized for inadequate policing of incompetent members who have gotten through the licensing process.

If the justification is to protect consumers from “exploitive” practitioners, then the process is much more complex. This explains why agencies such as the FDA and the SEC have developed large bureaucracies and complex sets of rules. Currently regulations are being written under the Dodd-Frank Act aimed at protecting consumers from evil financial firms; this followed a political effort to demonize Wall Street.

Of course, once these rules are in place, then members of the enforcing bureaucracy themselves become an interest group with an interest in continuing and increasing regulation (Niskanen 1971). Because these bureaucrats are the only people who understand the regulations, they are in a powerful position to lobby for them and explain why they are needed. Moreover, since they understand the workings of the bureaucracy and the rules enforced by the agencies they are in a position to leave the agency and make money in the private sector, helping firms deal with the regulatory thicket. (Disclosure: At one point in my career, after I left the FTC, I went to work for a consulting firm whose main business was dealing with the FTC regulatory process.) These former bureaucrats (lawyers, economists, and others) who assist firms in dealing with the regulatory agencies are then themselves another special interest group with an interest in maintaining the regulatory regime.

The most interesting cases are the seemingly unrelated third party cases. Since there are many forms of such third parties, there are many types of benefits generated. One form of benefit is to use the power of the government to increase the direct cost of a rival’s product, as do minimum wage laws. More common is using the power of the government to harass some rival, as by excessive regulation or an outright ban on the competing products (Salop and Scheffman 1983). This applies to many Green-Corn interferences, such as the Franken foods and diaper examples. Another example is mandated

purchases of some product (e.g., ethanol as a gasoline supplement, ostensibly for environmental reasons but actually to benefit corn growers). Regulation itself can be a method of increasing rivals' costs. Large firms have a comparative advantage in dealing with regulation since it imposes a fixed cost and thus disproportionately burdens smaller firms. For example, many large firms are advocates of increased privacy regulation, in part because this will make entry into Internet businesses more difficult (Rubin and Lenard 2011).

Policy Implications

If we realize that the altruistic justifications for regulation are an important component of the regulation itself and that much of this altruism is pathological, then there are possible arguments that can be made to reduce inefficient regulation. While cost-benefit analysis is an important tool for economists analyzing regulation, analysis of the political justifications for regulation may also be useful. If the goal of regulation is something other than efficiency, then showing that the regulation is inefficient may be politically irrelevant. If we want to criticize regulation, then it might be more effective to criticize it in terms of the stated purpose of the regulation. I consider each type.

Members of the Interest Group

If some regulation is specifically aimed at increasing incomes of the members of the group itself, then showing that it is inefficient is irrelevant. There are, however, arguments that can still be made. One is that members of the benefitted group are not particularly deserving. For example, showing that farmers who benefit from price supports are large corporate farms, rather than small family farms, is a useful (although not necessarily successful) tactic. Similarly, showing that a program harms another deserving group (e.g., families with children who consume milk) may be a useful tactic. It may also pay to borrow a trick from the pro-regulatory toolbox and demonize beneficiaries. "Big farms want to profit by making your children's milk more expensive." Of course, this creates the risk of demonization which could cause an overreaction and could lead to equally inefficient regulation on the other side. Another alternative is to calculate the cost to society of the benefits. Thus, it may be useful to calculate the cost per job saved of a tariff. For example, it has been calculated that a tariff on Chinese tires cost \$900,000 per U.S. job saved

(Hufbauer and Lowery 2012). If numbers such of these can be widely promulgated and understood, there may be some pressure to reduce regulation.

Consumers

Politically, it is difficult to argue against regulation aimed at protecting consumers, even if it is pathological and inefficient. Consumers place a high value on safety and are not willing to listen to arguments that a particular policy does not really add to safety. It may be helpful to show that policies are actually counterproductive. For example, Peltzman (1973, 1975) showed that drug safety regulation and auto safety regulation actually increased risk, and Rubin and Shepherd (2007) have shown that modern American tort law actually leads to increased deaths. Nonetheless, we still have inefficient drug and auto regulation, indicating that this approach may not be successful. However, modern tort law has been curtailed, in part perhaps by research showing its costs and inefficiencies. It may also be possible to show that there are better (i.e., more efficient) alternatives for achieving a particular goal. Thus, economists argue that a carbon tax is a more efficient way of reducing carbon consumption than the patchwork of laws and regulations now on the books.

Seemingly Unrelated Third Parties

This class of regulations will be particularly difficult to attack because the third parties are often politically powerful. For example, no one wants to attack Yandle's Baptist ministers. In today's world, attacking Greens will not get one very far. Thus, the politics of limiting inefficient Baptist-bootlegger or Green-Corn regulation will be delicate.

Perhaps the most politically relevant way of reducing this form of regulation is to point out the connections between the Baptists and the bootleggers. The secret to successful regulation of this sort is to hide the links. In Yandle's original example, the role of the bootleggers is hidden; the Baptists are the front men. Similarly, the corn producers are behind the scenes, and the environmentalists are visible. If citizens can be made aware of the behind-the-scenes manipulation, then there may be some possibility of defeating the regulation.

Conclusion

Scholars in psychology and biology have recently begun to understand that many policies sold as being altruistic are in fact harmful and “pathological.” In this article, I extend the notion of pathological altruism to economic regulation, and show that this concept can be applied to much inefficient regulation. This approach may be useful for several reasons, both theoretical and in terms of policy. First, it will help us understand some of the bases for regulation. Second, it may enable economists to enlist assistance from other scholars in attacking undesirable legislation. Third, by exploring the inefficient justifications for regulation, it may be possible to create politically useful counterarguments.

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