
Opinion

A Regulated Society? Irving Kristol

No reasonable person is *in principle* opposed to all government regulation. None of us wants to coat our walls with a paint that slowly poisons the air we breathe, just as none of us wants our kids to wear pajamas that have been treated with a carcinogenic chemical. It is true that, in theory, a free market can cope with problems such as these. The manufacturers of lead-free paint or Tris-free pajamas should simply be able to take the market away from the others. But this involves creating and disseminating to the entire population an enormous amount of accurate information (some of it highly technical) about a vast range of products—information, moreover, which changes rapidly. There really is no efficient way to achieve this. It is absurd to expect consumers to become experts in such matters, when most of them have neither the capability nor the time. They can compare prices easily enough, and can roughly compare the quality of competing items—but when “quality” involves fairly arcane scientific knowledge, the communications system represented by a free market breaks down, so far as the ordinary person is concerned.

It is for this reason that all nations regulate their medical professions at least to the degree of certifying who is a doctor and who is not. The assumption behind such regulation is that the consumer is in no position to make the certification decision for himself—as most of us know and freely admit. And it is for this same reason that the drug companies would be the first to oppose the idea that drugs should go completely unregulated. They fear, quite properly, that such havoc would be wreaked as

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to result, in the end, in a state-owned monopoly to protect the consumer against his own vulnerable ignorance.

So there is no argument about regulation in principle, and the polar distinction between the regulation of commercial transactions and the free market, so often heard, is not very meaningful in practice. Moreover, it is reasonable to expect that in a more densely populated society, consuming an ever-greater variety of technically sophisticated goods, there would be more regulation rather than less. People will want greater protection against their own incapacities as consumers. They will also, of course, want protection from the side effects (the “externalities”) of other people’s activities as producers, which now are observed to affect them to an ever-increasing degree. Such observations themselves are often the result of more sophisticated scientific inquiry, which uncovers externalities we were not previously aware of.

But the same complexities that give rise to more government regulation also make effective regulation a very difficult enterprise. The hard questions are: what kind of approach should be used, where, and to what degree—questions that merit sober, informed, and prudent judgment. And one may wonder: can such judgments be made by people who are eager, as many among us are, to use the regulatory mechanism as a lever for transforming the social and economic order as a whole? I have in mind the people—the “New Class” as they have come to be called—who do not, on balance, like a free, commercial society: that is, a society shaped by voluntary commercial transactions among consenting adults, in short, one whose central economic institution is the marketplace. They sincerely believe that a powerful government, in which they have positions of authority, can order things better. If one designates them, in a

short-hand way, as "Naderites," one would not be far off the mark.

I must be careful here, because I do not want to be understood as suggesting some nefarious, secret conspiracy to transform the American social and economic system. There is no such conspiracy—in large measure because there is no need for one. When we create a vast regulatory apparatus, with goals sanctioned by law and public opinion, we have also created a whole set of power centers to which people of the New Class naturally gravitate.

And here we must be candid as well as careful. Though officialdom will deny it—sometimes naively, sometimes not—it is a fact that most of those holding career jobs in EPA, OSHA, and other newer regulatory agencies have an ideological animus against the private economic sector.* This is a fact evident to anyone who has had any dealings with them, or who has ever had the opportunity to meet with them socially. They are not in those jobs because they could not find any others. Most of them, in truth, are sufficiently educated and intelligent to find better-paying jobs in the world of business. But they are not much interested in money. They are idealistic—that is, they are concerned with exercising power so as to create "a better world."

It is interesting to note that there is one subject toward which these intelligent people, with an above-normal intellectual curiosity, show a positive distaste—and that is the subject of economics. Ask them to contemplate the economic implications of their regulatory actions—in the form of economic impact statements, say—and they exude a cold hostility. Why? One explanation, frequently heard, is that they are merely displaying a bureaucratic distortion of vision. Having been given the mission of regulating, they resent the intrusion of any *modus operandi* that will distract them from doing this one thing that defines their role. This explanation is unsatisfactory. These "bureaucrats," far from being bureaucratically myopic, are full of opinions on many matters, and are really not much concerned

* The older regulatory agencies (the ICC, CAB, and so on) are in a different category altogether. They were born out of fear of monopoly, not a distrust of business enterprise per se. They have no ideological animus against business—though they tend to stifle competition, for fear of its leading eventually to monopoly.

about their futures in the bureaucracy or even about the future of the bureaucracy itself.

No, the plain fact is that these are people who are discontented—often in a vague and unfocused fashion—with modern technological civilization, and especially with the economic system that they see as the progenitor of this civilization. They are inclined to believe that a "planned" economic system would create a superior way of life for all Americans. They detest the individualism so characteristic of a free society, which is why they will speak so favorably of "mass transit" and "planned communities" and so contemptuously of the private automobile and "suburban sprawl." They also, therefore, have little use for private economic enterprise, and are utterly indifferent to the costs they load upon it.

Some critics have called these regulators elitist. The accusation never hits home because the members of this New Class are absolutely convinced that they are protecting "the people" against the iniquities of "the system." A better term might be "liberal paternalists," understanding "liberal" to mean something like what "social democratic" means in Europe.

But however labeled and defined, they are incontestably there, wielding an immense power that Congress is reluctant to check or balance. After all, what congressman wants to be publicly excoriated by a host of "experts" for spreading cancer among his constituents? In any case, the staffs of many congressmen—and of many congressional committees—are composed of these same people of the New Class.

Sooner or later, however, checks and balances will have to be provided, if we are not to slide into a regulated society, one in which the scope for individual decision-making (in our personal lives as well as in business) is increasingly narrowed. A vast net of paternalistic protectionism, cast over all of our activities, will lead to economic, social, and political tensions of the most grievous kind. Americans want reasonable regulation, but it is highly unlikely that they are so risk-averse as to wish to be protected against all possible risks, particularly if it means a radical dilution of their powers of self-government. We have never been that kind of people and it is hard to believe that our national character has changed so drastically over these past fifteen years.