

26. The Nanny State

Policymakers should

- respect the concept of personal responsibility when making public policy,
- respect Americans' right to make their own decisions about risk and vice and their consequences, and
- avoid the temptation to use government to "protect us from ourselves."

One of the more disturbing trends in government expansion over the last 30 years has been the collection of laws, regulations, and binding court decisions that make up the "nanny state." Those laws and regulations represent government at its most arrogant. Their message is clear: politicians and bureaucrats know more about how to live your life, manage your health, and raise your kids than you do. Former president Ronald Reagan once said: "Government exists to protect us from each other. Where government has gone beyond its limits is in deciding to protect us from ourselves." Today's policymakers would do well to heed Reagan's words.

Unfortunately, they haven't. Lawmakers at all levels of government have shown increasing contempt for personal responsibility and an increasing tendency to employ the power of the state to influence behavior. Government today pressures us to avoid risks, even risks that many of us knowingly and willingly take. There seems to be a consensus among nanny-statists that, with enough public service announcements, awareness campaigns, and social engineering efforts, Americans will start behaving as the nanny-statists want them to.

The largest, most expensive, and most obvious example of government-as-nanny is America's failed drug war. Though drug use directly harms no one but drug users, we continue to prohibit certain drugs, either because

policymakers believe government should protect users from themselves or because they believe drug use has detrimental effects on society at large, or on the “public health.”

Of course, the detrimental effects of drug use largely arise precisely *because* of government interference. It isn't drug use itself that has turned inner cities into war zones; it is the *prohibition* of drug use, which makes selling banned drugs quite lucrative and thus an attractive investment for the criminal element and an attractive lifestyle for people with few prospects. The same could be said about drug abuse's affect on the health care system. If each of us were solely responsible for our own health care, only drug users would bear the consequences of their habits. It is only because we have a quasi-public health care system that the costs of drug abuse are passed on to the rest of the population.

The same philosophy that entrenched the government in the drug war has allowed ensuing nanny-state endeavors to blossom. Once we're comfortable with government control over what pharmaceuticals we're permitted to put into our bodies, the case for restrictions, regulations, and controls on tobacco and alcohol isn't difficult to make. And from there, government can cite, and has cited, the “public health” effects of obesity as reason to extend its tentacles into our refrigerators and onto our dinner plates. In fact, once policymakers have bought the notion of a “public health” in need of protection and nurturing by government, they can be comfortable giving the state pervasive control over nearly every facet of our lives—from mandating that we wear our seatbelts, to telling us what risks we should allow our children to take, to telling us what foods we should eat and how much and how often we should eat them.

Just a few examples of the growing nanny state:

- Every state but one now requires motorists to wear seatbelts.
- All but three states now require some or all motorcycle riders to wear helmets.
- After hundreds of years of use by humans, the federal government banned the stimulant ephedra in 2004. Despite widespread use, ephedra has been loosely connected to only about a hundred deaths (a recent RAND study has implicated it in only two).
- The Reason Public Policy Institute has compiled a list of products and activities that have recently been banned by local, state, or federal government. It includes sex toys, nude dancing, strip clubs, beer advertisements, snowmobiles, all-terrain vehicles, “pocket bikes,” motor scooters, exotic pets, and smoking in public places.

- In 2000 the Consumer Product Safety Commission proposed banning a type of bath seat for infants, not because the product wasn't safe, but because it was *too* safe, which CPSC argued could lull parents into a false sense of security.
- The National Transportation Safety Board has suggested that parents be required to buy extra airplane tickets for infants and that infants be secured in child safety seats, despite the fact that NTSB could identify only three cases in the last 20 years in which obeying such a rule might have saved an infant's life. The cost of an extra ticket might also persuade a parent to drive, which is more dangerous than flying.

The list goes on. There seems to be no sphere of life in regard to which government doesn't have an opinion about how we should live and doesn't feel obligated to help us live correctly—through excise taxes, tax breaks, regulation, restrictions on advertising, zoning laws, or outright prohibition.

Today we have well-funded, well-staffed federal agencies whose sole mission is to discourage Americans from using alcohol and tobacco. Implementing or raising existing excise taxes on both alcohol and cigarettes is again gaining favor in state legislatures, particularly in states facing a budget crunch. In 2004 the U.S. Department of Justice pressed charges against two California pornography producers and has publicly said it plans to press charges against others. Since 2000 DOJ has also aggressively pursued online gambling companies, going so far as to threaten credit card companies, online payment services such as Paypal, and advertisers with prosecution if they do business with gaming websites. Federal prosecutors have also recently stepped up efforts to enforce laws against prostitution, medical marijuana, prescription pain medication, and physician-assisted suicide—all crimes that take no victims.

The nanny state's latest crusade makes Americans even more intimate with their government, bringing the state to our mouths, frying pans, and waistlines. Responding to a rash of media reports announcing that Americans, and American children in particular, are getting heavy, nanny-statists have called for a host of new government programs, regulations, and measures intended to persuade, encourage, or outright coerce Americans to eat properly and exercise regularly. Some of those measures are relatively innocuous, such as government-sponsored "public awareness" campaigns. Others are more troubling, including "fat taxes" on calorie-dense foods, class action litigation against food producers, and restrictions on portion sizes in restaurants. And the most costly obesity-related proposal was

never voted on by lawmakers at all. Medicare's recent decision to consider covering obesity treatments could mean that U.S. taxpayers will be asked to pay for the diet plans, nutritional counseling, and even "stomach-stapling" surgery of as many as 20–25 million people, a number that could double if Medicaid follows Medicare's lead.

The nanny state mindset extends across partisan lines. Vice President Al Gore once said that government shouldn't oversee our lives but should be "more like grandparents in the sense that grandparents perform a nurturing role." Though President Bush has at least intimated a desire to give Americans more control over their own lives, he has offered little in the way of actual policy. Andrew Card, his chief of staff, has said that President Bush "sees America as we think about a 10-year-old child." Despite his advocacy of an "ownership society," the president devoted more time in his 2004 State of the Union address to fighting steroids than he did, for example, to giving Americans ownership of their Social Security contributions.

Lawmakers should respect Americans' control over their own lives. We need to rethink the idea of "public health," so that it encompasses only serious threats to public safety, threats such as deadly diseases or chemical or biological terrorism—threats to which no one would willingly expose himself.

Individual Americans will make better decisions about risk and lifestyle when they and they alone bear the consequences of those decisions. Of course, what makes a good or bad decision is subjective, which is precisely why personal decisions should be beyond the purview of government. More fundamentally, what we eat, drink, or otherwise put into our bodies; what we do with our bodies; the people we choose to sleep with and how we choose to sleep with them; and what health, financial, or safety risks we elect to take simply are not legitimate concerns of the state. Once government simply leaves Americans alone on these matters, responsibility for decisions about risk and vice and their consequences becomes limited to individual Americans. It's only when government gets involved that the costs of risk are dispersed across the rest of the public.

It's time to roll back the nanny state. Policymakers should let Americans live their lives as they please, so long as they do not harm anyone else. They should heed former president Reagan's words and concentrate on protecting Americans from terrorists and criminals instead of wasting time, money, and resources on protecting Americans from themselves.

Suggested Readings

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- _____. "Obesity and Medicare." Cato Institute Daily Commentary, July 17, 2004.
- Sullivan, Andrew. "The Nanny in Chief." *Time*, February 2, 2004.
- Volokh, Eugene. "Obscenity Crackdown: What Will the Next Step Be?" Cato Institute TechKnowledge, April 12, 2004.

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