

In Defence of Regulation

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Structure

1. Background
2. Arguments Against Regulation
3. Arguments for Regulation

1. Background

- Dominant view: anti-regulation
- ‘Red tape’
- ‘Bonfire’ of regulations

1. Anti-Regulation & Bioethics

- Reproductive Ethics
- Research Ethics
- Public Health Ethics

2. Three Arguments Against Regulation

2a. Anti-Regulation

- *Argument 1: Regulation is wrong because it constrains innovation*
 - Assumes that innovation is the single relevant desired end
 - Assumes that innovation is intrinsically valuable (?)
 - Is the empirical premise true?

2b. Anti-Regulation

- *Argument 2: Regulation is wrong because it entails restrictions to autonomy/liberty*
 - Assumes that autonomy/liberty is the only or the most important value
 - Liberal or Libertarian? Pluralism?
 - Anti-paternalism?
 - LRA?

‘Intervention Ladder’ NCoB (2007)

Eliminate Choice

Restrict Choice

Guide Choice through Disincentives

Guide Choice through Incentives

Guide Choice through Changing the Default Policy

Enable Choice

Provide Information

Do Nothing or simply Monitor the Situation

2c. Anti-Regulation

- *Argument 3: Regulation is intrinsically a bad thing*
 - If this is successful – it's a powerful argument
 - However, hard to see how it works
 - Is there no single case where regulation produces good outcomes?
 - Can regulation not be neutral?

3. Two Arguments in Support of Regulation

3a. Arguments in Support

- *Argument 1: We have plural interests and regulation is one way to protect and promote them (in a balanced way)*
- Innovation is important – but there are other relevant considerations in life.
- We need to count everything relevant.
- Regulation can ensure other things get counted and weighed.

3b. Arguments in Support

- *Argument 2: Regulation is one means for the state to fulfill its duty to ensure that all citizens have flourishing lives*
- The state cannot be 'neutral'
- Nor should it. Why?

3b. Arguments in Support

1. *It is a myth that humans are perfect and rational consumers of information able to always look after their own interests*
 - Power imbalances
 - Epistemic imbalances
- Particularly good reasons for caution with new technologies:
 - Evidence base low
 - Hype
 - The fallacy of the new

3b. Arguments in Support

2. The state can provide the most efficient means of protecting and promoting relevant interests

- Many of our interests are collective interests
e.g. Monitoring harms across a population -
pharmacovigilance
- Can *act* to balance different relevant interests
- Role for both relevant expertise and
democratic engagement/oversight

Conclusions

- An anti-regulation position is surprisingly difficult to defend
- Regulation is one way for the state to protect & promote the interests of citizens – and thereby fulfil one of its key obligations
- Key issues are:
 - Which interests should we protect & promote?
 - Which regulations are effective?

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