



Unarmed bandits

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Extracting rents from the general population by gaining the ear of the state is to the detriment of the large mass of consumers/taxpayers.

In Medieval times, when the king's authority did not extend much beyond his larger cities, well-organized bands of robbers would prey on travellers. If the "Canterbury Tales" are to be believed, travellers would try to group together, travel in convoy, and pay for some collective protection, but highway robbery on lonely country roads was a constant problem until the mid eighteenth century, and sometimes even beyond. One could say that in those distant times, the sovereign, whether he liked it or not, was in fact forced to share his authority with other armed bandits. Only by the nineteenth century did the state begin to enjoy what Max Weber called "the monopoly of violence".

"Protection from Market Forces"

Today, however, unarmed bandits roam freely in advanced democratic societies, robbing the population and sharing power with the sovereign. I refer, of course, to lobbies and special interest groups who extract rents from the general population by gaining the ear of the state and obtaining some kind of privilege, tax benefit or favourable regulation, which can be summarized under the general heading of "protection from market forces".

"Protection from market forces" can be extremely valuable. One does not need a perfect monopoly. A captive, protected market, with barriers to entry, will do very well. For example, some years ago, the industrial cheese lobby tried to forbid the sale of unpasteurised cheese in the European Union in the name of consumer protection. Thousands of small producers would have been put out of business, their competitive pressure eliminated from the market. Thanks to their efforts, the love of the French for their traditional cheeses and — perhaps — the media coverage given to the intercession of the heir to the British throne, this attempt to bring "order" and "safety" to the cheese market failed. Another example: in France, only accredited firms with appropriately trained personnel may change light bulbs in municipal street-lamps over 5 metres high. In 2006 the European Union is putting the finishing touches to "REACH", a Directive aiming at the comprehensive regulation of the chemical industry in the name of protecting consumers and workers, and which will ban many products or make them expensive to use. Only large chemical firms will survive this new regulatory environment.

A constant flow of regulation is introduced, nominally to protect people, animals, or the environment, from danger. However, the political process by which protection from danger becomes a regulation is rapidly "captured" by interested suppliers, who can see profit opportunities in the new artificial market thus created. Once this artificial market is created, it attracts people and resources, which in turn become powerful lobbyists in favour of perpetuating it. This is known as "rent-seeking" and is the subject of much academic research and debate.

The oldest form of rent-seeking is protection from foreign competition, of which there are many examples. The EU has been stopping the import of cheap Chinese clothing since 2005, using the WTO's anti-dumping provisions. The United States has done the same against steel imports. For years, both the EU and the USA imposed "voluntary" export restrictions on Japanese automobiles, and despite many promises made during the Uruguay Round, one suspects that they have not yet entirely disappeared.

Producers' versus Consumers' Interests

All these measures are to the advantage of a few producers, and to the detriment of the large mass of consumers/taxpayers. Economic analysis suggests that the net effect for society as a whole is negative — the gain to the producers is more than offset by the loss to consumers. So why do governments, time and again, give in to producer interests? Why do they not protect the consumers' interests, since they are a majority?

James Buchanan and Gordon Tullock have given us the answer. These scholars founded the public choice school in economics in the 1960s. They were the first to view government as a utility maximising actor in its own right in the economic sphere, with a utility function of its own, distinct from "the general interest". Their main finding was that in matters of public choice, decisions taken by the state suffer from an inherent asymmetry. Governments have nothing of their own to give away. In order to give to Paul, they must first take from Peter. So, according to the public choice school, governments tend to give concentrated benefits to the few, paid for by spreading the cost over the many. As a result, the beneficiaries are happy, and are duly grateful, while the victims are not even aware that a privilege has been granted. The government thus earns political support and improves its chances of re-election at little or no cost. This explains very neatly why governments adopt policies which simple economics can show are detrimental to the general interest.

The trouble with this game is that it is not static. Mancur Olson has pointed out that if a government does this once, there is no reason for it not to do it again, further enhancing its chances of re-election. On the other side, the more some special interest groups gain from lobbying the government, the more they will repeat the game, and other groups will spot this and try to do the same. After a while, according to Olson, firms become more and more involved in the game of redistribution, and less and less engaged in the game of wealth creation. The whole society begins to decline, and only a major shock to the system, like military defeat or revolution, can break up the established groups that have latched on to the body of society, slowly draining its economic life away.

Hayek was also concerned with this problem: "many of the pretending defenders of "free enterprise" are in fact defenders of privileges and advocates of government activity in their favour rather than opponents of all privilege." Hayek was also convinced that there was no hope of a return to a freer system "until the leaders of the movement against state control are prepared first to impose upon themselves that discipline of a competitive market which they ask the masses to accept." Since he saw no realistic prospect of this happening, no solution to the problem was offered.

Much later, Hayek returned to the issue. His proposed solution was a constitutional change involving two elected chambers with distinct tasks, one devoted to law-making, the other devoted to legitimizing the executive, in order to cut the link between these two functions of government and make it impossible for the executive to create special laws and privileges in order to buy political support. No

one has taken this idea up, because it is too strange and too far removed from current practice, but it is a measure of Hayek's despair at finding a solution to the problem of capture of the state by special interest groups within existing models of democracy.

Another scholar who has addressed this problem is Anthony de Jasay. According to him, the state will adopt various strategies, depending on circumstance, in order to maximize its discretionary power. The state has three ways of achieving political obedience from the public: repression, legitimacy and consent. Legitimacy is not within the power of the state to elicit at will. The state is either legitimate in the eyes of the people, and they will obey — or it is not, and they will not. Legitimacy having probably died out with the divine right of kings and other priestly devices, modern states are “reduced to various combinations of repression and consent”. The modern democratic state resorts to consent rather than repression, but consent has to be constantly “bought” by giving in to the demands of powerful pressure groups. The state is thus forced to share power with rent-seeking bandits, just as in the middle ages... De Jasay's pessimistic conclusion is that democratic governments will be pushed inexorably towards repression, in order to escape capture by the bandits themselves...

Conclusion

We have presented three philosophers who have struggled with this problem. Olson thinks that only a violent and traumatic shock can shake established power groups; Hayek looks for a radically new constitutional approach; and de Jasay sees no solution, only an end to democracy. For my own part, I hope that these thinkers are erring on the side of pessimism. Special interests have not yet managed to stop the process of change. As countervailing forces, we could cite open world markets, free capital movements, substantial migratory flows, emerging economies and a constant flow of new ideas and technologies. Revolutionary ideas about human rights are spreading fast - the internet makes the life of a dictator very difficult these days. All these change the established distributional equilibrium, challenge existing power centres and open up opportunities for new entrants. Conversely, were liberal democracies to vote themselves into economic self-sufficiency, we might indeed have to face the prospect of economic decline at best, or totalitarianism at worst.

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