George Mason University

WHITHER PROHIBITION? THE POLITICAL ECONOMY OF FORBIDDING THE EXCHANGE OF GOODS AND SERVICES
FOR DOCTORAL DEGREE

Student's Name: Nicholas A. Snow Date: May 24, 2011

Department/Program: Department of Economics / PhD Program

Degree: PhD in Economics

Tentative Title: Whither Prohibition? The Political Economy of Forbidding the Exchange of Goods and Services

Committee Members: Dr. Peter J. Boettke, Dr. Christopher J. Coyne, Dr. Peter T. Leeson

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Whither Prohibition? The Political Economy of Forbidding the Exchange of Goods and Services

Dissertation Proposal

Nicholas A. Snow

22 May 2011

> Prohibitory measures, besides affecting the pockets of the consumers, often subject them to severe privations.
>
> –Jean Baptiste Say (2001 [1836], 164).

> Those who have offended against the laws regulating prices have been heavily punished; their property has been confiscated, they themselves have been incarcerated, tortured, put to death. The agents of etatism have certainly not been lacking in zeal and energy. But, for all this, economic affairs cannot be kept going by magistrates and policemen.
>
> –Ludwig von Mises (1981 [1912], 166).

Introduction

My dissertation is devoted to the exploration of political economy issues of the prohibition of goods and services. In the first essay, I analyze the issues of prohibition enforcement created by the discovery process. I use evidence from three different prohibitions, Calico in France from 1686 to 1759, alcohol prohibition in the US from 1920 to 1933, and the current on going drug war in the United States. The second essay analyzes the different mechanisms used in the smuggling of liquor along the Atlantic coast during the 1920s experiment with alcohol prohibition in the United States to deal with the problem of violence and facilitate trade. In the third essay I argue that the origins of the Judaic taboo on pigs stems from ancient Egypt as a means of state formation. The ancient Egyptians utilized the totemic beliefs of people to impose a social prohibition upon the pig in favor of other livestock in order to help supply the needs of cities.

First Essay – The Perils of Prohibition Enforcement: A Market Process Approach

This essay applies the Austrian theories of the market process (Kirzner 1985) and interventionism (Mises 1998; Ikeda 2005) to the enforcement of prohibitions. I will examine how the discovery process, under the prohibition, affects the enforcement of the prohibition. I use three historical cases studies to illustrate the dynamic effects that make the effective enforcement of prohibition difficult.

Most investigations into prohibitions from economists and other social scientists have been empirical investigations and/or cost-benefit analyses (see for example Warburton 1932; Miron and Zwiebel 1991; 1995; Miron 2001). Theory has received less attention. A few exceptions have been Warburton (1932) and Thornton (1991). Warburton (1932) concentrates on the economic effects on alcohol during alcohol prohibition in the United States in the 1920s, such as the effects on potency and quality but does not provide a general theory.

Thornton (1991) builds upon Warburton's theory by concentrating more on the dynamic effects prohibition has, as well as focusing some on the political economy issues prohibition creates. He applies the market process approach as developed by Mises (1996 [1929]; 1981 [1936]; 2007 [1949]), Hayek (1937, 1945), and Kirzner (1973, 1985). Thornton argues the enforcement of prohibition is impossible to achieve "because the unintended consequences of prohibition itself preclude any benefits" (1991, 3).

This paper will build from Thornton's work to construct a better understanding of the difficulties of enforcing prohibitions by building off the work of Ikeda (2005) and Kirzner (1985). Interventionism is an unstable system. Government interventions into the market have a tendency to lead to further interventions (Mises 1952; Buchanan and Tullock 1965; Ikeda 2005). Buchanan (1986) even shows how within the democratic process prohibitions tend to lead to the prohibition of more and more goods and services. Very little has been done in regards to the amount of enforcement necessary to prohibit these goods and services, particularly in regards to the discovery process of the market.

Kirzner (1985) points to four ways that interventions into the market can affect the discovery process of the market; the undiscovered, unsimulated, stifled, and wholly superfluous discovery processes. Kirzner was able to show is that the knowledge problems highlighted by Mises (1981 [1936]; 1990 [1920]) and Hayek (1937; 1945) in the social calculation debate still greatly affect attempts at interventions into the market. Regulations hide the ability of bureaucracies to see discoveries the market was likely to find, they are unable to replicate the markets process, lowers incentives to discover, and create incentives for other to use resources to work around the regulations.

Bureaucracies are inherently inefficient at achieving the stated policy goals (see for example Mises 1969 [1944], Tolluck 2005). The market has been stifled and thus cannot address the social issue. Thus, bureaucracies make the case that more resources are needed for them to fight the problem.

In this paper I will examine further how the discovery process helps increase the level of enforcement by briefly examining three historical cases studies, the prohibition of calicoes in France in the 17th and 18th century, alcohol in the United States in the 1920s, and the current drug war in the United States.

The importation of calico, a printed textile similar to cotton, was prohibited in the 1680s in France (see Heckscher 1935; Cole 1971). The prohibition occurred as a part of Jean Baptise Colbert's mercantilist policies. It was meant to protect the wool and silk industries of France. Difficulties in the enforcement of the law led to the increased interventionism as predicted by the interventionism models. France had to strengthen the law to prohibition of manufacture and finally even the ownership of calicoes by the French people. The results were startling. French officials constructed a large spy network and even peered into stagecoaches and homes (Cole 1971). Over the course of the prohibition that ended in mid-1700s it is estimated that 16,000 people were killed in either executions or raids (Heckscher 1935).

Alcohol prohibition had similar problems of enforcement and fits the bureaucratic problems illustrated by the theory. The treasury department was put in charge of enforcement. The two of the most famous and successful prohibition agents were only on the job a short time. Many speculate they were let go for doing their job too well (Coffey 1975). The treasury department was more characterized by corruption and other public choice issues but the discovery process problems are also very important. Rum row, where liquor was smuggled into the country along the Atlantic Coast, was a problem up until the coast guard upped enforcement. They spent $250 million in initial outlays, which in today's dollars is about $3 billion, and increased the size of the coast guard from 7,000 men to 25,000 men (Time Magazine 1925). While this did shut down rum row it did not stop the importation of liquor. The wholly superfluous discovery process produced new and different profit opportunities, moving the smuggling to Detroit where 75% of all liquor was imported into the US during prohibition (Engelmann 1979).

Other examples will be used from the drug war to give more of a modern importance for this. The point being is that the discovery process under prohibition is distorted so that in order to effectively enforce prohibition the government must grow in both size and scope, making most prohibitions incompatible with a free society.

Second Essay – Rum Row and the Plunder Problem

This essay analyzes how the market for smuggling illegal liquor along the Atlantic coast during alcohol prohibition in the 1920s, commonly referred to as 'Rum Row,' was able to foster exchange despite the absence of formal enforcement. Most economists hold that a centralized legal system is a necessary condition in order to create a viable market and limit violence (see for example Azam 2001; Besley 2006; Buchanan 1975; North 1981; North 1990; North, Wallis, and Weingast, 2006; and North and Thomas 1973). Rum Row however was outside the law in two respects. Boats in international waters, known as mother ships that acted as floating liquor stores, had no formal authority to turn in cases of conflict and smaller speed boats within US waters actively violated US law by participating within the market. Thus, participation within the market was a criminal activity and not only lacked formal enforcement but also needed to be conducted in as much secrecy as possible, and as Ostrom (1997) noted, this breeds corruption and conflict. Despite these drawback rumrunners developed several mechanisms to foster exchange and minimize conflict; the two main mechanisms being the use of vertical integration (Barzel 1982; 2002) and the use of credit (Leeson 2007).

The overall structure of the market is important to note. First, there existed an open supply chain. Liquor could be freely and legally purchased in Europe, mostly whiskey from England and Scotland, and have it shipped to be warehoused somewhere in the Caribbean, usually Nassau in the Bahamas. Large boats would then ship the liquor up just off US waters all along Atlantic coast where smaller, and faster, boats would come to smuggle the liquor onto American soil. In the early days were the costs of entry were very low, all anyone needed was a boat that could hold liquor. And, of course, many took advantage due to the major profits that could be made. As a result the market was filled with many individuals operating separately in each stage of the smuggling process (Carse 1959; Okrent 2010).

Two main factors significantly raised the cost of entry into the market. First, with the profits from legitimately smuggling liquor rose, so too did the profits from hijacking those who operated in the trade. Second, international waters was extended from three miles to 12 miles making the running of the liquor to shore much more difficult. Both of these aspects had the effect of making the necessary physical and human capital much higher to participate within the trade. More guns and better and faster boats were needed to compete on the market in order for individuals to protect themselves from aggressors and authorities. Given these problems armatures were pushed out because individuals needed skills in avoiding capture and in dealing with the potential threats from hijackers. This has the effect of creating a situation for colluding, as explained by Leeson and Rogers (2010), however, collusion did not occur along Rum Row. There were dozens of firms, often referred to as syndicates, that operated along Rum Row but competition still remained. What changed were the economies of scale and concentration within the market. As Time Magazine (1925) reported that the average price of a case at Rum Row remained between $20 and $25 from 1921 to 1925. If collusion was occurring prices should have risen during this period.

Barzel (1982; 2002) points out that one way transactions can take place absent non-state-enforced exchange is by vertically integrating as a form of organization. Within the black market it is sometimes difficult to stipulate the quantity and quality of the liquor transactors with to exchange, making exchange more expensive. Operating independently from each other, as was done on Rum Row, increases the likelihood of disputes and violent responses. Vertical integration, however, brings each transactor within the market into a single firm. This allows exchanges to be carried out while largely avoiding disputes between themselves. When disputes do arise they can now be solved economically within the organization. Vertical integration means that each transactor is not full residual claimant to their actions and is less likely fall into disputes over the less well-defined possibilities that may occur.

Further the use of vertical integration allows the residual claim of the organization to enforce the relationship between employees thus further minimizing the possibility of violent disputes between employees. This also reduces the incentives each individual has to appropriate rents (see for example, Williamson 1975; Klein, Crawford, and Alchian 1979), in this case violently.

Higher concentration also has the advantage of being able to better meet the higher physical capital needs created by the hijacking problem. By pooling resources organizations were more equipped to deal with the potential problems arising from the trade, while small organizations and individuals, which dominated the early days on Rum Row, were simply incapable and unable to afford the necessary capital.

The rise of hijackers, known as the go-through guys, along Rom Row creates another issue. In the absence of formal state enforcement it becomes cheaper for those with superior strength to simply violently steal what they desire from the weaker participants on the market. This occurred in greater and greater numbers as prohibition went on, however, rumrunners eventually developed mechanisms to deal with this. Just as Leeson (2007) found with Africans trading with European bandits in pre-colonial times, rumrunners developed a system of credit by completely removing money from the process.

Again in the early days, rumrunners would hold massive amounts of cash while participating in the market. This was a heavy risk as capture from the Coast Guard as well as threats from hijackers would mean losing it completely. In order eliminate this risk and minimize the losses to such possibilities rumrunners started removing cash from the transaction completely. For a guide and model it used a method used in the early days of the Bank of England to identify its patrons by matching notched sticks with them. Rum Row started using identification cards as a means of credit (see for example see, Young 1924; Barbican 2007 [1928]; Moray 2007 [1929]; and Okrent 2010). It's a playing card, or sometimes a dollar, and cuts it in half in a sort of jigsaw puzzle manner. One half of the card remains on a mother ship and the other is sold ashore. Each card had its own pattern and commanded a certain number of cases, usually between 25 and 1,000. Each sale had its own particular design. Some even used more elaborate methods, such as the use of invisible ink to number the cards. One syndicate used only green cards.

If captured by the Coast Guard and half the card was returned then he could return the card for a full refund or still collect his cases of liquor. If the Coast Guard kept it then he had to bear the loss. Many rumrunners even started using these playing cards as tradable currency. While it did not eliminate the threat of hijackings it did raise the costs. If stolen the hijackers had to know were the redeem the card for either cases of liquor or for a refund of cash.

In using these mechanism rumrunners were able to foster exchange and minimize conflict within the market for imported liquor during prohibition. While far from perfect the market was a very high functioning, which made the enforcement of prohibition that much more difficult.

Third Essay – They are Unclean to You: An Economic Analysis of the Origins of Pig Prohibition

Attempts to scientifically explain the origins of pig prohibition within Judaism go back as far as the ancient Greeks. Modern attempts essentially fall within three categories, namely the purely religious, attempts to establish a separate holy and supernatural world, and materialist explanations (Lobban 1994). This paper builds upon Lobban's (1994) theory of Israeli pig prohibition as originating in ancient Egypt as a means of state formation by providing a rational choice explanation missing from Lobban's analysis.

Several religious explanations have been put forth, with the simplest argument that God revealed the taboo to his prophets, as revealed in the Old Testament (Torah) book Leviticus, and no further discussion is necessary. Douglas (1966, 41-57), however, identifies, and then criticizes, three more elaborate and thoughtful explanations. The first rationalization is that the taboo is arbitrary but has the purpose of instilling discipline and unity within the religion. The second proposes that the taboo acts as an allegory of opposing forces, good/evil and right/wrong, in order to provide followers with guidance on how to live their lives. And finally the third acts as a signaling mechanism for inter-group identities. While some of these may help to, at least partly, explain the persistence of the taboo, the consensus within the debate is that they fail to explain its origins.

Douglas's (1966) own explanation was that the taboo exists in order to create a holy and supernatural world separate from the one here. Essentially, the dietary taboo is established as part of an effort to ensure an orderly and "holy" world. Douglas, however, ended up abandoning this view and most scholars have rejected it. In essence this is a circular argument because the divine revelations of the taboo exist to prove a supernatural world.

The materialist explanation attempts to provide rational and practical reasons for the taboo and dates back to 1186 A.D. with Maimonides (1904), a physician to Sultan Saldin. Maimonides attempted to explain the taboo by exploring the health and disease reasoning as means for public health. The trouble was that Maimonides did not, and most likely could not given the limited understanding at the time, explain fully why pigs were unhealthy. More recently, Harris (1989 [1974]) built upon Maimonides by explaining the origin as an ecological strategy. He believed the nomadic Israelites could not raise pigs in their arid habitats and to do so would make them more of a threat than a benefit.

Harris's explanation, however, has been successfully challenged within the literature and is considered to be insufficient as an explanation, particularly by Diener and Robkin (1978). Instead Diener and Robkin (1978) suggest a theory of state formation as a reason for Islamic pig prohibition. Their explanation, however, is meant as a suggestion for future research and provides questionable evidence. Many, such as Lobban (1994), question the starting point of Islam and suggest the origins of the taboo date from ancient Egypt. Although, this paper will argue that Islam adapted the Jewish taboo for similar reasons.

This paper will build off of Lobban's (1994) hypothesis of the Egyptian origins of the Mosaic taboo against pigs. This theory has been accepted for many years (see also, Murdock 1959, 19; Zeuner 1963, 262). Lobban (1994, 72) attributes state formation in ancient Egypt to a complex process of ecological formation, livestock competition, methodological evolution, and territorial conquest. Thus Lobban's analysis is multidisciplinary but the multiple explanations seem to be distinct and separate. My analysis will build off of Lobban's by providing rational and public choice explanations for the ecological changes along the Nile and pressure for livestock competition, which the taboo on pigs helped foster.

Pig prohibition in ancient Egypt was different from modern prohibitions, such as the drug war, in that it was achieved through the creation of a taboo, or social prohibition rather than through force. It was essentially a shift in demand rather than supply. The mechanism used is the belief structure of individuals at the time. Pigs were a totemic symbol for the god Set (sometimes known as Seth) who was a symbol of the delta region of what became the lower kingdom. When the upper kingdom, represented by the falcon-god Horus (and was represented by all subsequent Pharaohs), conquered the delta this started a transformation of the status of the pig to indifference to avoidance to limited prohibition and finally to a taboo.

This taboo was encouraged by the leaders of the upper kingdom to strengthen and expand their rule. As Carneiro (1970) points out, warfare is a necessary but not sufficient condition for state formation. Other conditions are necessary to accompany warfare for the rise of the state. Carneiro recognizes four conditions that were typical of many of the early states to form, which the Nile region was an example, namely environmental circumscription (agriculture needed to occur along the Nile), political evolution, resource concentration, and social circumscription. I will argue that the pig was a danger to many of these conditions and thus was necessary for the ruling elite to favor other animals such as cows and sheep.

Lobban (1989) addressed the important role cattle played in the rise of the Egyptian state. The role of cities led to a higher demand for cattle, which was often achieved through raids and taxes to the south, or the lower kingdom. Cattle raising also required a need for new types of irrigation to grow fodder for cattle, which needed to be concentrated along the Nile. This type of irrigation made the collection of taxes easier, making social circumscription and the establishment of administrations possible. The raising of pigs on the other hand, allowed a level autonomy, which made the formation of a state much more difficult. Thus, the religious taboo set against the pig played an important role in reducing the domestication of pigs in favor of cattle allowing for a stronger central state to form.

The Jews then adopted this Taboo at the time Moses helped them escape slavery. Similarly a similar story can be told with the rise of Islam and their adaptation of the pig taboo, as described by Diener and Robkin (1978).

Conclusion

The three essays use concepts from market process theory, institutional economics, public choice, and history to analyze political economy issues with the prohibition of goods and services. The first essay analyzes discovery process issues with the enforcement of prohibitions. I use the historical cases studies of the prohibitions of calico in 17th and 18th century France, alcohol in the 1920s United States, and the current and on going drug war in the United States. The second essay explores how rumrunners along Rum Row in the 1920s facilitated trade and minimized conflict. And the final essay explores the political economy origins of Judaic pig prohibition.

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