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Every step brings us closer to eternity. None can be retraced. At the end, when your last step has been taken, your story will be complete. Those you leave behind will remember such portions of it as they, not you, choose to recall.

Therefore, make each step a good one: purposeful, well considered, and of wholesome intent. Do nothing out of pique over trivia or disdain for the moment and its setting. Even if, upon the instant of your passing, you're entirely forgotten by the world of men, there's still your pride to consider.

God is watching, too. Don't make Him chide you for wasting His gifts. You wouldn't like it.

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## The Precautionary Principle And Regulatory Incentives

**Steven Milloy has an extremely valuable article posted at Fox News today, dealing with the "precautionary principle" and its advancement in the United States:**

**The precautionary principle is the subject of a new Washington Legal Foundation report entitled "Exporting Precaution: How Europe's Risk-Free Regulatory Agenda Threatens American Free Enterprise." Authored by Lawrence Kogan of the Institute for Trade Standards and Sustainable Development, the report describes how "international bureaucrats and influential activist groups use the precautionary principle as a vehicle to diminish America's competitive position in the global economy and advance special interest agendas hostile to free enterprise and technology."**

Kogan aptly calls the precautionary principle "regulation without representation."

The precautionary principle is a scheme for establishing environmental, health and safety regulations that are based on irrational fears rather than empirical science.

Under the precautionary principle, activities, products and substances may be banned or restricted if it is merely possible that they or the processes used for their manufacture, formulation or assembly might cause health or environmental harm under some unknown and unspecified future circumstances. In other words: It focuses on purely hypothetical risks rather than actual hazards.

Milloy enumerates the major effects the precautionary principle has had on European jurisprudence, European commerce, and the European economy, all of which have been bad. The value of these observations cannot be overstated. However, your Curmudgeon believes there to be still other effects we should note, subtler but equal in importance to those made plain by Milloy. They pertain to risks unleashed as secondary consequences by the precautionary principle, which the late Aaron Wildavsky called "Type II risks."

Type I risks are immediate, visible hazards that arise from the natural environment or from some definite action by Man. One may choose to await them, or take precautions against them. When a pharmaceutical company introduces its new drug Folderol, we incur a Type I risk. No doubt Folderol is toxic or carcinogenic at some concentration; all such things are. Since people are sloppy, and since individual sensitivities to drugs vary, it is inevitable that some persons will be poisoned by, or develop cancer from, Folderol. Similarly, when guns proliferate throughout a society, it is inevitable that some persons will be murdered or accidentally killed with them. When a risky pastime surges in popularity, it is inevitable that some persons will suffer injury or death from pursuing it. These are simple, easily understood Type I risks.

The precautionary response a society makes to a Type I risk will determine what sort of Type II risks it will face thereafter:

- If Folderol is highly effective against some known disease, then more lives may be lost by banning it than by tolerating its distribution. More, should a new ailment arise that can only be treated with Folderol, there will be none legally available, and no legal facilities to make it, when the crisis comes.
- If guns are banned or heavily restricted among private persons, then the uses to which they can be put will not be served. This admits the possibilities of rampant violent crime, the dominance of thugs over persons of smaller size and gentler nature, and of course the emergence of a police state whose subjects are unequipped to oppose it.
- If a risky pastime is banned or heavily regulated, it will "go underground." This creates a huge profit opportunity for organized crime, while simultaneously inducing those who are willing to enjoy the pastime illegally to see themselves as outlaws, unacceptable by the rest of society, and who therefore feel no attachment to its norms or mores.

In several recent cases, a major scare campaign against a hazard that proved to be relatively small, if not nonexistent, has actually cost a statistically measurable number of lives. Peter Huber writes of several of these, including Bendectin and Audi automobiles, in his fine book **Galileo's Revenge**. Thomas Sowell has also taken note of several egregious cases, including recent "precautions" that strengthen incentives to travel by car rather than by air, in his books and syndicated columns.

Beyond these hazards, which anyone but a fanatic's fanatic will concede, there lies yet another: less definable, and certainly more arguable, but worth a moment's thought: the exhaustion of our fear resources.

An individual's fear resource is the extent to which he can worry about hazards, actual or potential, real or imagined, before he succumbs to emotional exhaustion and its concomitant, despair. This is determined by things that defy measurement, and obviously vary widely among individuals, but there is one absolute fact about it: **it is finite**. Since it's finite for individuals, it's finite for a society composed of them.

As that world-famous epidemiologist Joe Jackson once captured it:

Everything  
 Everything gives you cancer  
 Everything  
 Everything gives you cancer  
 There's no cure, there's no answer  
 Everything gives you cancer

Don't touch that dial  
 Don't try to smile  
 Just take this pill  
 It's in your file

Don't work hard  
 Don't play hard  
 Don't plan for the graveyard  
 Remember...

Everything  
 Everything gives you cancer  
 Everything

Everything gives you cancer  
There's no cure, there's no answer  
Everything gives you cancer

Don't work by night  
Don't play by day  
You'll feel all right  
But you will pay

No caffeine  
No protein  
No booze or  
Nicotine  
Remember...

He who has confronted too many hazards is **enervated**: unable to fear effectively and unable to take rational, net-balance-positive precautions. This lays him open to new hazards in his exhaustion, as well as increasing the potency of existing ones against which he might have been adequately defending himself. An enervated society, the majority of whose members cannot agree on what precautions are most important, will lose defensive cohesion, rendering it easier to infiltrate and undermine.

As with the more specific Type II hazards mentioned above, once one sees this effect, it seems just too obvious, such that one can't imagine forgetting or overlooking it in the future. But that doesn't mean our society, wound tightly in regulations and hagridden by a regulatory apparatus eager to spin still more, will respond appropriately to the dangers. There are Public Choice incentives at work.

Like anyone else, the regulator wants to think of himself as important, even indispensable. His mission is to regulate. Since the costs and risks that arise from his regulations fall almost entirely on others, the checks on his activity are incomparably weak. Since he can only be visible within his bureau by being very active, he has strong reasons to impose himself on others to the maximum extent allowed by law -- and in these days of post-Constitutional government, that's a very generous maximum indeed.

When the regulator is prodded by pro-regulation scare groups such as the National Resources Defense Council, the Sierra Club, or the Brady Campaign, his natural tendencies are greatly amplified, and his ability to drain our fear resources is doubled or worse. If Congress should get into the act, as it did with DDT and Alar, the prospect of irrationally stoked fears leading to irrational bannings and regulations approaches 100%. After all, everyone in the picture wants to be seen as concerned and doing something.

There's no barrier to this tendency except Constitutional constraint or armed revolt. Having lost the first, we are left with the second. It's not an event one much likes to contemplate. But given the incentive structures detailed above, the ascendancy of Euro-style "precautionary principle" assumptions, and the steadily intensifying risk aversion perceptible in American society, how are we to avoid being completely cocooned by a "nanny state" in which all risks are pre-evaluated and permitted or forbidden by explicit regulatory action? In which ordinary individuals, too propagandized about the hazards of life to care actively about any of them, surrender all initiative for assessing and dealing with them to Washington? What would become of Americans' historical resilience in the face of unforeseen trouble or trial then?

Just a few thoughts to disturb your Friday evening.

Posted by **Francis W. Porretto** on 11/18/05 at 05:15 PM

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