In Defense of a Libertarian Welfare State: Response to Michael Shermer

by

Robert H. Frank*

When Ulrich Witt asked whether I'd care to respond to a conservative's critique of *The Darwin Economy*, I accepted with trepidation. Earlier reviews from the right that I'd seen had been little more than collections of the same mindless slogans that were my targets in the book. Those critics hadn't troubled to explain why they'd found me unpersuasive. They simply spit back the slogans that I'd argued didn't make sense in the first place. I really didn't relish the prospect of responding to yet another such critique.

But once I'd read Michael Shermer's well-crafted essay, I was delighted to have accepted Ulrich's invitation. As George Ainslie once told me, the ultimate scarce resource in life is the willingness of others to pay attention to us. I count myself fortunate that such a capable and dispassionate critic as Mr. Shermer chose to focus so carefully on my work. His summary of my arguments that launches his critique is as accurate and clear as any I could have hoped for. Once I'd finished reading it, I couldn't wait to discover why he hadn't found those arguments persuasive. And it turned out that many of the issues that most troubled him are also ones that trouble me.

But one of his objections is of a different sort. As he notes, I introduced some of my arguments with examples of traits in non-human animals that I characterized as wasteful, such as the massive antlers of bull elk and the gaudy tail displays of peacocks. He interprets me to be saying that a wasteful trait is by definition one that threatens the

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survival of the relevant species. As I will explain presently, however, that's not at all what wasteful means in this context. It's an important point, since part of Mr. Shermer's critique of my policy proposals rests upon it.

But a second part of his critique, as he seems to recognize, is completely unaffected by this error. It is that once we empower any organization to employ the force of law to mandate collective action of any kind, we will have embarked on a slippery slope to a totalitarian state that will destroy every liberty we cherish.

I confess that my own main worry as I was writing *The Darwin Economy* was that my arguments for collective action might embolden some regulators to overreach. But Mr. Shermer's concern goes much farther. I don't want to dismiss it out of hand, but as I'll try to explain, it's way overblown. Governments have been mandating collective action since the dawn of recorded history. And although history does, in fact, include a considerable number of brutally totalitarian states, people around the world clearly enjoy much greater liberty today, on balance, than they ever have.

Darwin and the Collective Action Problem

I invoked Charles Darwin only to illustrate the point that the interests of individuals often conflict with those of larger groups. None of my policy recommendations rests on Darwin's theories. Indeed, countless other authors have long discussed individual-group conflicts without even mentioning Darwin. Tragedies of the commons, prisoner's dilemmas, and all other collective action problems, for example, are by definition situations in which the interests of individuals and groups diverge.

But I did invoke Darwin, of course, and Mr. Shermer believes that I erroneously

characterized the pioneering naturalist's views. He goes on to argue that an accurate reading of those views would have supported his own claim that we must resist all collective restraints on individual behavior by governments.

What's at issue here can be seen clearly in the example of the antlers of bull elk. As I wrote,

> These antlers function as weaponry not against external predators but in the competition among bulls for access to females. In these battles, it's relative antler size that matters. Because a mutation that coded for larger antlers made a bull more likely to defeat its rivals, it was quick to spread, since winning bulls gained access to many cows, each of whose calves would then carry the mutation. Additional mutations accumulated over the generations, in effect creating an arms race. The process seems to have stabilized, with the largest antlers of North American bull elk measuring more than 4 feet across and weighing more than 40 pounds.
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> Although each mutation along this path enhanced individual reproductive fitness, the cumulative effect of those mutations was to make life more miserable for bull elk as a group. Large antlers compromise mobility in densely wooded areas, for example, making bulls more likely to be killed and eaten by wolves. A bull with smaller antlers would be better able to escape predators, but because he'd be handicapped in his battles with other bulls, he'd be unlikely to pass those smaller antlers into the next generation.
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> In short, bull elk face a collective action problem. One bull's larger antlers make him more likely to win a fight, but they also make his rivals more likely to lose that same fight. The individual payoff to having larger antlers is thus substantially larger than the collective payoff. As a group, bull elk would be better off if each animal's antlers were much smaller.[1]

To say that a trait is wasteful *from the perspective of male members* of a species does not imply that it is wasteful for the entire species. As I'll explain, it may or may not be. Mr. Shermer appears to believe, however, that oversized antlers in bull elk actually *promote* the interests of the species. Thus, he writes,

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[1] Frank, *2011,* p. 21.

> …there are constant conflicts and tradeoffs in evolution. … Antlers may ward off challenging males and appeal to females, but you might win a Darwin Award for allowing yourself to be taken out of the gene pool by a predator. The value of such features to the species depends entirely on its overall reproductive success.

He adds that if the traits in question lead "…to more matings with their resultant offspring than they lead to individuals being consumed by predators," then overall reproductive success is increased, in which case the traits would be "good" for the species.

Is that true here? He answers affirmatively, offering as evidence the simple fact that both elk and peacocks have obviously avoided extinction so far. Indeed, he goes a step further, arguing that the survival of these species is evidence in favor of his claim that government attempts to curb arms races in human societies would make those societies less likely to survive and prosper.

Yet none of these conclusions follows from Darwin's theory of sexual selection. The theory holds that male traits like tail displays and antlers will continue growing until further growth no longer serves the reproductive interests of *individual males*, whereupon they will stabilize. The theory offers no prediction about how the resulting equilibrium trait sizes might affect the well-being of the relevant species.

In his review of *The Darwin Economy* in *Slate*, the UK science writer John Whitfield makes a similar misstep.[2] He complained that if big antlers were harmful to bull elk, natural selection would have long since solved that problem by weeding out any bulls whose antlers were too large. Natural selection does of course impose a limit on runaway male traits. We don't see bulls with antlers spanning 40 feet and weighing 400

[2] Whitfield, 2011.

pounds, since such animals would never be able to lift their noses from the turf, much less compete successfully for mates. Nor do we see peacocks with tail displays 100 feet long. But those observations don't imply that the current equilibrium trait sizes are optimal from the perspective of males collectively.

To be sure, the fact that a trait might be wasteful from the collective perspective of males doesn't imply that it is dysfunctional for the relevant species. As biologists have long noted, sexually reproducing species have far more males than they need, so if bull elk and peacocks are more easily caught and killed because of their large appendages, that may not much threaten the survival of their species. But that wasn't my point. *The only relevant claim I made on the basis of those examples is that any sentient male would find survival to a ripe old age preferable to being killed and eaten by predators.*

The parallels between the sexual selection arms races that produce wasteful traits in nonhuman animals and the many analogous arms races we observe in market economies are clear. I wrote, for example, that "…job applicants are no more likely to get the positions they seek if all spend $2,000 on interview suits than if all had spent only $300. But that's no reason to regret having bought the more expensive suit." Similarly, the massive antlers of bull elk are problematic from the collective perspective of bulls in precisely the same way that the equilibrium stock of bombs is problematic from the collective perspective of nations engaged in military arms races. The race to stockpile arms doesn't go on without limit. But that doesn't mean that the equilibrium stocks of armaments are collectively optimal. This is a simple and uncontroversial point.

It is also a simple and uncontroversial point that some behaviors in nonhuman animal species simultaneously promote the interest of individual animals while

undermining the interests of not just males but the entire species. Certain forms of cheating and physical aggression are examples.

The Possibility of Beneficial Arms Races

Mr. Schermer also notes that not all arms races are necessarily bad from the collective vantage point, citing Geoffrey Miller's argument that the large human brain evolved as an arms race among males trying to impress females with their cleverness.[3] But I never claimed that all arms races are bad. Mr. Miller argues persuasively on behalf of his thesis, and humans as a species may indeed be more successful because of that particular arms race. (The last point isn't yet settled, though, because without our formidable brains, we wouldn't find ourselves at risk from catastrophic global warming or nuclear war.)

In any event, many arms races clearly have good consequences from the collective perspective. One reason this can occur is that the private benefit to a contest winner is significantly smaller than the social benefits that result from his efforts. The total benefit from the transistor's discovery, for example, has been many orders of magnitude larger than the private rewards to the researchers whose work supported it. That's why many societies attempt to encourage research by awarding scientific prizes.

But the mere fact that some arms races are collectively beneficial does not imply that all arms races are. That should be clear to Mr. Shermer from the fact that so many private associations take steps, with their members' full approval, to limit arms races. When an auto racing association limits engine displacements or specifies a specific brand

[3] Miller, 2001.

of tire that contestants must use, for example, members don't howl in protest. They understand that without these rules they'd be forced to spend additional resources in ways that are mutually offsetting.

Which arms races are helpful and which are wasteful is an empirical question. My plea in *The Darwin Economy* is that we try to answer such questions on the basis of plausible evidence, not by invoking slogans about the efficacy of the invisible hand.

The Handicap Principle

Mr. Shermer also invokes the Zahavi handicap principle in support of his view that unregulated competition promotes the greatest good for the greatest number.[4] According to this principle, the peacock's tail promotes the interests of the species precisely because it's a costly handicap that enables him to signal his superior genetic status. "Look at me!" the bearer of the elaborate tail display seems to shout, "I'm so good I can survive in spite of this cumbersome appendage I drag along behind me." By allowing males with high-quality genetic endowments to be preferentially chosen by females, these costly signals are said to help boost the genetic quality of the species over time.

In an ideal world, it would of course be better to rely on signals that were intrinsically useful rather than on ones that were costly handicaps. The ability to run fast, for example, is just as observable as a long tail, and would actually help the individual escape from predators. But we don't live in an ideal world. Natural selection is a highly constrained optimization process that, by its very nature, cannot be forward looking. For

[4] Zahavi, 1975.

a series of mutations to evolve into a beneficial trait, each step along the way must make the individual more likely to survive and reproduce. So perhaps a genetically superior individual who happened also to bear a costly and observable but useless trait might prosper because it enabled others to recognize superior genetic qualities with which the trait was correlated.

The handicap principle remains controversial among biologists.[5] For the specific case of vivid tail displays, Hamilton and Zuk argue that they evolved as signals of parasite resistance, a trait that is anything but costly to the individual.[6] Even if we grant the plausibility of some variant of Zahavi's handicap principle, however, the principle itself strongly argues against Mr. Shermer's case for minimal government. For unlike non-human animals, humans have the cognitive and communication skills to organize alternatives that dominate gratuitously wasteful signals.

Consider the example of the engagement diamond. The rule of thumb in the jewelry industry is that a man should spend two months' salary on it, the idea being that it wouldn't be an effective way to signal commitment if it cost substantially less. ("I present they with this $15 cubic zirconium as a symbol my love and dedication!") But there's no need to waste scarce resources digging deeper in search of bigger stones in order to signal purchasing power or strength of commitment. If we taxed diamonds at 200 percent, for example, a man earning $1500 a month could signal the same strength of commitment by giving his fiancée a diamond with a pre-tax price of only $1000 instead of the $3000 he's now expected to spend. And the resulting tax revenue could be used to repair crumbling roads and bridges.

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[5] Maynard Smith, 1976.
[6] Hamilton and Zuk,1982.

The same point applies to oversized mansions and multimillion-dollar coming-of-age parties, to mention just two of the many conspicuously wasteful ways in which people of means signal their position in the social hierarchy. If we were to replace the current income tax with the steeply progressive consumption tax I propose in *The Darwin Economy*, people at the top of the spending distribution would save more, build smaller additions to their mansions, and spend less on events to mark special occasions. And if all of them did so, the resulting mansions and parties would be no less satisfying than the more expensive versions would have been, since beyond some point it is relative expenditure that matters in these categories.

This proposal doesn't evoke the specter of government run amok. It's simply a call to replace an inefficient tax with one that helps shrink the gap between individual and collective incentives.

The Legitimate Presumption in Favor of Private Collective Action

Mr. Shermer clearly seems to understand my fundamental claim, which is that individual and group interests often diverge sharply, leading to undesirable outcomes that can be improved by collective action. He notes, for example, that as a competitive cyclist, he supported a helmet requirement rationalized on exactly that basis.

His support for that regulation hinged critically on the fact that it was implemented by Union Cycliste International, a private voluntary association. If members of UCI hadn't wanted to be bound by the rule, they could have tried to persuade others to join them in a new union that didn't require helmets.

I completely agree, of course, that it is often far better to implement private

solutions to collective action problems than to rely on prohibitions enforced by rule of law. It would never be acceptable, for example, for government to forbid a citizen from painting her house day-glo orange, even though many of her neighbors might experience profound discomfort from having such a house in their midst. Yet no one challenges people's right to form a private homeowner's association whose rules specify, in gratuitously meddlesome detail, what colors members' houses may be painted and how often their lawns must be cut. Again, people who don't like the rules don't have to join.

But that doesn't mean that all collective action problems are best either ignored completely or relegated to private associations. A compelling counterexample is the case of environmental externalities. When I started teaching at Cornell in 1972, articles about acid rain were appearing in the press almost daily. The problem was caused by SO2 emissions from coal-fired electric power plants in the Midwest. Those emissions precipitated over the Eastern states and Canada as sulfuric acid, killing trees and fish and causing extensive property damage. Because there were so many individuals involved, negotiations among the affected parties would have been impossible. Does anyone really believe that taking no action would have been the best option in this case? Or that it would have made sense to organize a private homeowners's association to deal with this problem?

Why Libertarians Should Embrace Many Forms of Government Intervention

I'm guessing that Mr. Shermer would be surprised to hear that I think of myself as a libertarian. At any rate, most of my libertarian friends are surprised when they hear me say that. They think I favor a much too expansive role for government to qualify for

membership in their club. I believe, for example, that our current tax system should be more progressive and that government should create incentives that would induce us to save more and take fewer risks on the job. No real libertarian, my friends say, could support such positions.

One of my hopes in writing *The Darwin Economy* was to persuade them to reconsider. I've actually succeeded with some, and when I've failed, I've often felt that it was because critics hadn't taken the details of my argument seriously. That charge cannot be directed at Mr. Shermer. He clearly grasps the logic of my arguments. His objection is that I simply place too much faith in the power to governments to regulate intelligently.

Actually, I've always shared his concern about regulatory overreach, one that was strengthened by a two-year stint as the chief economist at the Civil Aeronautics Board in the late 1970s. As I've always taken great pains to stress to my students, merely showing that a private outcome isn't perfect doesn't imply that government intervention would make matters any better. Markets are often imperfect, but so are governments.

But even Mr. Shermer's detailed list of questionable government interventions and agencies doesn't establish that government should *never* discourage individuals from acting as they please. Some actions cause enormous harm to others, yet produce little advantage to those who take them. As Ronald Coase argued in the article that won him a Nobel prize in economics, such behaviors would never survive if individuals could negotiate enforceable agreements with one another at sufficiently low cost.[7] But Coase's earlier work was grounded on the observation that it is often impractical for individuals to

[7] Coase, 1960.

negotiate such agreements.[8] And it was never Coase's claim that the mere fact that negotiation may be impractical meant that people should be completely free to do as they please.

As John Stuart Mill argued in *On Liberty*, governmental restraint of individual behavior is legitimate only when necessary to prohibit undue harm to others. I adopt Mill's harm principle as my own. And in the spirit of Ronald Coase, I embrace the principle that the best resolution to problems involving actions that harm others is the one that affected parties would have agreed to if it had been practical for them to negotiate with one another.

Where many of my libertarian friends and I part company is in how we think about what constitutes harm to others. We all agree that it is legitimate for government to restrain people from stealing others' property or from committing violence against them. The difficult cases concern more indirect forms of harm, some of the most important examples of which stem from competition for socially scarce but highly valued goods.

As Darwin emphasized, many important aspects of life are graded on the curve. All parents, for example, want to send their children to the best possible schools, but school quality is a relative concept, and only half of all children can attend schools in the top half of the school quality distribution. Because the best schools are located in more expensive neighborhoods, the median earners cannot send their children to a school of even average quality unless they outbid 50 percent of all other parents with the same goal.

Pursuit of that goal inevitably results in collective action problems. Consider a

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[8] Coase, 1937.

parent who finds it attractive to accept a riskier job at higher pay to meet the mortgage payments on a house in a better school district. If other parents make the same choice, the collective effect of their efforts is simply to bid up the price of houses served by good schools. No matter how energetically parents bid, fifty percent of all students must attend schools in the bottom half of the school quality distribution. As in any arms race, individual actions are mutually offsetting.

Everyone might prefer a world in which all enjoyed greater safety, even at the expense of all having somewhat lower wages. But individual workers can control only their own choices. They cannot constrain what others do. If only a few accepted safer jobs, while others chose riskier ones, parents in the first group would be forced to send their children to inferior schools. To get the outcome they desire, they must act collectively. A mere nudge won't do.

Many libertarians object that safety regulations abridge the right of workers and employers to decide individually how best to resolve the unavoidable tradeoffs between greater safety and higher wages. They ask a rhetorically powerful question: If both the employer and the worker find the terms of a proposed labor contract attractive, and both are well informed, how does the government make either party better off by requiring greater safety than they want? My response is that the case for regulation doesn't rest on any claim that parties to the contract are incompetent or ill-informed. Rather, the problem is that their contract imposes harm on third parties that is virtually impossible for them to avoid on their own.

Many insist that we must ignore such indirect forms of harm because they are difficult to measure. But direct harm is often hard to measure, too, and many forms of it

that we prohibit without hesitation are clearly less damaging than the indirect forms of harm in the workplace safety example just described.

Consider a parent forced to choose between two forms of harm, one direct (being struck sharply on the arm with a stick by a stranger, say), the other indirect (being forced to send his children to an inferior school). The first harm is prohibited by law, even though most parents would regard it as far less costly than the second, which Mr. Shermer feels should be permitted.

Surely we cannot realistically expect parents simply to abandon their goal of sending their children to the best possible schools. And if some employ the proceeds from having sold their safety to bid more aggressively for houses in better school districts, others may have no better option than to respond in kind. But that doesn't mean that the resulting equilibrium will be to everyone's liking, or that there aren't things we might do to improve matters.

The Importance of Humble Regulators

I gather that Mr. Shermer fully understands and accepts the logic of this argument, yet rejects the idea of government safety regulation because its inevitably clumsy implementation would do more harm than good. Anyone who has had to deal with regulatory requirements first hand must take that concern seriously. Consider, for example, the following passage describing one of the Occupational Safety and Health Administrations's earlier requirements for ladders in the workplace:

> The general slope of grain in flat steps of minimum dimension shall not be steeper than 1 in 12, except that for ladders under 10 feet in length the slope of grain shall not be steeper than 1 in 10. The slope of grain in areas of local deviation shall not

> be steeper than 1 in 12 or 1 in 10 as specified above. For all ladders, cross grain not steeper than 1 in 10 are permitted in lieu of 1 in 12, provided the size is increased to afford at least 15 percent greater calculated strength than for ladders built to minimum dimensions. Local deviations of grain associated with otherwise permissible irregularities are permitted.[9]

One can easily imagine this befogged passage having prompted many bewildered small business owners to instruct their shop foremen to abandon all activities requiring the use of a ladder.

But again, the mere fact that government intervention might make matters worse in specific instances does not imply that it always does so. My plea in *The Darwin Economy* was not just that proposals to regulate be directed only at behaviors that cause significant harm to others, but also that they be evaluated in the light of actual evidence about their likely costs and benefits. I hope Mr. Shermer agrees that some regulations—such as those that produced dramatic reductions in smog in his native Southern California—have done far more good than harm. For others—the OSHA ladders regulations, perhaps—the reverse may have been true. Libertarians perform a valuable service by pushing back against ineffective regulations, to be sure. But they weaken their own credibility by insisting, against all evidence, that every regulation is counterproductive.

Regulators should be humble and remain open to the possibility of replacing counterproductive regulations with more effective ones. The government's first attempt to deal with the acid-rain problem relied on cumbersome command-and-control regulations, which specified such details as where companies had to buy their coal and what kinds of scrubbers they had to install on their smokestacks. Years of such

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[9] Quoted by Smith, 1977, p. 11, 12.

regulations had generated enormous costs while producing little progress. In the end, government abandoned that approach in favor of the price incentives that I and other economists had long recommended. Amendments to the Clean Air Act in 1990 established a system of tradable SO2 emissions permits under which air quality targets were met far ahead of schedule and at far lower cost than had been projected under the traditional approach.[10] The lessons of that experience underlie virtually all of the policies I advocate in *The Darwin Economy*.

Imposing financial penalties to discourage toxic emissions is more efficient than the alternative approach of prescriptive regulation for one simple reason: it concentrates the cleanup effort in the hands of those who can accomplish it at the lowest cost. Producers who have inexpensive options for reducing emissions rush to adopt them to avoid paying fees. Others do better to pay the fees and continue to emit. As a result, the total cost of achieving any given air quality target is much lower under price incentives than under command-and-control regulation.

Compared to prescriptive regulations, price incentives also demonstrate greater respect for individual liberty. Consider a motorist who is almost indifferent between buying a 4,000-pound station wagon and a 7,500-pound SUV. If he has a slight preference for the heavier vehicle, he will buy it, thereby putting all other motorists and pedestrians at greater risk of injury and death. Under current arrangements, he has no incentive to take those external costs into account.

One approach would be to ban the sale of vehicles that exceed a certain weight. But that would prove extremely costly to some motorists, such as those who regularly

[10] Dorris,1996.

tow a boat or trailer to their mountain retreat, tasks for which only the heaviest vehicles are well suited. If vehicles were taxed by weight, those people would pay the tax and purchase the heavier vehicles they need. But others would do better by switching to lighter vehicles, and the total risk to pedestrians and other motorists would decline accordingly. Instead of banning heavy vehicles, taxing vehicles by weight promotes the same goal at lower total cost and with many fewer extreme hardships.

By the same token, OSHA's clumsy requirements for ladders were almost surely neither the most efficient nor freedom-respecting means for reducing injuries in the workplace. Any given reduction in injury rates could almost surely have been achieved at lower cost by making worker's compensation insurance premiums more steeply experience-rated.

To repeat, one of my worries in writing *The Darwin Economy* was that if regulators were empowered to rein in actions that caused indirect harm to others, many might overreach. That's why I was careful to stress that the mere fact that someone might be injured by another's action does not by itself constitute sufficient grounds for intervention. For example, the action might be one that injured parties could easily take steps to avoid on their own, as in the case of those who could easily avoid smoke damage by moving upwind from an emitter.

No one wants to live in a society in which behaviors are restricted simply because others say they don't like them. That's why I also stressed the importance of relying on objective measures of harm when evaluating proposed taxes and regulations. In economics, the time-honored approach to measuring the strength of a preference is the so-called hedonic pricing model. If we want to measure how strongly people feel about

peace and quiet, for example, we can compare the price of a house in a noisy neighborhood with that of a similar house in a quiet one. If we want to know how strongly people feel about avoiding risks to life and safety, we can compare wages in risky jobs with those in otherwise similar safe ones.[11] Indirect harm should count, but only if we have evidence to support plausible estimates of its magnitude.

The Desire Not To Be Regulated Does Not Trump All Other Concerns

Being prevented from doing what you want to do is of course also a form of indirect harm. The most widely shared personality trait among the libertarians I've known is an uncommonly strong desire for personal autonomy. It's a perfectly legitimate human desire, and the cost-benefit analysis of any proposed regulation should take into account the injury people feel from the loss of autonomy implicit in the mere fact of being regulated. By comparing the wages in otherwise similar jobs that offer different degrees of autonomy, we can get at least a rough idea of how much autonomy is worth to people and factor that value into the cost-benefit analysis.

Shortly before my first sabbatical, a personal experience suggested that my own valuation of autonomy is as steep for me as I perceive it to be for most libertarians. At the invitation of a former colleague, I visited New York City to interview for a temporary position in an economic consulting firm in which he had become a principal. One of my duties, he explained, would be to appear as an expert witness before various regulatory commissions. My former colleague thought I'd find it exciting to test my wits under hostile cross-examination from some of the most talented attorneys in the nation. I had

[11] Observed differentials should of course be adjusted to account for the bias in favor of risky jobs that is created by positional concerns. See, for example, Frank and Sunstein, 2001.

done that a few times on a freelance basis and had in fact enjoyed it. The kicker, though, was that my salary would be more that ten times what I was earning at Cornell!

It sounded tempting. But as my friend was taking me on a guided tour of the firm's plush midtown headquarters, showing off its stunning views, one of the senior partners barked out at him out from an open office doorway. My friend had better have the XYZ report finished by noon the next day, the partner said in a threatening tone. At exactly that moment, I knew I could never work there.

I am hardly alone. A like-minded colleague once remarked that being a professor was the best possible job because "I work for no one and no one works for me." Each year millions of people attempt to launch their own businesses, most of them with full knowledge that the overwhelming majority of new ventures fail within the first several years. Many willingly take this risk with no expectation that they'll get rich, but simply because they want to be their own boss.

But even the most profound dislike of being told what to do doesn't trump all other concerns. As I argued in *The Darwin Economy*, the most comprehensive measure of a person's autonomy is ultimately is the extent to which he is able to do the things he wants to do. If others act in ways that cause him substantial harm, they reduce his autonomy. So the mere fact that many of us assign high value to autonomy doesn't entitle us to take actions that cause unreasonable harm to others. Sometimes it's practical for private parties to organize voluntary associations or take other private actions that can effectively limit such harm. But as the case of damages caused by environmental pollution clearly demonstrates, not always.

The Slippery Slope Argument

If I understand his argument correctly, Mr. Shermer's argument against the regulatory interventions I propose is that each constitutes a movement onto a slippery slope along which we will inevitably slide all the way to the bottom. Governments have regulated behavior for thousands of years. If Mr. Shermer in correct, then the autonomy enjoyed by the average citizen today should be dramatically lower than in the past.

Societies have indeed enacted additional regulations over time, but that doesn't settle the question. Population density is much higher than in the past, which means that we collide with one another much more often now. These collisions naturally spawn demands for additional regulation. The inconvenience suffered by those restricted must be weighed against the harm to others that is prevented. If the latter outweighs the former, the regulations have produced a net increase in autonomy.

My plea in *The Darwin Economy* was that we attempt to limit the damage caused by our collisions with one another is the least intrusive ways possible. There is no possibility that we will return to a world without government, nor would any sane person want to. We have already gone partway down many thousands of paths that Mr. Shermer describes as slippery slopes. Both in government and in our personal lives, we must embark on slippery slopes all the time. If sliding to the bottom of each were inevitable, it would have long since happened.

Happiness, Autonomy, and Taxes

Countries differ enormously in the amount of liberties their citizens enjoy. As Mr. Shermer writes,

> Research on happiness and freedom internationally reveals that an increase in personal autonomy and self-control leads to greater happiness, and that people tend to be happier in societies with greater levels of individual autonomy and freedom compared to those in more totalitarian and collectivist regimes.

Transparency International, a Berlin-based nonprofit group, conducts annual surveys in countries around the world to probe how citizens feel about their governments. Perennial high scorers in their surveys include Switzerland, the Scandinavian countries, New Zealand, and Australia.[12] On average, these countries have more regulations than the United States, which currently ranks 25th on the Transparency International list. Yet in comparison with Americans, people in the former group report higher average happiness levels and are much more likely to express positive opinions about government. All of these countries have been around for a long time. If allowing the government to regulate is to embark on an inevitable downward slide into tyranny, citizens in the former countries don't yet seem to have gotten wind of that.

Mr. Shermer also writes that making the tax system more progressive would not only fail to make people happier by reducing income inequality, it would also fail to have any significant impact on budget deficits. But these assertions are also at odds with available evidence. Each of the highest-ranked countries in the Transparency International surveys, for example, has a more progressive tax structure than the United States, and yet, as noted, citizens of those countries also register higher average scores in traditional happiness surveys.

Any claim that higher taxes on the wealthy would have no significant impact on the federal budget is completely misleading. Mr. Shermer cites the relatively small

[12] Transparency International, 2011.

impact of a single year's increase in the top tax rate on the total stock of federal debt. But tax revenues are a flow, not a stock, and to measure their contribution to fiscal stability they must be compared to annual deficits (also a flow), not total debt.

A detailed study by the nonpartisan Congressional Research Service estimated that if the Bush tax cuts of 2001 and 2003 had been allowed to expire as scheduled at the end of 2010, the federal deficit as a share of GDP would be more than 45 percent smaller by 2020 than if the tax cuts had been allowed to continue.[13] Allowing those tax cuts to expire would raise top marginal tax rates from 35 percent to only 39.5 percent, the same top marginal rate in effect during the Clinton administration. Raising top rates to 50 percent—still less than in most of the high-ranking TI countries--would have had a much greater effect on budget deficits.

Concluding Remarks

I once worked for someone whose policy decisions I often disagreed with. But I always found his decisions easier to live with because I felt he always listened carefully to my arguments against them, and because I judged his acknowledgments of their force to be sincere. In the spirit of his example, I've listened closely to the libertarians' arguments against regulation. That wasn't difficult, since I share many of the sentiments that motivate their concerns about regulatory overreach.

I understood when I began work on *The Darwin Economy* that many libertarians would remain unpersuaded by my arguments. But I'm much more sympathetic to

[13] Congressional Research Service, 2010.

Michael Shermer's objections because he made clear that he understood them and took them seriously.

I hope that he and I might find an opportunity to continue our search for common ground over lunch someday.

References

Coase, Ronald H., 1937, "The Nature of the Firm," *Economica,* New Series, 4 (16), November: 385-405.

Coase, Ronald H., 1960. "The Problem of Social Cost," *Journal of Law and Economics, 3,* October: 1-44.

Congressional Research Service, 2010. "The Bush Tax Cuts and the Economy," September 3, http://fpc.state.gov/documents/organization/148790.pdf.

Dorris, Gary W., 1996. "Redesigning Regulatory Policy: A Case Study in Urban Smog," PhD dissertation, Department of Applied Economics and Management, Cornell University.

Frank, R. H. and Cass R. Sunstein, 2001. "Cost-Benefit Analysis and Relative Position," *University of Chicago Law Review*, 68, Spring: 323-374.

Hamilton, W. D. and M. Zuk,1982. "Heritable True Fitness and Bright Birds: a Role for Parasites?" *Science*, 218: 384-387.

Maynard Smith, John ,1976. "Sexual Selection and the Handicap Principle," *Journal of Theoretical Biology*, 57, 239–242.

Miller, Geoffrey, 2001. *The Mating Mind: How Sexual Choice Shaped the Evolution of Human Nature*, New York: Anchor.

Smith, Robert S., 1977. "Compensating Wage Differentials and Public Policy; A Review," *Industrial and Labor Relations Review, 32,* 1977: 339-352.

Transparency International, Corruption Perception Index 2011, http://cpi.transparency.org/cpi2011/results/

Whitfield, John, 2011. "Libertarians With Antlers: What Robert H. Frank's *The Darwin Economy* Gets Wrong About Evolution," *Slate*, September 28: http://www.slate.com/articles/health_and_science/science/2011/09/libertarians_with_antlers.single.html

Zahavi, Amotz, 1975. "Mate Selection: A Selection for a Handicap," *Journal of Theoretical Biology* 53: 205-214.