

## HEAD TO HEAD



## Are nanny states healthier states?

State regulation is necessary for safety, says **Simon Capewell**, but **Richard Lilford** argues that restricting adults' choice can undermine such aims

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### Yes—Simon Capewell

The term “nanny state” is often used pejoratively but it can also describe a safe and healthy environment for our children and families, as invoked by the use of “nanny” to describe a grandmother or professional carer.

To fulfil our potential, we each depend on Maslow's “pyramid of needs”: esteem, love, affection, and belonging to a group. These in turn depend on a foundation of physical safety, shelter, health, food, water, and sleep.<sup>1</sup> In rich countries, we take these health determinants for granted—for example, with clean drinking water, drains, unpolluted air, car seatbelts, safe planes, immunisations, and smoke-free environments.<sup>2</sup> However, in countries without such regulation and legislation, these crucial determinants of health are not guaranteed, and the strong are then free to exploit the weak.

### Voluntary pledges, responsibility deals, and the effectiveness hierarchy

Public health legislators can choose “upstream” or “downstream” approaches. Downstream interventions include advice or education for individuals, “nudge,” voluntary pledges, and “responsibility deals.” These approaches are generally ineffective, weak,<sup>3 4</sup> or inequitable.<sup>5</sup>

Conversely, upstream interventions such as regulation, taxation, or mandatory reformulation represent much more powerful structural actions that make the environment safer and healthier. This “effectiveness hierarchy” is evidenced by public health successes in controlling tobacco, alcohol, and harmful dietary nutrients such as salt, sugar, and fats.<sup>6</sup> For instance, use of industrial trans fats in food products has only been modestly decreased in the UK by downstream advice, education, and labelling. In Denmark, however, upstream measures underpinned by legislation have effectively eliminated this food toxin.<sup>7</sup>

The nanny state generally enjoys (sometimes muted) support from scientists, the public, and democratic politicians. Hence the many effective public health interventions supported by legislation and regulation.<sup>2</sup> Every time, an initially sceptical general public becomes increasingly supportive, as seen with

seatbelts, smoke-free public spaces, and now levies on sugary drinks.<sup>8</sup>

Opposition to the nanny state from free marketeers, libertarians, or vested interests can be aggressive. Five corporations sell most of the world's tobacco, and 10 transnational corporations produce most of our packaged food.<sup>9</sup> They all have just one key objective: to maximise profit for shareholders. These corporations thus drive “the non-communicable disease pandemic” caused by tobacco, alcohol, and processed food and drink.<sup>10</sup>

The World Health Organization's head, Margaret Chan, recently concluded: “it is not just Big Tobacco anymore. Public health must also contend with Big Food, Big Soda, and Big Alcohol. All of these industries fear regulation, and protect themselves by using the same tactics. They include front groups, lobbies, promises of self-regulation, lawsuits, and industry-funded research that confuses the evidence and keeps the public in doubt.”<sup>11</sup>

### Paternalistic, interfering, officious?

Ideological opponents use “nanny state” pejoratively to claim that government involvement in our lives is paternalistic, overbearing, overprotective, officious, interfering, intrusive, coercive, controlling, or excessive. Furthermore, when attacking public health champions, some libertarians conceal their industry funding.<sup>12</sup>

Their three main arguments emphasise the primacy of individual autonomy, dispute the effectiveness of proposed public health interventions, or allege harms to the economy. However, these arguments are flawed and easily trumped by the four ethical principles of public health: justice, service, community, and knowledge.<sup>13</sup> For instance, a sugary drinks tax is a simple but powerful way of helping children consume less sugar and stay healthy. Despite industry protests, this tax is now supported by some 70% of the UK public.<sup>8</sup> The public thus implicitly endorses these ethical principles and agrees that the government has a duty of care to its citizens, particularly children.

As Janet Hoek, a marketing professor, said, “rather than depriving individuals of freedoms, state intervention maintains

and defends those freedoms against commercial interests, which potentially pose a much greater threat to free and informed choice.”<sup>14</sup>

Cicero famously asserted: “The welfare of the people shall be the supreme law.” Quite so. The nanny state means ensuring a healthy environment for us all. It underpins every health determinant in Maslow’s pyramid. Only then can we and our families enjoy our health and fulfil our true potential. The nanny state is not a luxury or a naive socialist aspiration. It is essential for the optimal health of every person on this planet.

## No—Richard Lilford

No reasonable person thinks that the world should have no safety regulations or that people should be able to act in ways that endanger others; no one thinks there should be no driving speed limit or that smoking should be allowed in crowded spaces.

So the term “nanny state” really only describes state action that is designed solely to prevent people from harming themselves, not others. Once children grow up they have no need for a nanny.

## Free choice

The state can seek to curtail unhealthy behaviour in two ways. For example, it may criminalise the actions of individual citizens, say by banning the use of cocaine. Alternatively, or in addition, the state may legislate to reduce supply, say by banning the production or sale of cocaine.

The state should be reluctant to criminalise individual choice, however, without pressing public concern; setting and enforcing speed restrictions on the road is one justifiable example. Hard won freedoms demand respect for individual autonomy even if what people are doing is risky: they should be free to add lashings of salt, go hang gliding, or gorge themselves on food.

There can be no autonomy if the state, rather than the individual, is the custodian of personal values. It is true that unhealthy behaviours explain higher mortality among poorer people,<sup>15</sup> but it’s a travesty to use this fact to restrict the choices open to people.

## Regulating industry

The situation is subtly different when the state legislates at the supply side of the economy. Firstly, supply side interventions potentially criminalise powerful organisations not individual citizens. Secondly, supply side legislation is often necessary to correct for power imbalances caused by information asymmetry. Thirdly, many people who consume the same product have different preferences, so the state has to arbitrate. Fourthly, children may consume products intended for adults.

Consider the dilemma posed by salt in processed foods. Humans have evolved to crave salt, and exposure causes taste buds to crave ever greater amounts. This physiological phenomenon interacts with commercial logic when companies progressively increase the salt content of processed foods to stay ahead.

Given such a textbook case of market failure, the state has a duty to act. Such action has lowered average salt consumption in the UK (under a voluntary agreement) and Finland (under legislative constraints), the UK reaching a slightly lower level and Finland experiencing a greater fall relative to baseline.<sup>16</sup> You can always add more salt but you cannot easily subtract it from processed food.

The state also has an important role in correcting information asymmetries—for example, by mandating product labelling.

Far from over-riding choice, such labels buttress choice by informing it.

When a product is harmful but neither desirable nor cheap, such as trans fats, it is justified to assume market failure and just ban it on the grounds that no one would knowingly choose such a bad product. Bans on advertising, however, start to infringe individual liberty and taxes are regressive because poor people are the heaviest users of unhealthy products. Moreover, taxes on unhealthy products tend to have ceiling effects beyond which higher prices act like a ban and encourage the emergence of a black market.

## Coercive control

The more coercive the method of control, the more societal consent is needed for it to be accepted. But the nanny state is not concerned with such nuance; it says that lives will be lost by procrastinating and that education is not a powerful behaviour change agent in the short term<sup>17</sup>—so tax or ban.

Bans might work in the short term but it is undemocratic to impose them against the will of the majority. And even if coercive bans are effective in the short term, they are prone to backfire in the longer term, as shown by alcohol prohibition in the US in the 1930s, recreational drugs almost everywhere,<sup>18</sup> and externally imposed limitations on sugary drinks in New York.<sup>19</sup> It is better to educate people and get them on your side before acting, even if it requires patience. If we act against societal opinion, then the nanny state’s impatient and sometimes self righteous zeal could do more harm than good.

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