

The Regulation of Occupations

Alex Bryson and Morris M. Kleiner

1. Introduction

An essential task of democratic societies is to establish a proper balance between freedom and order. From this general principle of democratic governments, we examine the regulation of occupations by the state. The issue of regulation involves the role of government in reconciling the special interests of the members of the occupation with the general concerns of the public. These special interest groups compete with one another in attempting to bring public policy into conformity with their own objectives. For political leaders, a key question is how to meet the demands of organized special interests without sacrificing the ‘welfare of the people as a whole’ (Council of State Governments 1952).

The issue of occupational regulation has been of academic interest from Adam Smith to Milton Friedman (Friedman 1962; Smith 1937). In Western democracies, the number of workers who are required to have a licence in order to work has grown substantially. For example, in the United States, occupational licensing has grown from approximately 4 per cent of the workforce in the early 1950s to about 29 per cent in 2006 (Kleiner and Krueger 2010, this volume). Adding in individuals whose occupation involves some kind of governmental certification or eventual licensing brings the total to 38 per cent of the US workforce (Kleiner and Krueger 2009). In the United Kingdom, the percentage of the workforce that requires a government licence in order to work has doubled in the past 12 years to more than 13 per cent (Humphris *et al.* 2010). Examining the reasons for the growth and its economic implications is an important issue for understanding and analysing labour market institutions.

As the US Council of State Governments (1952) pointed out in their volume on occupational licensing legislation, the general rationale for the benefits of regulation of occupations can be argued as follows. First, with increasing impersonalized relationships that are more likely in urbanized modern societies, only government can adequately determine the level of knowledge and competence to be allowed into the occupation. Second, with occupational specialization, only society can determine the competent and

Alex Bryson is Director of Employment Relations Research at the National Institute of Economic and Social Research. Morris M. Kleiner is at the University of Minnesota and the National Bureau of Economic Research.

honourable members of an occupation. Third, given the growth of technology, only regulation of occupations can protect the public from potential harm from these scientific advances. Fourth, regulation by the state provides a swift, simple and inexpensive way for citizens to obtain redress against malpractice, dishonesty or incompetence. Fifth, through penalties against practitioners, regulatory agencies may be able to hold practitioners to a high standard. Finally, the regulatory boards, who are experts in their field, potentially can help to ensure that the practitioners keep up with the new technology, and make sure that the safety of both the practitioners and the public is maintained.

A similar list of costs can be enumerated with respect to the costs of occupational licensing. First, licensing may restrict or limit the number of entrants to any occupation. Second, by creating a 'closed shop' through non-competitive conditions in doing work, licensing may raise wages and prices as well as restrain competition. Third, by defining the limits and extending the scope of the range of tasks of the occupation through the legal process, licensing can exclude others or allow practitioners to take over the work of related practitioners. Fourth, since licensing boards that are established by the occupation are of a quasi-judicial nature they can add to the costs of government, and these boards may revoke licenses to practice without additional appeals.

Consumers and citizens often value the reduction in downside risk more than they value the benefits of a positive outcome. This preference by consumers of the status quo or reducing the risk of a highly negative outcome has been called 'loss aversion' by Kahneman and Tversky (1979). If the perception of licensing is that it leads to a reduction in the most serious losses, such as the spread of disease or the structural integrity of a building, then this form of regulation can have public backing and support. These are the potential benefits against which the costs, which are most often the subject of analysis, are measured.

Although others have chosen to enumerate the potential benefits and costs of occupational regulation, relatively little effort has been expended to examine or quantify the influence of occupational regulation in the labour market or for consumers.¹ The ability to enumerate the potential costs and benefits of occupational regulation can form the basis of an examination of the social welfare effects of these policies. Further, until 2009, there had not been an international symposium focusing on this topic using modern analytic methods.

In order to address these issues and to better understand the role of occupational regulation, the *British Journal of Industrial Relations (BJIR)* convened a symposium held at the London School of Economics' Centre for Economic Performance during March 2009. The articles that appear in this issue formed the core of the symposium. The seven articles in this issue represent the studies presented at the symposium that met the academic standards of the *BJIR* for publication. The symposium was somewhat unique for an academic conference because in attendance were practitioners from the

Council on Licensure, Enforcement and Regulation (CLEAR), the major international organization that focuses on occupational regulation.² What follows in this introduction is a summary of the articles presented in this issue.

We begin with an article that presents an overview of licensing and the labour market in the United States, followed by case studies of different occupations and their influence on access to services by consumers and wage effects. The next section shows a comparison of cross-national approaches to occupational regulation as a key issue in the internationalization of work. This section also includes an analysis of the abolition of French compulsory conscription on the labour supply and demand for driving instructors in a heavily regulated environment.

2. Occupational regulation in the United States

The first article in the symposium issue, by Morris M. Kleiner and Alan B. Krueger, provides the first comprehensive examination of overall licensing in the United States using survey data. Adding a licensing question to a survey given by the Gallup polling organization that included labour market data similar to that found in the Current Population Survey, the authors find that about 29 per cent of the US workforce requires a license to work. The influence of licensing on wages is about 15 per cent, which is about the same as unionization. Further, there appears to be a relationship between licensing and unionization such that individuals who are both licensed and unionized enjoy about a 24 per cent increase in hourly earnings based on data in the survey. However, unlike unions, which reduce variations in wages, occupational licensing has no effect on the distribution of wages. The article concludes with a plea for the maintenance of the data by an organization such as the Current Population Survey so that monitoring of the institution can continue in the United States.

The next group of articles provides detailed analytical case studies of the impact of occupational regulation for several white- and blue-collar occupations. The initial article by Alison Cathles, David E. Harrington and Kathy J. Krynski, entitled 'The Gender Gap in Funeral Directors: Burying Women with Ready-to-Embalm Laws?' focuses on 27 states with ready-to-embalm laws that require funeral directors to be embalmers. Using detailed administrative data from state records, the authors find that these laws reduce the proportion of female funeral directors by 24 per cent. More generally, they find that the number of funeral directors per capita is 27 per cent lower, on average, in states with ready-to-embalm laws. The use of these detailed data and the findings suggest that additional regulations can further reduce female participation and consumer access to these services.

A complementary study, but one that directly focuses on the influence of licensing on access to dental care, is 'Dental Hygiene Regulation and Access to Oral Healthcare: Assessing the Variation across the US States' by Tanya

Wanchek. Using a detailed dental hygiene professional practice index and a simultaneous equation approach to reduce the potential influence of endogeneity of wages and employment, the author finds that entry requirements are negatively correlated with dental hygienists' employment and that practice restrictions that limit hygienists' ability to do tasks within the dental office are negatively correlated with their wages. Higher wages and lower employment of hygienists both reduce access to care, as observed in the prevalence of dental office visits. Finally, the author finds that her results are consistent with a state's entry and practice regulations jointly affecting access to oral healthcare.

One of the generally recognized areas in which licensing in the United States has been surmised to restrict entry is through initial placements. In 'Licensing Exam Difficulty and Entry Salaries in the US Market for Lawyers,' Mario Pagliero develops a new administrative database to analyse this issue. Using data from the National Conference of Bar Examiners, where essay and case questions are set by state boards and graded at the state level according to criteria set by each board, Pagliero finds that an increase of one on the bar association scale of examination difficulty implies a \$1,000 increase in entry salaries. In relative terms, a 1 per cent increase in difficulty implies an increase in salaries of around 1.7 per cent. However, there was no evidence of a quality effect. He further suggests that licensing boards can have a major impact on the passage rates for this occupation.

In 'The Licensing of Barbers in the USA' Edward J. Timmons and Robert J. Thornton initially provide a brief history of the evolution of barbering, one of the oldest occupations in the United States. The authors, using micro data from the US Census, along with indices of barber restrictiveness, estimate the wage effect of barber licensing. In contrast to previous studies, they find that certain types of provisions raise barber salaries by between 11 and 22 per cent. Also in contrast to previous studies, they show the mechanism for the wage growth, namely that licensing regulations reduce the supply of practitioners, and this influences barbers' wage growth. The mechanism for the rents that barbers enjoy is clearly developed.

3. International occupational regulation

Two of the articles in the symposium either focused on international regulatory issues or dealt with occupational regulation outside the United States. In the first article in this section, 'Offshoring Professional Services: Institutions and Professional Control', by Kyoung-Hee Yu and Frank Levy, the authors examine the reasons why one might expect it to be more difficult to offshore professional work than manufacturing work in a globalized world. The authors use a qualitative approach with numerous interviews and provide data on the variations in a specific case: the offshoring of diagnostic radiology from the United States, the United Kingdom and Singapore. They find

that unlike the threat that offshoring has for manufacturing, where institutions protecting jobs are relatively weak, the health service examined has major institutional restrictions that make it difficult for the internationalization of diagnostic radiology and its movement to less developed countries like India.

The final paper in the symposium issue is 'Driven out of Employment? The Impact of the Abolition of the Draft on Driving Schools and Aspiring Drivers' by Paul Avrillier, Laurent Hyvert and Francis Kramarz. The article uses a change in the abolition of compulsory conscription in France in 1997 to motivate their examination of the supply and demand for driving services. Because men (women were not largely in the military) now had to learn to drive through driving schools rather than in the armed services, the demand for instructors increased. Because the schools and their instructors were heavily regulated and their supply was difficult to increase, at least in the short run, instructors benefited from new economic rents which translated into increased pay.

4. Conclusions

The regulation of occupations involves the role of government in reconciling the special interests of the members of the occupation with the general concerns of the public. The articles in this issue of the *British Journal of Industrial Relations* largely show that the balance has tipped in favour of assisting the members of the occupation. However, we would be most interested in studies that examine whether the economic benefits, which largely accrue to the individuals in the occupations, are also being shared by consumers or patients of the services through higher-quality services. The studies in this issue have ably developed the costs of occupational regulation to society. Future analysis that focuses on how regulation might potentially benefit society would add further to our understanding of occupational regulation.

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Notes

1. Exceptions include Rottenberg (1980) and Kleiner (2006).
2. Rose McCool and Adam Parfitt, respectively the president and executive director of CLEAR, presented their views on several of the articles from their perspective as monitors and evaluators of the government regulation of occupations.

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