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Decriminalizing Work by **Donna G. Matias**

With few exceptions, readers of this newsletter will not likely quibble with the notion that in this country, the government exercises far too much power over our lives. Almost always, supporters of such a broad reach of power can concoct some reason, however unfounded or silly, that the government must regulate or prohibit certain activity. Meanwhile, those affected by such regulations, who usually have neither the emotional stamina nor the money to fight a long battle with the government, are left to suffer the consequences. This is nowhere more apparent than in the battle for economic liberty, where "suffering the consequences" can mean depending on welfare.

Economic liberty is, quite simply, the right to earn an honest living free from arbitrary and excessive government regulation. One obvious example of barriers to economic liberty can be found in a host of occupational licensing laws. These laws, prevalent in every state in this country for a variety of occupations, are intended to limit the supply of services (and keep prices up), thus protecting those who benefit from the scheme from any competition. Those at the bottom rungs of the economic ladder suffer most, because their little capital and skills will never suffice to break the state's protectionist barriers, even when, in a free market, they would suffice to create services in demand.

The Institute for Justice, a libertarian public interest law firm, has as part of its mission the determination to break down these barriers and restore economic liberty as a fundamental civil right. As an example of this work, the Institute represents numerous individuals who provide "African hairstyling" services to clients, despite the fact that, without a cosmetology license, such activity is against the law.

African hairstyling is, quite simply, a form of natural (i.e., chemical-free) haircare that most commonly includes hairbraiding, weaving extensions, locking, and twisting. It involves special skills and is most popular among women of African descent because it

addresses the unique needs of highly textured hair without harsh chemicals or other treatments. In fact, many clients and practitioners of natural haircare view traditional cosmetology as anathema to black women because they advocate the use of "corrective" measures (a term used by mainstream cosmetology schools) before the natural hair can be dealt with.

Thus, natural haircare often involves more than simply a hairstyle choice for black women; it touches on issues of identity and culture.

In California, as in many states around the country, practitioners of natural haircare must first obtain a cosmetology license before they may legitimately practice their enterprise. This is no small task: state-required cosmetology school costs between \$5,000 and \$7,000 and 1,600 hours (about nine months) of course work as a prerequisite to taking the mandatory licensing exam.

While these requirements are onerous by themselves, they impose a particular burden on natural haircare entrepreneurs: of the 1,600 hours of mandatory course work, *not one minute* is devoted to teaching natural haircare theory or skills. Approximately 96 percent of the curriculum requires instruction in arching eyebrows, applying and removing makeup, applying false nails, making pincurls, and cutting hair. Natural haircare is not tested on the exam, and a student who wishes only to become a natural haircare professional must demonstrate her facility in using chemical treatments. And while the state attempts to justify these licensing rules on the grounds of "health and safety," only about 20 hours of the required coursework actual address health and sanitation issues relevant to natural haircare.

As a result of this twisted regime, those skilled in natural haircare may not practice it without a cosmetology license; yet those with a cosmetology license need not show any competence or skill in natural haircare in order to practice the craft!

In San Diego, the Institute for Justice represents an entrepreneur, JoAnne Cornwell, chair of the Africana Studies Department at San Diego State University and creator of a system of natural haircare called "sisterlocks." Sisterlocks differs from the numerous braiding styles many black women (and sometimes men) sport, although all the techniques eschew the use of chemicals on the hair.

Dr. Cornwell founded a company, Sisterlocks, which provides training and certification in her unique hairstyling method. This training, in turn, creates economic opportunity for women all over the country to provide services to willing clients. Dr. Cornwell has operated Sisterlocks since 1993, always outside of the law; because the mandatory cosmetology requirements bear so little, if any, relationship to her craft, she refuses to obtain a license.

The Institute also represents the American Hairbraiders and Natural Haircare Association (AHNHA), a national association of natural haircare practitioners, many of them unlicensed. One AHNHA member, a San Diego-based hairbraiding salon called the Braiderie, employs skilled braiders from Senegal, who learned their craft as young girls. Because these women are unlicensed, the Braiderie now faces fines and criminal

punishment for "aiding and abetting" unlicensed activity. A similar lawsuit is pending in Ohio, where braiders have been warned to shut down their business unless they obtain a license, on the threat of criminal prosecution.

By erecting arbitrary and excessive barriers to entrepreneurship, the state impedes the right of individuals to earn an honest living and precludes them from employing and training others in valuable skills that could serve as springboards to economic opportunity. Feminists should note that many of these barriers, like the licensing of natural haircare practitioners, disproportionately affect women.

In an era of welfare reform, shouldn't we decriminalize work?