

A Policy Analysis: Banning Sexually Explicit and Violent Computer Games to the Minors

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Abstract

This is a case study of a policy initiative that was proposed as a bill to the state of Illinois of the United States of America concerning the banning of sexually explicit and violent computer games to the minors. The stance of the media and interest groups towards the policy initiative is discussed along with scientific findings on the issue. Then, the policy initiative was analyzed according to underlying ideological position of the Illinois governor and Stolz's four symbolic functions of politics. This policy initiative was found to be ineffective that brought an extra burden to the criminal justice system. As a result, it is advised that to protect minors' education based policies are better strategies than banning and punishing.

Key words: Policy analysis, symbolic politics, violent and sexually explicit computer games

Bir Politika Analizi: Müstehcenlik ve Şiddet İçeren Bilgisayar Oyunlarının Çocuklara Satışının Yasaklanması

Özet

Bu çalışma, Amerika Birleşik Devletleri'nin Illinois eyalet meclisine sunulan, çocuklara müstehcen ve şiddet içerikli bilgisayar oyunları satışını yasaklamayı öngören politika hareketini inceleyen bir vaka analizidir. Çalışmada, bu politika hareketi ile ilgili bilimsel çalışma sonuçlarıyla birlikte medya ve lobilerin duruşu tartışılmıştır. Daha sonra, bu politika hareketi Illinois valisinin ideolojik pozisyonu açısından ve Stolz'un ileri sürmüş olduğu "politikaların dört sembolik fonksiyonu" perspektifinden incelenmiştir. Çocuklara müstehcen ve şiddet içerikli bilgisayar oyunu satışının yasaklanmasının, ceza adalet sistemine ekstra yük getiren ve etkisiz bir politika olduğu sonucuna ulaşılmıştır. Sonuç olarak, çocukları korumak için eğitim temelli politikaların yasaklama ve cezalandırmadan daha iyi bir politka stratejisi olacağı önerilmiştir.

Anahtar kelimeler: Politika analizi, sembolik politikalar, müstehcenlik ve şiddet içeren bilgisayar oyunları

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Introduction

This case study focuses on a criminal justice policy initiative of the state of Illinois concerning the banning of sexually explicit and violent computer games. Rod R. Blagojevich, the former governor of Illinois, proposed a bill in 2005 regarding this issue. The bill basically proposed to ban the sale and rental of video games which contains sexually explicit and violent scenes to the people under the age of 18. The first part of this particular case study briefly presents the governor's biography, and then describes the policy initiative. The second part focuses on the governor's leadership role, along with the role of the media and interest groups, and gives an overview of the disputes on the initiative. The policy initiative is then interpreted based on four symbolic functions of politics. Last but not least, the underlying ideological position of the policy initiative is discussed.

Method

One of the most frequently and commonly applied research methods in social sciences in recent years is the case study (Yildirim and Simsek, 2008). "Case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly defined" (Yin, 2004:13). Case studies are not either a method for data collection, or merely a design feature alone, but a comprehensive research strategy. In this study holistic design was utilized². After the policy initiative was selected, the background of initiator along with the stance of the politicians, the media and interest groups were identified and analyzed according to Stolz's (2002) four symbolic functions of politics.

Governor Rod Blagojevich

It is important to know the background of a politician in order to understand his stance. The childhood and family background of an individual may have impact on his political decisions, undeniably knowing these factors will help us understand governor Blagojevic better.

² In holistic design, one unit of analysis is used to conduct a case study (e.g. an institution, a village, a school, an individual. In embedded design, on the other hand, more than one unit of analysis is used. Two villages, two schools, two immigrants, for example, can be units of analysis. In these cases, deeper analyses are required.

Blagojevich was born and raised in Chicago's northwest side in a working-class family. His father was a former Chetnik who immigrated to the United States and found work as a steel plant laborer. Blagojevich spent much of his childhood working odd jobs to help his family survive. He was a shoe shiner and pizza delivery boy before working at a meat packing plant. In order to afford college, Blagojevich worked at the Trans-Alaskan Pipeline System as a dishwasher.

He graduated from Northwestern University in 1979 and earned his law degree from Pepperdine School of Law in 1983 (Illinois Government News Network [IGNN], 2006). Upon his return to his hometown, Blagojevich entered the legal profession in the public sector. He served as Cook County Assistant State's Attorney prosecuting domestic abuse crime and felony weapon cases (Absoluteastronomy, 2006).

With the backing of his influential father-in-law, Alderman Dick Mell, Blagojevich ran for a seat in the Illinois General Assembly and won in 1992. Most of his legislative accomplishments centered on crime and justice issues (Wikipedia, 2006). In 1996, Blagojevich went on to serve three terms in the United States House of Representatives. He was active and supportive of anti-crime measures, especially with his authoring and sponsoring of gun control legislation.

In 2002, he ran for the governor office and sworn in as the 40th Governor of Illinois on January 13, 2003. His most notable actions are ethics reform, death penalty reform, and expansions of health programs like KidCare and FamilyCare (Absoluteastronomy, 2006). He was taken under federal investigation for corruption in 2005. He was, then, impeached by the Illinois General Assembly and removed from office by the Illinois Senate in January 2009.

Governor's Criminal Justice Policy Initiative

Governor Blagojevic proposed a legislation to keep excessively violent and sexually explicit video games out of the hands of Illinois children in 2005. The bill was basically about to ban the sale and rental of violent and sexually explicit video games to youths under the age of 18 (IGNN, 2005). This bill, which is now Public Act, considers the sale and the rental of violent and sexually explicit video games as a petty offense and classifies it as an A class misdemeanor (House Bill 4093, 2005). It also requires retailers to post signs about the contents of video games in addition to the ratings of Entertainment

Software Rating Board (ESRB). The bill was a challenge at first because in the past, Washington and Indiana federal appeal courts found similar legislations as unconstitutional (Bowers, 2005: 4). However, both the majority of republicans and democrats supported the bill. Indeed, Republican Attorney General Jim Ryan, who was defeated by Blagojevic in the general election, made some effort to regulate the sales of violent and sexually explicit video games by meeting the discount retailer stores representatives in 2000 ("Discount retailers," 2000). Nevertheless, few legislators called the bill unconstitutional, unfair and intrusive to families who should determine what their children see. "I'm asking you to stand up for the First Amendment. I'm asking you today to tell parents, 'That's your responsibility, not mine,'" Rep. Bill Black, R-Danville, told the House (O'Connor, 2005: 3). By and large, the votes tended to accept the bill. The bill passed the house with 106 yes, 6 no, and in the senate it passed with 52 yes 5 no. There were two house and three senate amendments almost all of which were aimed to change the amount of penalties for violators of this code (Illinois Government of General Assembly [ILGA], 2005).

There were two major impacts on this proposal: the background of the governor and the characteristics of the city Chicago. The governor himself was raised in Chicago in a working class family; he was familiar with gangs, delinquent juveniles, and street crimes more closely than most of the Illinois residents. During his political and professional career, the government has dealt with criminal justice issues which provided him lot of hands-on experience. Moreover, when the political actions' of governor were overseen, it can be easily recognized that he cared about the children and youths. He initiated programs targeting kids such as heath care for all kids and Safe Games Illinois Task Force (SGITF), which is a supplement for this legislation. Illinois government home page has four direct links to the other websites related to issues regarding children, whereas, many other states which have significant juvenile delinquency problems like New Jersey, Maryland, and Florida do not have that much information on their home pages. Second, the city of Chicago has unique characteristics just like the Governor himself. Chicago is considered to be the birth place of criminology and most of the criminological theories were asserted by scholars from the University of Chicago. Chicago also has a high number of juvenile delinquency cases even though crime rate has recently been declined. With all these features mentioned above, Chicago is naturally notable place in this legislation process.

Governor Blagojevich had two basic concerns. His first concern was the parents' inadequate knowledge about video games, and the second was the ignorance of video game industry about the way their products can affect the minors. Blagojevich argued that "Children are far ahead of their parents in the technology. Parents do not know what their kids are playing with and kids may not be willing to tell them". Supporting Governor's argument, a study found that two third of children suggested that violent videogames are their favorites and only 30% of the same children's parents know about what their kids favorite video game is (Funk, Hagan & Schimming, 1999). It is clear that Blagojevich sees the parents' insufficiency of controlling their kids' video games preferences. In his press release, governor (2005:2) suggested that the parents assumed that if their 12-year old can rent a video game or buy it without a problem, then it must be appropriate. Therefore, he thought that it was necessary to sign a law which restricts the sale and rental of adult content video games to the minors. Even though the companies producing or marketing video games put rating marks on their products such as "M" rate (See Appendix for video game ratings), there is no law that restricts kids to purchase such games.

The reason of taking video game issue seriously is based on increased research indicating the harmful effect of violent videogames and its widespread usage by teenagers. Thompson and Haninger found that 89% of videogames on the market contains at least one violent scene or object and over half of them have scenes including physical violence or death. Grossman and DeGaetano (1999) suggested that majority of minors prefer violent and sexually explicit video games. In another recent study, it was revealed that despite the warning labels, 50 percent of boys ages between 7-14 have bought a game rated "M" for mature audiences and a stunning 87 percent of the boys have played them (Bowers, 2005:1). Parallel with this study findings, Funk (1993) suggested that slightly over half of the teenagers ranging from 4th to 8th grader choose to buy videogames containing physical or virtual violence. Acknowledging the seriousness of the issue, the governor reported that

"Video game industry is targeting kids. They try to sell the products to kids that undermine the values that parents try to teach their kids such as respect elders, respect police, that you don't kill, you don't steal, you don't cheat all of things are chockfull in those games. I think parents have the right to be able to make decision for their kids and not allow

multimillion dollar video-game industry to make decision for them” (Bowers, 2005).

By proposing this bill, governor challenged a multi-million dollar industry, a powerful interest group, which is able to directly affect the elections. For example, only The "Grand Theft Auto" series has sold more than 35 million copies with worldwide sales approaching \$2 billion (Bradley, 2005).

Many factors influence policy making process. Both interest groups and public have influences, but which one overwhelms the other depends on many variables such as the content of the policy initiative, public interest, the effect of interest groups, and legislatures. In this policy initiative there are four different interests groups as; 1) video game industry 2) parents 3) government and 4) the rest of the public. Loomis and Cigler (2002) argued that elements of society possess common needs and share a group identity or consciousness and that these are sufficient conditions for the formation of effective political organization. Among these organizations, few interest groups are against the governor. David Vite, president and chief executive officer of The Illinois Retail Merchants Association, which represents about 23,000 stores statewide argued that this is not just about video games. This is about the government asking their taxpaying, tax-generating and employing companies to do what parents should be doing (“Illinois governor”, 2004).

On the other hand, chief executive officer of Common Sense Media, a San Francisco-based advocacy group that monitors media content for children, welcomed Blagojevich’s proposal. In the same way, some NGO’s like Parents Action for Children (PAC), Campaign for a Commercial-Free Childhood (CCFC) are in favor of the act.

Other than, companies and industries making money from the video games, some individuals and organizations are against the banning because they think it violates the first amendment. One of them is National Coalition against the Censorship (NCAC). On its web site, Killian (2004:2-4) argued that he has been playing video games professionally throughout his life, and he with his friends organized street fighter and other violent video games tournaments in various universities. According to his experience, these tournaments bring gamers all around the world and provide to establish new friendships among the people from different colors. They all have playing these games since their childhood, and none of them has a history of violence.

The media mostly impartial and publicizes the argument of both sides. Daphne White, executive director of the Lion and Lamb Project, and Vince Desi, the cofounder of Running with Scissors, which created the video game "Postal" and "Postal II," had a discussion on the air at CNN, and both sides defended their position (Hemmer, 2003:3). But, some journalists have their own ideas and reported it in their article like Cynthia Bower. After interviewing with the governor, Bower (2005:2), the CBS interviewer, reported that "I can't always control what he does at other people's homes, but am I even in control in my own home? I am reminded again just how technologically savvy my son is and how that scares me".

In television broadcasting, several popular law suits against the violent video-games took place such as the case of 18-year old Devin Moore in Alabama. His lawyer tried to convince jury that his client has been exposed to an inappropriate videogame for more than a month day and night and this game (grand theft auto) influenced his actions, which, in turn, led him to shoot three police officers in the head (Bradley, 2005).

The discussions basically centered on legal issues (first amendment), health (social, psychological and physical), economy, and crime. The scientific findings are mixed. Findings depend on which interest group do the research.

Research Findings on Sexually Explicit and Violent Video Games

Although research has mixed findings on the effect of violent and sexually explicit videogames on minors, studies reporting negative outcomes of such videogames overwhelmed studies showing no or positive effects. "One such study, completed in 2003 by four experts, including Douglas Gentile from the National Institute on Media and the Family, concluded that adolescents who were exposed to greater amounts of video game violence were more hostile, getting into arguments with teachers more frequently, were more likely to be involved in physical fights, and performed poorly in school" (IGNN, 2005). The findings of another study suggested that the primary effects of media exposure are increased violent and aggressive behavior, and are increased high-risk behaviors, including alcohol and tobacco use. It also accelerated onset of sexual activity (Villani, 200: 395).

Dolu, Buker and Uludag (2010) suggested that violent videogames had wide range negative effects on kids' physical and psychological health. Ballard

and Wiest (1996) argued that parallel with the amount of exposure to violence, adolescents' hatred and aggression level increased. In an experimental study, Barholow and Anderson (2002) randomly assigned students into two groups as violent and the non violent videogames. They looked at whether there was a difference between the two groups in terms of their aggression levels. They found that the group playing violent videogames had higher level of aggression than the other group, and this effect was more prominent on boys than girls.

On the other hand, Ferris (2005:9) argued that "through 2002, youth homicide actually dropped across the board, If I may quote directly from the Department of Justice report, "Recently, the offending rates for 14-17 year-olds reached the lowest levels ever recorded" In other words, the Playstation era has, in fact, produced the most non-violent kids ever".

There are also some studies giving credit to both. In their experimental study, Funka, Buchman, Jenks and Bechtoldt (2003) exposed kids, ages ranging from 5-12, to both violent and non violent videogames. They then gave kids scenarios to measure their aggression and empathy level. Researchers found that violent videogames did not have any effect on the kids' aggression level. However, longer exposure to the violent videogames reduced the empathy and sensitivity level of kids. The research findings regarding the effects of non violent videogames on children's social development are mixed, too. It is necessary to do systematic research to help parents and policymakers maximize the positive effects and to minimize the negative effects of video games (Greensfield, Gross & Subrahmanyamm, 2000:123).

Interpretation of the Policy Initiative

Most public policies are developed by specific political entities (e.g., states, counties, etc.) and that these policies then spread across other similar political entities (Oliver, 2000: 373). Banning the sale of violent and sexually explicit video games to the minors is such a diffused policy. This process of diffusion moves public policy into a common state of being as accepted practice among a majority of political entities. Mossberger (2000) defines this process as "informed decision making" which consists of three main steps. The first step is awareness on the related issue. This awareness might come from policy implementation of other political entities or research and/or criticism. The second step includes consideration of best practices and sometimes their evaluation. The third step is applying policy initiative to your own

circumstances and finally making the decision. Besides other states' practices, research findings and Governor's former profession increased the awareness on the sales of violent and sexually explicit video games to the minors. Illinois politicians considered other states' practices and research finding on the issue and decided to enact such a law in Illinois that has a history of democrat dominance in the political arena.

On the other side, all policy initiatives have also symbolic meanings. Stolz (2002:6) identifies the symbolic politics as the meaning of political acts targeting the public. Stolz (2002) discussed four types of symbolic functions of a political act; a) model for states, b) reassurance/threat, c) moral educative, and d) general educative. From Stolz's standpoint, Blagojevic's policy initiative fits to reassurance function. Reassurance, as easily recognized by its name, is all about to convince public, something is done about a problem. In this legislation case, based on the votes of both democrats and republicans, politicians appeared to be fully convinced that violent and sexually explicit videogames are harmful for the minors. Therefore, politicians took an action and do something to protect Illinois youths. Except marginal amount of people, public, especially parents, were reassured that government take necessary precautions to protect the kids.

However, unintended consequences might pose a threat to the effective implementation of the law. By implication of this legislation, an act which was not a crime before becomes a crime that means extra work load for the law enforcement and the courts. Simply, it brings a new burden on the government as losing tax revenue while at the same time government is forced to spend extra money to enforce the law.

The previous banning experience on alcohol and tobacco illustrates that simply banning did not reduce alcohol and tobacco use for the targeted population. In the U. S., alcohol consumption by age 21 and under is higher than it is in many European countries that do not have such a law banning the sale of alcohol and tobacco to people who are under the age of 21 (Wakefield, Terry, Chaloupka, Barker, 2000). Nevertheless, according to research banning the sale of alcohol under 21 convinced parents that federal government fulfilled its obligation to protect children and ensure their well-being. The effectiveness and the method of implication are of no concern for parents, and most parents feel comfortable about their children's safety.

Walker (2001) asserted that even though legislation sometimes does not really change anything in practice, it provides a "feel good effect" that assures

public that the government does something to solve the recent problem. In that sense, Drug Abuse Resistance Education programs are good example of “feel good effect”. In this program, uniformed police officers go to schools and simply tell students that “drugs are bad”. Federal government spends approximately 750 million a year for funding this program (Elliot, 1995). Considering this great deal of money, its effect on reducing youth’s drug abuse has not reached to the expected levels. A meta analysis of eight studies revealed that DARE has no significant short-term effect on adolescent drug use (Ennet, Tobler, Ringwoalt, & Flewelling, 1994). Yet, the program has received enormous support from the families just because its “feel good effect”.

Conclusion

Traditionally, American criminal justice system is viewed as over-criminalized, over-institutionalized and discriminatory (Miller, 2002:126 as cited in Stolz). Dominance of classical school of criminology on the criminal justice policies over the last three decades boosted American prison population, and made America the leading country in the world in terms of prison population with over 2 million inmates behind bars (U.S. Department of Justice, 2009). The act banning sales and rental of violent and sexually explicit video games to minors, in the same way, brings fines and short term sanctions to video game retailers and minors. That is, it creates new crime and increases workload of the criminal justice system. Although the protection of youth and the moral values are very serious and important, it is crucial to look at its effectiveness and finding satisfactory answers to a couple of questions.

First, it has always been a concern for that kind of legislation how and who applies it? Does the government put more officers to check kids’ shopping bags who leave video game store? Is it applicable and worthy? Is it too hard for kids to access violent and sexually explicit scenes over the internet? Is it too hard for children to purchase such games over the internet? All these concerns are real and are serious threats to the efficiency and practicality of this legislation. On the other hand, extensive body of research showed that money fines and minor sanctions do not have any deterrence effect on adolescents especially if they think what they are doing is not wrong (Lipsey, 1992).

From this stand point, instead of banning the sale and rental of sexually explicit and violent video games and punishing the violators, educating and informing people are more effective and appropriate ways to protect kids in a

democratic society. In that sense, the informative and educational part of the policy initiative is wiser than its legislative part. By founding a task force (Safe Game Illinois Task Force), parents are being informed about harmful video games. On the task force web site, parents can find the list of violent and sexually explicit video games, the research about them, and links to the related web sites. There is little evidence that informative web sites can help parents to protect their kids from the harmful materials; however, these sources might help to improve the level of awareness in the public which, in turn, leads public and politicians to create better solution to serious social problems.

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Appendix

Video game ratings:

The Entertainment Software Rating Board uses a collection of seven categories in rating the content of video games.

EARLY CHILDHOOD (EC): Suitable for ages 3 and older. These games contain no material that parents would find inappropriate.

EVERYONE (E): Suitable for ages 6 and older. Titles in this category may contain minimal cartoon, fantasy or mild violence and/or infrequent use of mild language.

EVERYONE 10+ (E10+): Suitable for ages 10 and older. Titles in this category may contain more cartoon, fantasy or mild violence, mild language, and/or minimal suggestive themes.

TEEN (T): Suitable for ages 13 and older. Titles in this category may contain violence, suggestive themes, crude humor, minimal blood and/or infrequent use of strong language.

MATURE (M): Suitable for persons ages 17 and older. Titles in this category may contain intense violence, blood and gore, sexual content, and/or strong language.

ADULTS ONLY (AO): Should only be played by persons 18 years and older. Titles in this category may include prolonged scenes of intense violence and/or graphic sexual content and nudity.

RATING PENDING (RP): Submitted to the ESRB and awaiting final rating. This symbol appears only in advertising prior to a game's release.

Source: Entertainment Software Rating Board