

Magazine

# So You Think You Can Be a Hair Braider?

It's the Economy

By JACOB GOLDSTEIN    JUNE 12, 2012

Jestina Clayton grew up in a village in Sierra Leone where every girl learns traditional African hair-braiding. Then, when she was 22, she moved to Centerville, Utah, a place where no one learns traditional African hair-braiding. So Clayton was pleasantly surprised to find a niche in the market among a small group of Utah parents who had adopted African children but didn't know how to style their hair.

Clayton moved to the United States as an 18-year-old and headed out to Centerville to be near her in-laws. After graduating from college, she considered getting an office job but decided instead to start her own hair-braiding operation and began advertising on a local Web site. "It's not like it was bringing me millions," she says, "but it was covering groceries." At least until a stranger who saw the ad e-mailed her a demand to delete it. "It is illegal in the state of Utah to do any form of extensions without a valid cosmetology license," the e-mail read. "Please delete your ad, or you will be reported."

A cosmetology license required nearly two years of school and \$16,000 in tuition. But Clayton hoped for an exemption. After all, many Utah cosmetology schools taught little or nothing about African-style hair-braiding, and other states allowed people to practice it after passing a hygiene test and paying a small fee. Clayton made her case (via PowerPoint) to the exhaustively named governing body of Utah hair-braiding, the Barber, Cosmetology/Barber, Esthetics, Electrology and

Nail Technology Licensing Board. The board, made up largely of licensed barbers and cosmetologists, shot her down.

This isn't just a random Utah law. There are more than 1,000 licensed professions in the United States, partly a result of more than a century of legal work. As the country industrialized, state governments wanted to protect their citizens and create standards not just for lawyers and doctors but also for basic services. It didn't take long for professional groups to find that they also stood to benefit from the regulations. Over the years, more and more started to lobby for licensing rules, often grandfathering in existing professionals while putting up high barriers to new competitors. In fact, businesses contorting regulation to their own benefit is so common that economists have a special name for it: regulatory capture. "Everyone assumes that private interests fight like crazy not to be regulated," says Charles Wheelan, who teaches public policy at the University of Chicago. "But often, for businesses, regulation is your friend."

After being shot down by the board, Clayton allied with a Utah state representative who had adopted several children from Africa. The representative proposed a bill that would exempt hair-braiding from the cosmetology licensing law, but she was no match for the cosmetologists, who have started grass-roots campaigns in several states to fight the loosening of license rules. They turned out in full force in Utah. "We encourage regulation," says Brad Masterson, a spokesman for the Professional Beauty Association. "Why should everyone else who's doing hair have to conform to requirements and not her?"

Unfortunately, it's not that simple. Once upon a time, these barriers weren't such a big deal. In 1950, fewer than 5 percent of Americans worked in jobs that required licenses. Today, it's roughly 30 percent, and that number is likely to grow. In the coming years, global competition and the increasing rate of technological change will force many workers to bounce from career to career throughout their working lives. Nearly 13 million Americans are out of work; since the start of the recession, the manufacturing sector alone has lost about two million jobs. There's little doubt that laid-off factory workers will find themselves increasingly looking for opportunities in landscape contracting, athletic training and in hundreds of other professions that require licenses. "When, say, the tattoo artists come up for licensure, nobody follows

the debates, nobody outside the profession cares about the resolution,” Wheelan says. “You add up how many of these there are — hundreds — and suddenly we’re talking about a sizable portion of the labor market.”

Almost nobody is calling for wholesale abolition of professional licensing. I sleep better at night knowing that the commercial pilots flying over my apartment are trained and licensed. A wide range of economists and activists, however, are looking for ways to loosen the rules in a productive way. Michelle Obama has been pushing to make it easier for military spouses, who move frequently, to pursue their careers in new states without bureaucratic entanglements. The Institute for Justice, a libertarian legal group, has filed lawsuits in several states arguing that certain licensing rules are “arbitrarily interfering with citizens’ ability to earn an honest living.” The group, which represents Jestina Clayton in Utah, has filed cases on behalf of African-style hair braiders in several other states. Dean Baker, the well-known liberal economist, argues that if we have free trade for goods, we should also have it for high-end services.

A bolder idea, of course, would be for states to get rid of the licensing rules that are doing more harm than good. A group of economists, including Alan B. Krueger, now the chairman of President Obama’s Council of Economic Advisers, proposed something along these lines last year. But pushing this sort of policy, beyond being a logistical nightmare, can be “political suicide,” says Morris Kleiner, a University of Minnesota economist who co-wrote the proposal. “When you talk about reductions in licensing, you have every occupation from the plumbers to the C.P.A.’s to the electricians lining up to argue why regulation should not be reduced,” he says. Arguing for the other side you have, basically, Jestina Clayton.

This is the pattern that creates regulatory capture — the people with the biggest stake in any regulation are usually the ones who are being regulated. When there’s a public hearing on, say, implementing new rules for trading derivatives, most of the people who show up are the people who trade derivatives. And these people, who generally know the most about trading derivatives, can use their expertise to try to create rules that benefit themselves. In the high-school-civics model, the insiders would be countered by smart, well-informed opponents who could argue for the public interest. But real life has nothing to do with high-school civics.

The challenges to the U.S. economy are obvious. Millions of people are unemployed, underemployed or giving up on finding work while nations like China, India, Brazil and South Africa are nimble and growing fast. Our best shot at creating a decent economy in the future will come from making it easier for workers to shift out of dying careers and into promising ones. Workers need to be able to experiment and to fail (quickly and often) until they find the real, valuable skills that customers will pay for. This will take years. And in order for them to do that, we need to start by making it easier to braid hair in Utah.

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A version of this article appears in print on June 17, 2012, on Page MM20 of the Sunday Magazine with the headline: So You Think You Can Be a Hair Braider. . .

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