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## **Empire of Freedom?**

**by Jacob G. Hornberger**

The 9/11 attacks brought to the surface a dilemma that everyone, especially libertarians, must now confront: whether to choose a pro-empire, pro-intervention foreign policy or a free society.

No one can deny that we now live in a country in which the president, on his own initiative, has the omnipotent power to send the nation into war against any country on earth, especially given that the war on terror extends all over the globe. The president and the military have the power to take any suspected terrorist — foreigner or American — into custody and torture, abuse, and execute him without due process of law and trial by jury. The president and the NSA have the power to wiretap telephones and monitor emails without a judicially issued warrant. The president, the CIA, and the military have the power to send missiles into cars and drop bombs into buildings anywhere in the world, including right here in the United States, in their attempt to win the war on terror. Indeed, the president may now ignore any constitutional or legislative restraints on his power as a “wartime” commander in chief.

How can such powers be reconciled with the principles of a free society, especially from a libertarian standpoint?

If a government has the power to arbitrarily take anyone into custody and torture and kill him, how can the citizenry in that society truly be considered free? Even if there is freedom of religion, freedom of the press, freedom of assembly, the freedom to vote, and even the freedom to own guns, all such freedoms are relegated to secondary importance when the government has the power to arrest, torture, and execute anyone it wants.

As Winston Churchill put it,

The power of the Executive to cast a man into prison without formulating any charge known to the law, and particularly to deny him the judgment of his peers, is in the highest degree odious and is the foundation of all totalitarian government whether Nazi or Communist.

Recall the movie *Braveheart*, which depicted a period in English history when the English king and his minions possessed and exercised the right to rape a newlywed bride on her wedding night. Can anyone imagine the woman's husband exclaiming, as his wife was carted away, "At least we can peacefully protest the king's actions without being thrown into jail and at least we have sound money"? (In fact, even the right of habeas corpus would be ineffective in such a case because the judge at the habeas corpus hearing would hold that under the law officials had the right to rape the bride and, therefore, he would deny habeas corpus relief. Thus, the core problem would remain — that government officials would possess the power to rape.)

Or imagine a suspected terrorist being stretched on the rack or subjected to waterboarding, screaming, "I have the right to criticize the government under principles of freedom of speech" (or even, "I have the right to call my lawyer!"). His torturers would respond, "Well of course you do. But we have 'rights' too — including the right to arrest, torture, abuse, and kill you without judicial interference." Thus, again, the problem lies in the fact that government possesses the power to arbitrarily arrest and torture people.

### **The realities exposed by 9/11**

That's what 9/11 accomplished. It exposed the horrible reality of what an imperial, interventionist foreign policy has brought to our nation and the American people. We not only live in a nation whose government has troops in more than 100 foreign countries, that is occupying Afghanistan and Iraq, that is threatening new wars against Iran and North Korea, and that claims the authority to drop bombs on any country on earth. We also live in a country in which omnipotent power over the citizenry by the president, the CIA, and the military is part and parcel of that foreign policy.

After all, despite the manifest evidence of kidnapping, torture, and murder of prisoners and detainees at the hands of CIA agents, how many CIA agents have been brought to account by either the Justice Department or the Congress? (None.) How many have been arrested and charged for such crimes? (None.) How many have been indicted? (None.) The only potential criminal prosecution of CIA agents is coming from foreign countries, such as Italy and Germany, where prosecutors are seeking criminal indictments against CIA agents for kidnapping and conspiring to torture in those countries. When it comes to the CIA, unfortunately all too many people get scared, turn away, and remain silent. That's what omnipotent government tends to do to people.

How can a nation whose government has an untold number of secret agents, operating with secret budgets, following secret orders, and wielding the authority to kidnap, torture, and murder with impunity even remotely be reconciled with the principles of a free society, especially from a libertarian standpoint?

Some may think that there really isn't any cause for concern because most of the suspected terrorists that U.S. officials are incarcerating, torturing, and killing are foreigners, not Americans.

After all, they've arrested, incarcerated, and denied the right to counsel, due process, and jury trials to only two Americans — Yaser Hamdi and Jose Padilla. What's the big deal?

For one thing, freedom is not defined by the extent to which a wrongful power is being exercised by government but rather by whether the wrongful power is possessed and able to be exercised.

Second, U.S. officials reserve the power to subject all Americans to the same treatment to which all other suspected terrorists have been subjected.

Third, to think that the exercise of such power will be limited to “only” one or two Americans reflects naiveté in the extreme. The fact is that the feds could have easily treated Hamdi and Padilla to the same abuse and torture accorded to suspects at Guantanamo, Abu Ghraib, Bagram, or the CIA's secret overseas torture facilities. Or they could have transported them to Syria, Egypt, Jordan, or any other friendly brutal regime for torture, as they did to an innocent Canadian citizen falsely accused of being a terrorist. It was only political considerations that inhibited U.S. officials from subjecting American terror suspects to the full panoply of mistreatment to which they have subjected foreign terror suspects. But let there be one or two more major terrorist attacks in the United States, and all bets are off: Americans will inevitably witness the full power of Leviathan unleashed. And if that day comes, all too many Americans will realize that the time for protest was long before it became too dangerous to protest.

Some libertarians may be harking back to what may seem to them to have been the halcyon days of pre-9/11, when it seemed possible to favor a pro-empire, pro-intervention foreign policy (euphemistically described as a “strong national defense”) while favoring libertarianism (i.e., limited government) in domestic policy. That wasn't reality — that was just fanciful thinking in a make-believe world. It was like saying, “I favor lightning but I'm firmly against thunder.” If one favors a particular government policy, he embraces the inevitable consequences of that policy, especially when the policy has been in existence long enough to produce the results.

### **The holy-war theory**

Some libertarians are now subscribing to the theory that some conservatives are promoting — that the core problem facing America is not U.S. foreign policy but rather Islam itself, which they're claiming is actually a bigger threat than communism. Keep in mind that conservatives used the communist threat to justify the enormous U.S. military empire and military-industrial complex during the many decades of the Cold War.

I suspect that deep down such libertarians know that such a holy-war theory is without foundation. It might even be a subconscious way to avoid confronting the critical dilemma with which 9/11 has now confronted people, especially libertarians — whether to give up hope of a free society by maintaining allegiance to a pro-empire, pro-intervention foreign policy or to choose a free society by embracing libertarian principles in both domestic and foreign policy.

After all, not even President Bush subscribes to the holy-war justification for the U.S. Empire and its role as an international policeman, especially in the Middle East. Moreover, a close examination of the evidence belies the legitimacy of the holy-war theory.

For example, despite many years of U.S. government support for Saddam Hussein, including delivery of WMDs to him, no Iraqi ever attacked the United States, even though most people in Iraq are Muslims.

When U.S. officials turned on Saddam and killed countless Iraqis in the Persian Gulf intervention, followed by more than a decade of brutal sanctions that killed hundreds of thousands of Iraqi children, there were still no attacks on the United States by Iraqis. Even when U.S. official Madeleine Albright publicly announced that the deaths of half a million Iraqi children were “worth it,” no Iraqis attacked the United States.

Since President Bush’s invasion and occupation of Iraq, there have been no Iraqi attacks on the United States.

It’s true that Iraqis are killing American troops in Iraq but there is another more likely explanation than the holy-war one: Iraqis don’t like foreigners who invade and occupy their country, killing, maiming, and torturing Iraqi citizens in the process, any more than Americans would like foreigners attacking and occupying the United States and killing and maiming Americans in the process.

Moreover, let’s not forget that the U.S. government is a longtime supporter of such Islamic countries as Saudi Arabia, Egypt, Jordan, Pakistan, Kuwait, and Bahrain. Would U.S. officials be supporting countries that were waging a holy war against the United States? Wouldn’t people be protesting that?

Muslims aren’t attacking Switzerland or the Swiss people, despite the fact that the Swiss are predominantly Christian. Isn’t it likely that the reason for these non-attacks is that the Swiss government, unlike the U.S. government, doesn’t meddle in the Middle East or the rest of the world?

If people of Muslim faith were really waging a holy war, wouldn’t Americans of Islamic faith be killing Americans of Christian faith and vice versa right here in the United States? Yet all of us know that if that were to happen, the killer would immediately be indicted and convicted for the crime of murder and that a defense of “holy war” at trial would be rejected by every court in the land.

There are, of course, fanatical Islamists, but their numbers are ordinarily too small to be considered a significant threat to any nation. The problem is that, as many U.S. intelligence agencies are now pointing out, U.S. foreign policy, especially the U.S. invasions of Afghanistan and Iraq, has been a dream come true for the recruiters of such extremist groups. Any person, regardless of race, color, or religious creed, whose family is killed, raped, or maimed is likely to be angry at those who committed such acts.

## **The fruits of empire and interventionism**

The 9/11 attacks exposed what has been going on for many decades and continues to occur at an ever-increasing pace — the movement of our nation away from its founding principles of a republic and in the direction of empire, militarism, and intervention. Equally important, the reality is that such federal programs as the “war on terror,” the invasion and occupation of Afghanistan and Iraq, and the impending attack on Iran, along with the omnipotent powers that the president, the CIA, the NSA, and the Pentagon now wield against the American people, are inherent, integral, inescapable parts of that foreign policy.

Let’s also not forget another essential part of an imperial, militarist, interventionist foreign policy: out-of-control federal spending, which in turn brings rising inflation and taxation. How can those things be reconciled with libertarian economic principles?

Finally, as U.S. officials often remind us, the war on terror is perpetual, especially because an interventionist foreign policy guarantees an infinite supply of terrorists. That means that people who favor such a foreign policy are, at the same time, surrendering any hope of ever achieving a free society. The only way to achieve the free society is through a consistent commitment to libertarian principles, not only in domestic affairs but also in foreign affairs.

Thus, libertarians who embrace the U.S. foreign policy that has held our nation in its grip for so long have one of the most important decisions of their lives confronting them. By hewing to two contradictory philosophies — one of freedom and one that destroys freedom — circumstances have now placed them in a moral and philosophical quandary. Will they continue hewing to a pro-empire, pro-intervention foreign policy, thereby giving up all hope of a free society at home? Or will they choose to maintain their commitment to libertarianism here in America, which means rejecting an imperial, interventionist foreign policy? Or will they simply act as if no choice at all now confronts them?

The stakes are obviously enormous. As Ludwig von Mises put it,

No one can find a safe way out for himself if society is sweeping towards destruction. Therefore everyone, in his own interests, must thrust himself vigorously into the intellectual battle. None can stand aside with unconcern; the interests of everyone hang on the result.

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