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# FUTURE OF FREEDOM

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*No nation was ever ruined by trade.*

— Benjamin Franklin

# FUTURE OF FREEDOM

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# The Evil of the National-Security State

## Part 3

by Jacob G. Hornberger



In 2009 a retired U.S. State Department official, Walter Kendall Myers, 73, who is a grandson of Alexander Graham Bell, and his wife, Gwendolyn, 72, pled guilty to spying for Cuba for 30 years. Their crime entailed the transmission of U.S. “national defense” secrets to Cuba. As part of a plea bargain, he received a life sentence and she received a prison sentence of 81 months.

At their sentencing, the presiding judge, U.S. District Judge Reggie B. Walton, berated the Myerses for what they had done. Walton said to them, “If someone despises the American government to the

extent that appears to be the case, you can pack your bags and leave and it doesn’t seem to me you continue to bear the benefits this country manages to provide and seek to undermine it.”

What had motivated the Myerses to spy for Cuba? It wasn’t money because they didn’t get paid for what they did. They told the judge that long ago, they embraced the philosophy of communism and socialism and the principles of the Cuban revolution. They said,

*We did not act out of anger toward the United States or from any thought of anti-Americanism. We did not intend to hurt any individual American. Our only objective was to help the Cuban people defend their revolution. We only hoped to forestall conflict.*

U.S. Secretary of State Hillary Clinton ordered a comprehensive damage assessment to determine how U.S. national security may have been harmed by the Myerses’ action.

There are several fascinating aspects to this case, all of which shed light on U.S. foreign policy under the national-security state for the past 70 years.

For one thing, the judge never seemed to question or challenge the U.S. government's conduct towards Cuba since the 1959 Cuban revolution. It's as if that thought just never even entered her mind. She seemed to have just automatically concluded that since the Myerses had delivered classified "national defense" secrets to Cuba, that was the end of the matter. For the judge, that meant that the Myerses obviously hated the U.S. government and that they should have just moved to Cuba instead of undermining America.

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**The judge never seemed to question or challenge the U.S. government's conduct towards Cuba since 1959.**

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Actually, however, the matter is more much complex than that, and if Walton had done her job properly as a judge, she would have taken into account U.S. foreign policy towards Cuba in determining whether to accept the length of the Myerses prison sentences under the plea bargain.

What was the specific information that the Myerses delivered to Cuba? Unfortunately, under principles of "national security," the U.S. government won't disclose that in-

formation to the American people, which seems odd, given that Cuban officials already have the information. But whatever the information was, it couldn't have had anything to do with "national defense" simply because Cuba has never taken any aggressive actions against the United States. Instead, the information that the Myerses transmitted to Cuba had to be in the nature of "national offense" or "national aggression" because for the past 50 years it has always been the U.S. government that has attacked Cuba, not the other way around.

What has been the nature of the U.S. government's program of aggression against Cuba for the past half century? Assassination, terrorism, sabotage, military invasion, and, of course, the continued maintenance of a brutal embargo, which, in combination with Cuba's socialist economic system, has squeezed the lifeblood out of the Cuban people for more than 50 years.

Even the Cuban Missile Crisis in 1962, which brought the United States and the Soviet Union to the brink of nuclear war, was brought about not by an act of aggression by Cuba and the Soviet Union, as Americans are taught from the first grade on up. Instead, the truth is that it was the U.S. national-securi-

ty state, and specifically its determination to invade Cuba, that precipitated the crisis.

Here's what really happened.

After the Bay of Pigs disaster, the Pentagon and the CIA became more determined than ever to get rid of Fidel Castro and replace him with a pro-U.S. stooge. The Joint Chiefs of Staff unanimously presented a plan to invade Cuba to John Kennedy. The plan was called Operation Northwoods. It is one of the most shocking proposals in the history of the U.S. national-security state.

### Operation Northwoods

Operation Northwoods called for U.S. officials to initiate terrorist attacks on U.S. soil, on refugee boats leaving Cuba, and on the U.S. military facility at Guantanamo Bay. The plan also called for plane hijackings. Under the plan, the terrorists would seem to be Cuban agents. In actuality, however, they would be U.S. personnel falsely portraying themselves as Cuban agents.

Under Operation Northwoods, real people were to be killed, including Americans. The president, who, of course, would be in on the scheme, would go on national television, look into the camera, and

inform the American people that Cuba had attacked the United States. In other words, he would lie to Americans and to the world. He would then announce that as a matter of national security, he was ordering a military invasion of Cuba.

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**Operation Northwoods  
called for U.S. officials to initiate  
terrorist attacks  
on U.S. soil.**

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One of the most fascinating aspects of Operation Northwoods was the belief among the Joint Chiefs of Staff that such a wide-ranging conspiracy, which obviously would involve many personnel in both the military and CIA, could and would be kept secret from the American people and the people of the world — and for a very long time. As it was, no one who was privy to the plan, including the entire Joint Chiefs of Staff, ever talked. The U.S. government succeeded in keeping the proposal itself secret for more than 30 years, until the JFK Records Act of 1992, which was enacted in the wake of Oliver Stone's movie *JFK*, caused the plan to be disclosed to the public.

Another fascinating aspect of Operation Northwoods was the

willingness of the Pentagon to sacrifice the lives of innocent people, including American citizens, as part of fake terrorist attacks to justify an invasion of Cuba. The idea, which has always been a guiding principle for the national-security state, especially within both the military and the CIA, was that the end justified the means.

To his credit, Kennedy rejected Operation Northwoods. But that didn't dissuade the Pentagon and the CIA from continuing to support an invasion of Cuba. As it turned out, the chatter about invading Cuba reached both Cuba and the Soviet Union.

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**The military and the CIA viewed the missile crisis as an opportunity — the perfect excuse to effect regime change in Cuba through force.**

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While Castro's forces could defeat a small force of Cuban exiles, as it did at the Bay of Pigs, resisting a full-fledged military invasion of Cuba was another thing altogether. Castro knew that he didn't stand a chance. If the U.S. military invaded the island, his forces would be easily defeated and he would be ousted or, more likely, killed in the operation.

## The missile crisis

That's what motivated Castro to approach the Soviet Union about installing nuclear missiles in Cuba, not as a way to initiate a nuclear war on the United States but instead as a way to deter a U.S. invasion of Cuba, an invasion that the military and the CIA were discussing, planning, and proposing from the time of the Bay of Pigs disaster in 1961 to the Cuban Missile Crisis in 1962.

In the end, Castro's strategy succeeded. While it appeared that Kennedy had caused the Soviets to back down and withdraw their nuclear missiles from Cuba, the price for doing that was twofold: one, Kennedy promised that the United States would not invade Cuba, a promise that earned him the deep enmity of the Pentagon, the CIA, and Cuban exiles; and, two, Kennedy promised to remove nuclear missiles aimed at the Soviet Union that were installed in Turkey, which bordered the Soviet Union.

Throughout the Cuban Missile Crisis, the military and the CIA were exhorting Kennedy to bomb and invade Cuba. In their minds, the missile crisis was proof positive that the president should have accepted their proposals for invading Cuba in the months preceding the crisis. Moreover, the military and

the CIA viewed the missile crisis as an opportunity — the perfect excuse to effect regime change in Cuba through force. The CIA even sent sabotage teams into Cuba in preparation for the invasion without the knowledge or approval of the president. The military, for its part, raised the nuclear-alert level to the second-highest possible level and let the Soviets know about it, again without the consent of the president.

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### The U.S. national-security state brought America and the Soviet Union to the brink of a nuclear holocaust.

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Fortunately, Kennedy and the Soviet premier, Nikita Khrushchev, were able to extricate themselves from the crisis. As Soviet records later documented, nuclear missiles had already been installed and made operational, with authority given to commanders in Cuba to fire them in the event of a U.S. invasion of the island. If Kennedy had done what the Pentagon and the CIA wanted him to do — bomb and invade Cuba — there is no doubt that full nuclear war would have been the result.

That's how close the U.S. national-security state brought America

and the Soviet Union to a nuclear holocaust.

In any event, the classified information that the Myerses were delivering to Cuba during the past 30 years couldn't have had anything to do with "defense," as Secretary of State Clinton intimated. It had to do with the acts of aggression that the U.S. government was committing against a sovereign and independent regime that has never engaged in any acts of aggression against the United States.

That's what Americans so easily forget — that in the 50 years of "conflict" between Cuba and the United States, it has always been the U.S. government that has been the aggressor, and it has always been Cuba that has had to defend itself from the U.S. government's aggression.

Let's keep in mind some important facts here: Cuba has never attacked the United States. Cuba has never invaded the United States. It has never engaged in terrorist attacks or acts of sabotage either in the United States or against U.S. installations overseas, not even at the U.S. military installation at Guantanamo Bay. It has never attempted to assassinate U.S. officials or anyone else on American soil, either in partnership with the Mafia or any-

one else. It has never implemented an economic embargo against the United States. It has never tried to effect regime change in the United States.

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**Under the principles of the national-security state, Americans are not supposed to make judgments on right and wrong when it comes to the actions of their government.**

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Instead, it has been the U.S. government that has done all those things to Cuba. It has invaded the island. It has engaged in terrorist attacks and acts of sabotage in Cuba. It has repeatedly tried to assassinate Fidel Castro and other Cuban officials, even going so far as to enter into an assassination partnership with the Mafia to do so. It has maintained a brutal economic embargo against Cuba for more than half a century. And it has consistently maintained a policy of regime change on the island, with the intent of ousting Castro from power and replacing him with a pro-U.S. dictator.

It should be noted as well that Congress has never declared war on Cuba, which is the constitutionally required prerequisite to the president's waging of war against other

nations.

That's what Judge Walton failed to take into account at the Myerses' sentencing hearing — that the classified information that the Myerses delivered to Cuba during the past 30 years couldn't have had anything to do with "national defense" because the United States never has had to defend itself from any acts of aggression from Cuba. The information that the Myerses transmitted to Cuba had to have pertained, instead, to the U.S. government's acts of aggression toward Cuba, that is, to plans relating to assassination, invasion, terrorism, sabotage, or embargo.

### How Americans should think

That's why the Myerses said that they hadn't acted out of anger towards the United States or from any thought of anti-Americanism. In their minds, they were simply giving information to Cuba to enable it to defend itself from U.S. aggression. In their minds, the U.S. government should simply have left Cuba alone.

But, you see, for Judge Walton and for officials in the U.S. national-security state, American citizens are never supposed to think like that. Under the principles of the national-security state, Americans are not

supposed to make judgments on right and wrong when it comes to the actions of their government. They're supposed to defer to the authority of their national-security state officials and to support them unconditionally, without question or challenge.

After all, the job of the national-security state is to keep Americans safe. U.S. officials are the guardians of national security. They are the ultimate judges both of what "national security" means and of what must be done to protect it. If they say that it's necessary to invade a sovereign and independent country, to assassinate its officials, to enter into an assassination partnership with organized crime, to engage in terrorism and sabotage within the country, and to squeeze the lifeblood out of foreign citizens with an embargo, then that's just the way it is.

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**U.S. officials are the ultimate judges both of what "national security" means and of what must be done to protect it.**

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All Americans are expected to get on board. And whoever questions or challenges what the government is doing to protect their "national security" is considered

suspect or, even worse, a bad person, or, worst of all, an enemy of the state or a "terrorist sympathizer" — a person who obviously hates his government and his country, especially given that under the principles of the national-security state, government and country are conflated into one entity.

The mistake the Myerses made was in delivering the information to Cuba, which placed them in violation of U.S. laws against spying and treason. If they had instead delivered the information to the *New York Times*, it would have made for an entirely different situation, similar to that of Daniel Ellsberg, the Pentagon official who released the Pentagon Papers to the *Times* during the Vietnam War, or to that of Bradley Manning, the U.S. soldier who is accused of having delivered classified information disclosing embarrassing matters relating to U.S. foreign policy to WikiLeaks.

Yes, the government would have nonetheless indicted and prosecuted the Myerses as it did Ellsberg and is doing to Manning. Moreover, Judge Walton would undoubtedly have still berated them if they had been convicted. But at least the information would have reached the American people, which might have caused more Americans to ex-

ercise some independence of thought and personal conscience, which in turn might have brought a change in U.S. foreign policy towards Cuba.

### More examples

Another example of this phenomenon is the case of the Cuban Five. That case involves five agents of the Cuban government who were arrested by federal officials in the United States, prosecuted for spying, convicted, and sentenced to long prison terms by a federal court in Florida. Their crime? They came to the United States with the aim of ferreting out terrorist plots against Cuba.

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**Congress has steadfastly refused to conduct a formal investigation into whether the CIA was behind the attack on Cubana Flight 455.**

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For that, those five Cuban agents were considered bad people by U.S. officials — criminals! Imagine the audacity of those five men in trying to protect their country from terrorism. Don't they know by now that Cuba is not supposed to defend itself against such things?

Consider Cubana Flight 455, which took off from Venezuela on

October 6, 1976, and was returning to Cuba. It was downed by a terrorist bomb that had been planted on the plane. All 78 people on board were killed, including all 24 members of the 1975 Cuban fencing team, which had just won gold medals in Latin American competitions.

The prime suspect in the bombing was a man named Luis Posada Carriles, an agent of the CIA. Was Posada operating on behalf of the CIA when he supposedly orchestrated the attack? It's impossible to know. We do know that he and the CIA claimed that he was no longer working for the CIA during that time. But the problem is that they would say that anyway, so there really is no way to know for sure. What we do know is that the U.S. government has steadfastly harbored Posada by refusing to honor an extradition request from Venezuela, notwithstanding an extradition treaty between the two countries. We also know that Congress has steadfastly refused to conduct a formal investigation into whether the CIA was behind the attack.

Let's suppose that the CIA was behind the terrorist attack on Cubana Flight 455 and that the Myerses had discovered the plot when it was being planned. If they had

delivered such information to Cuba, there is no doubt that they would have been treated in the same way they were treated for transmitting the “national defense” information that they actually transmitted to Cuba. Under America’s national-security state, any citizen, either inside or outside the government, who would disclose such information to a nation being targeted by the CIA is obviously a hater of the U.S. government and anti-American.

What has been the justification for the U.S. government’s actions towards Cuba? The justifications have been twofold: Fidel Castro’s refusal to submit to the control of the U.S. government and the fact that Castro was a communist who turned Cuba into a communist state.

Those two concepts — U.S. im-

perialism and the U.S. national-security state’s excessive and unreasonable fear of communism — have been driving principles of U.S. foreign policy towards Cuba and the rest of the world through much of the 20th and 21st centuries. They have also wreaked untold damage on our nation, our values, our economic well-being, and our freedom.

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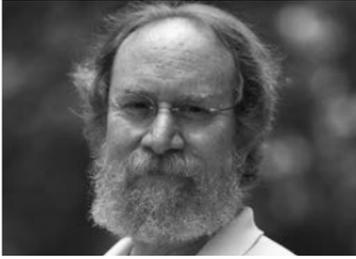
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**NEXT MONTH:**  
“The Evil of the National-Security State, Part 4”  
by *Jacob G. Hornberger*

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# Obama's Logic of War

by Sheldon Richman



Despite the alleged difference between Barack Obama and Israeli Prime Minister Benjamin Netanyahu on Iran, both embrace a position that logically commits them to war. If war is to be avoided, as Obama says he wishes, he will have to abandon his current stance.

The difference between Obama and Netanyahu is more apparent than real. Both say Iran's possession of a nuclear weapon is "unacceptable." Both have vauntingly put "all options on the table," including the nuclear option. Both say they are willing to give harsh economic sanctions and diplomacy more time.

Some difference seems to exist over where they would draw the "red line." Netanyahu says he can-

not tolerate Iran's having even partially finished components and know-how; by that low standard, Iran has already crossed the line. Obama seems to draw the line at actual production or possession of a nuclear weapon. In practice that may be a distinction without a difference, since, if Iran were to decide to build a weapon, it certainly would not do it in the open. When exactly would Obama consider the line crossed?

That is a big "if," however. Neither American nor Israeli intelligence believes Iran has decided to make a nuclear warhead, and the many U.S. intelligence agencies have twice said Iran scrapped what may have been a weapons program in 2003, the year the American military toppled Iran's nemesis, Iraqi president Saddam Hussein, from power.

For more than a decade, American and Israeli belligerents have warned in dire tones that an Iranian bomb is just a few years away. Yet Iran's uranium, which is under the watchful eye of the International Atomic Energy Agency, has not been enriched to weapons grade. Iran complies with its obligations under the Nuclear Non-Proliferation Treaty (NPT). Iran insists its nuclear research is for electricity

and medicine, and no one has hard evidence to the contrary. Moreover, Supreme Leader Ali Khamenei for years has said that Islam forbids possession of nuclear weapons. In February Khamenei repeated,

*The Iranian nation has never pursued and will never pursue nuclear weapons. There is no doubt that the decision makers in the countries opposing us know well that Iran is not after nuclear weapons because the Islamic Republic, logically, religiously, and theoretically, considers the possession of nuclear weapons a grave sin and believes the proliferation of such weapons is senseless, destructive, and dangerous.*

One may reasonably be skeptical of what the head of any government says, but one is obliged to present some evidence to contradict a particular claim, especially one made over many years and supported by American intelligence. Khamenei's *fatwa* against nuclear weapons is highly inconvenient for those who want war with Iran.

At best Obama has bought some time with Netanyahu. The last thing Obama wants before the election is a new war that would, as the least of

its consequences, send gasoline prices soaring. It would also lead to American deaths in Iraq and Afghanistan, not to mention in Israel and, most especially, in Iran itself.

But let's not conclude that Obama deserves another Nobel Peace Prize just yet. The time he bought is time in which the Iranian middle and working classes will suffer greatly under the tightening sanctions, which impede the country's ability to sell its oil and import needed commodities. Food prices have skyrocketed as the value of the Iranian rial plummets. Innocent people, particularly children, are suffering.

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**Khamenei's *fatwa* against nuclear weapons is highly inconvenient for those who want war with Iran.**

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The vise tightens each day. Under American prodding, Iranian banks have been shut out of the international payment network, which will make it even harder for Iran to obtain imports. The number of banks added to the blacklist is sure to grow. Where possible, Iran has resorted to barter, with all its inconveniences.

This is reminiscent of the 1990s U.S.-led sanctions on Iraq that

killed 500,000 children and fueled the anti-Americanism that led to the attacks on September 11, 2001. One recalls Bill Clinton's UN ambassador (and later secretary of State) Madeleine Albright's infamous comment that the murder of those children was "worth it" in the effort to drive Saddam Hussein from power, which it did not do. Will Secretary of State Hillary Clinton say the same thing some day? Will she say it before or after some horrible incident?

### Diplomacy?

The other track Obama touts is diplomacy. But the big question is this: What is there to talk about? Iran's government (with the support of the people) insists it may legally enrich uranium for peaceful purposes. Indeed, it may do so under the NPT, which it — unlike Israel, with several hundred nuclear weapons — has signed and honored. But Obama and Netanyahu want Iran to end its enrichment program. A few years ago when Iran, seeking to defuse the situation, arranged to acquire enriched uranium for its civilian reactors in a swap with Turkey and Brazil — thereby ending its enrichment program — Obama scotched the deal (after claiming to favor such a com-

promise).

So the United States and Israel are making a demand — cessation of the making of fuel for its medical and energy reactors — that Iran cannot accept without becoming subservient to them. That it will not do, though in talks it has shown a willingness to seek an accommodation. Iran, whether the United States and Israel like it or not, is a major Middle Eastern country, with close to 80 million people and 636,000 square miles. It is a traditional power, and it will not be eager to relinquish that status.

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Even if Obama and Netanyahu sincerely do not want war, the logic of their position pushes in that direction.

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What then? Considering what Obama ("I don't bluff") and Netanyahu demand, war is the only remaining option. Even if they sincerely do not want war, the logic of their position pushes in that direction. Speaking at the conference of the American Israel Public Affairs Committee (AIPAC, the main Israel-Jewish lobbying organization), he declared, "I have said that when it comes to preventing Iran from obtaining a nuclear weapon, I will take no options off the table, and I

mean what I say. That includes all elements of American power.” “All elements” includes the U.S. nuclear arsenal.

For his part, Netanyahu continues to ratchet up the rhetoric, comparing the situation to Germany, 1938. “Seventy years after the Holocaust,” Netanyahu said, “many in the world are silent in the face of Iran’s pledges to wipe Israel off the face of the earth. This is a day in which the leaders of the world must commit not to allow another genocide.”

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**Iran’s leaders know full well that an attack on Israel would be the death of the Islamic regime, and Israel’s leaders acknowledged that Khamenei’s goal is survival not suicide.**

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His playing the Holocaust card is shameful. Iran, with a weak air force and army, is not Nazi Germany. Israel, in contrast, has an awesome nuclear arsenal, including a submarine-based second-strike capability, and a first-rate military financed and equipped by the American taxpayer to the tune of \$3 billion a year. Iran’s leaders know full well that an attack on Israel would be the death of the Islamic regime, and Israel’s leaders ac-

knowledge that Khamenei’s goal is survival not suicide. (That is echoed by Joint Chiefs Chairman Gen. Martin Dempsey, who calls the regime a “rational actor.”) Moreover, the charge that Iran has pledged to wipe Israel off the face of the earth is false, although Iranian officials oppose the Zionist regime. Iran’s intentions may be judged by the fact that its ancient Jewish community practices its religion freely, with 25 synagogues in Tehran, and has representation in the Iranian parliament. (That is not to say that Iranians are politically and economically free, but within the sphere of religion and culture people have a good deal of liberty.)

The demonization of the Iranian president, Mahmoud Ahmadinejad, as the new Hitler is particularly absurd. Hoover Institution foreign-affairs expert Bruce Bueno de Mesquita estimates that Ahmadinejad is the 18th-most-powerful politician in Iran and has nothing to say about Iran’s military. His faction was dealt a big political setback in March’s parliamentary elections — at the hands of Ayatollah Khamenei. Following the elections, Ahmadinejad was summoned before the Parliament for questioning about his mishandling of the economy. Some members spoke of impeach-

ment. Some Hitler.

## Restraining Israel

Many American observers believe the Obama-Netanyahu meeting in March defused the tension that had built up over Iran. After all, before the meeting, it was reported that Netanyahu said he would give Obama no notice of an attack on Iran. But are the accounts of Obama's deft restraining of Netanyahu accurate?

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### Is Obama against war or against war before the election? And has Netanyahu changed his strategic outlook?

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John Feffer of Foreign Policy in Focus isn't so sure:

*But this story of Obama the diplomat standing up to Netanyahu the bully omits some important information. During Netanyahu's visit, the Obama administration reportedly offered Israel a package of advanced military technology, including bunker-busting bombs and long-range refueling planes, as long as it postponed any attacks on Iran until 2013. In other words, Obama wasn't only buying time, he was brib-*

*ing Israel to prevent the kind of October surprise — or even July surprise — that might derail his reelection bid. And he was doing so with precisely the weapons that Israel could use to execute an attack on Iran.*

Is Obama against war or against war before the election? And has Netanyahu changed his strategic outlook? Apparently not. Reports *Haaretz*, a major Israeli daily,

*Since his return from Washington, Prime Minister Benjamin Netanyahu has mainly been preoccupied with one thing: Preparing public opinion for war against Iran....*

*In his speech before the Knesset on Wednesday, Netanyahu urged his colleagues to reject claims that Israel is too weak to go it alone in a war against a regional power such as Iran and therefore needs to rely on the United States, which has much greater military capabilities, to do the job and remove the threat.*

In other statements he insisted he does not need U.S. approval for the attack. He also attempted to connect the March violence be-

tween Israel and Palestinians in the Gaza Strip to Iran, though there is no relationship. (The Palestinians there have been under Israeli rule since 1967.)

In the past Netanyahu has bragged that he is able to manipulate Americans. He seems to be up to his old tricks. (For the record, former Israeli intelligence chiefs think an attack on Iran is a bad idea; the Israeli public is leery of going it alone.)

In the end, Obama's and Netanyahu's objective — a subservient Iran — simply cannot be achieved except by regime change, something the Iranian government is not likely to facilitate. When (futile) diplomacy and sanctions fail, what will be left besides war?

Obama's adulators desperately want to believe he is a man of peace. They need to wake up.

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**NEXT MONTH:**  
**"An Echo, Not a Choice"**  
*by Sheldon Richman*

## How Roosevelt's Farm Policy Paved the Way for Obamacare

by James Bovard



The Obama administration invoked a 1942 Supreme Court agricultural-policy case to justify its sweeping health-care law compelling individual Americans to purchase health insurance. The role of *Wickard v. Filburn* in sanctifying Obamacare is a reminder of how the New Deal continues to imperil our rights and liberties. Unfortunately, few U.S. Supreme Court justices or journalists recognized the sordid path that led to the landmark decision that the Obama administration invoked.

In 1933, Franklin Roosevelt took office amid promises to revolutionize agriculture. Unfortunately, he saw the farm crisis as proof of the failure of the free market, rather

than proof of the incompetence of the Farm Board. The *New York Times* reported on March 12, 1933, shortly after Roosevelt's inauguration, that Agriculture Secretary Henry Wallace and farm leaders were appealing to Roosevelt for the appointment of a "farm dictator" to solve the farm crisis. Wallace and others were convinced that only by vesting vast arbitrary powers in a farm dictator could American agriculture be saved.

The 1933 Agriculture Adjustment Act (AAA) opened with a "Declaration of Emergency" and noted that the act should "cease to be in effect whenever the President finds and proclaims that the national emergency in relation to agriculture has ended." Wallace proclaimed that the emergency justified temporary programs to pay farmers to kill 6 million baby pigs and plow up 10 million acres of cotton. The administrator of the AAA, George Peek, celebrated the cotton plow-up as "an epoch in American Agriculture.... History has been made during these days." The USDA was ridiculed for "resolving the paradox of want amid plenty by doing away with the plenty." The 1933 farm legislation was widely denounced as being an instrument of "class warfare" — based on the idea that the

only way to help farmers was to effectively attack consumers and taxpayers.

### Wrecking the market

The New Deal looked upon agriculture as though the “production problem” had already been solved and the only thing missing was proper control of farmers and consumers. Wallace denigrated the use of labor-saving devices. Assistant Secretary of Agriculture Rexford Tugwell declared in 1934, “Today our primary need is not to stimulate enterprise, but to order and plan it in the public interest.” M.L. Wilson, USDA undersecretary in 1934, declared, “Technological efficiency alone is seldom or never all-important.” Farm programs were launched with a contempt for efficiency and a neglect of productivity. The original agricultural planners had unlimited faith in their capacity as benevolent despots.

By promising farmers far more than the market value of their crops, the New Deal encouraged farmers to produce far more than could be sold at government-controlled prices. Politicians encouraged farmers to overproduce, and then cited crop surpluses as proof of the need for political management of agriculture. In 1934 the government im-

posed heavy taxes on all cotton and tobacco farmers who refused to limit their production as the government demanded.

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The New Deal looked upon agriculture as though the “production problem” had already been solved and the only thing missing was proper control of farmers and consumers.

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The AAA set American crop prices far above world market prices. Cotton exports fell from 14 million bales in 1929 to 3.5 million in 1938. In 1931, the United States exported 131 million bushels of wheat; in 1934, after the government paid farmers to slash production, the United States was a net *importer* of wheat. Agricultural economist B.H. Hibbard reported in *The Nation* in 1934 that the AAA “put a thousand times as much effort into reduction of output at home as they put into the effort to restore foreign trade during their first year in control.” Economist (and later Nobel laureate) Theodore W. Schultz denounced New Deal farm programs for “putting a ‘Chinese Wall’ around our export farmers.”

Politicians first wrecked the agricultural export markets, and then

used the loss of exports to justify taking over American farmers' businesses. AAA administrator Chester Davis declared that "unless and until the U.S. recovers the lost export markets, the adjustments in [crop] production will have to be made." In 1935 Roosevelt even bragged about his administration's destruction of farm exports: "Now, with export surpluses no longer pressing down on the farmers' welfare, with fairer prices, farmers really have a chance for the first time in this generation to benefit from improved methods."

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**Many of the architects of federal agricultural policy in the 1930s thought the Soviet economic system was superior to that of the United States.**

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Roosevelt's Brain Trust was convinced that raising farm income was the key to reviving prosperity. At a time when one-quarter of the American work force was unemployed, the federal government imposed a heavy tax on food items in order to raise revenue for farm aid. Thanks to the heavy taxes, food consumption declined in 1935 even below the levels of previous depression years

Many of the architects of federal

agricultural policy in the 1930s thought the Soviet economic system was superior to that of the United States. Tugwell himself praised the Soviet Union for its "operation of industry in the public interest rather than for profits." (Tugwell was accused of learning all he knew about agriculture from a visit to Moscow.)

In 1936, the Supreme Court examined the 1933 Agriculture Adjustment Act and ruled it unconstitutional. The farm programs effectively imposed severe penalties on farmers who refused to obey the Roosevelt administration's demands that they curtail their production. In a landmark 1936 case striking down farm programs as unconstitutional, the Supreme Court observed,

*The regulation is not in fact voluntary. The farmer, of course, may refuse to comply, but the price of such refusal is the loss of benefits. The amount offered is intended to be sufficient to exert pressure on him to agree to the proposed regulation.... This is coercion by economic pressure. The asserted power of choice is illusory.*

A few weeks after the Supreme

Court struck down the Agricultural Adjustment Act, Congress reauthorized farm programs — with minor changes intended to circumvent the specific grounds of the Supreme Court's nullification of federal farm programs.

### *Wickard*

In 1942, in *Wickard v. Filburn*, a more pro-government Supreme Court ruled that farm programs could legally penalize an Ohio farmer for the crime of eating the wheat that he sowed. The federal wheat program dictated how many bushels of wheat each farmer could produce; government administrators were so devoted to maintaining a stranglehold on the wheat supply that they would seize the title to a farmer's entire wheat harvest if he planted a single acre more wheat than local farm bureaucrats permitted. The Court, in sanctioning the dictatorial power of farm bureaucrats over farmers, grossly misrepresented recent American history. The Court observed,

*The wheat industry has been a problem industry for some years. Largely as a result of increased foreign production and import restrictions, annual exports of wheat and flour*

*from the United States during the ten-year period ending in 1940 averaged less than 10 percent of total production, while during the 1920's they averaged more than 25 percent. The decline in the export trade has left a large surplus in production which, in connection with an abnormally large supply of wheat and other grains in recent years, caused congestion in a number of markets....*

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**New Deal agricultural programs were a dismal failure at returning prosperity to the farm.**

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Thus, because the federal government had intentionally undermined wheat exports, it automatically acquired the right to exercise unlimited power over every bushel of wheat produced in the United States. The Court also noted, "It is of the essence of regulation that it lays a restraining hand on the self-interest of the regulated.... It is hardly lack of due process for the government to regulate that which it subsidizes."

Congress and the Agriculture Department presumed that providing aid to some farmers created a right to absolutely control all farmers. The Court concluded that the

government was justified even in restricting “the amount of wheat ... to which one may forestall resort to the market by producing for his own needs.” Once the federal government wrecked the market, the government became entitled to control of the livelihood of everyone who had to depend on that market.

New Deal agricultural programs were a dismal failure at returning prosperity to the farm. Ezra Taft Benson, secretary of Agriculture under Dwight Eisenhower, noted that “cash farm income, less government payments, did not reach the 1929 level until 1941, a war year.” Farmland values continued to decline throughout the 1930s and began rising only after World War II became imminent. The continuing decline of farmland value was the clearest vote of no-confidence in government agricultural controls by farmers.

The follies of New Deal-era farm policy should have provided Americans an unforgettable lesson on the danger of arbitrary power. Politicians took custody of the agriculture economy — and then wrecked it. In the name of protecting farmers against themselves, the government did dozens of things that no intelligent farmer would

ever have done. The worse politicians failed, the more powerful they became. The cure for every subsidy was another subsidy; the answer for every failed control was a tighter control; and there was no problem caused by political manipulation that could not be cured by more manipulation.

There are stark parallels between federal mangling of farm markets and the pervasive distortions that the government has inflicted on health care. Unfortunately, in both areas, politicians and bureaucrats have almost never been held liable for the damage they have done.

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**NEXT MONTH:**  
“The Federal Wetland War,  
Part 1”  
*by James Bovard*



# Keynesians, Austrians, and the Continuing Economic Depression

## Part 1

*by William L. Anderson*



**D**uring a news talk show on August 14, 2011, Princeton University economist and 2008 Nobel Prize winner Paul Krugman made a startling declaration: If the United States were to mobilize for a supposed invasion of “space aliens,” the current economic downturn would be over “in 18 months.” The CNN interviewer did not laugh at this assertion, nor did Harvard economist Kenneth Rogoff, who also was a guest on the show. (Rogoff did not directly endorse Krugman’s scheme of preparing for invasion, but he did say that the economy needed much more

inflation than it currently has.)

Most people would scoff at the notion that a government could bring about an end to mass unemployment and economic stagnation by preparing for an imaginary invasion of “space aliens,” but Krugman was dead serious. Now, serious people might wonder why the nation’s most elite academic economists would claim such a thing as a “cure” for economic malaise, but they were saying things consistent with Keynesian economic theory, the theory that for now rules academe and determines policy for the world’s central banks.

At this writing, the economy of the United States — and, indeed, most of the industrialized world — is in deep recession. Millions of people are out of work and cannot find employment (or must settle for part-time work or even work “off the books”), and while the nation’s official rate of unemployment might even fall here and there by tiny amounts, nonetheless the once-mighty U.S. economy is moribund, and everyone knows it.

When the collapse of the housing bubble began in earnest in 2007, the government’s response, first under George W. Bush and then under Barack Obama, has been to ramp up federal spending. Despite Krug-

man's many assertions in his column in the *New York Times* and elsewhere that government spending has not increased in any appreciable terms, in fact federal-government spending in the past five years has gone up by about a *trillion* dollars, according to the U.S. Department of the Treasury.

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**The theories of Keynes provide the fig leaf for governments to claim that their wild spending habits actually reflect *responsible* behavior.**

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The increase in spending has been deliberate and even has economic theory behind it, thus justifying the existing proclivity of politicians to spend the money of others whenever it is deemed politically "necessary." Whether or not this theory developed by John Maynard Keynes more than 70 years ago is a good one and whether the massive increase in spending is helping the economy or retarding its growth is another matter, and in this article, I argue it is retarding it. At the present time, however, people who believe that sound economic theory is incompatible with the government's current course are in a distinct minority.

While politicians really need no

theoretical reason to clamor for more spending for favored and connected interest groups, nonetheless the theories of Keynes, made famous during the 1930s, provide the fig leaf for governments to claim that their wild spending habits actually reflect *responsible* behavior. Whether it is the Greek government borrowing billions of dollars to finance its payments on previous debt or the U.S. government ramping up its debt to more than \$15 trillion, all can claim that they simply are doing what Keynes told them to do: spend when the economy tumbles into recession.

Many politicians and academic economists claim that those who oppose the Keynesian view are wrong simply because they are a relatively small number. The critics argue that if those who disapprove of the current spending regime cannot persuade the majority of politicians and economists to agree with them, then that alone proves they are wrong.

One cannot argue against that kind of "logic" precisely because it is not logic at all, but rather the logical fallacy of *ad populum*, or a form of "everyone knows it to be true." (One saw this form of argument during the Republican presidential debates when the candidates

claimed that Ron Paul's view of the 9/11 attacks — that Muslim Arabs were reacting against the United States's heavy-handed foreign policy and did not attack it “for our freedoms” — was false on its face. Never once have I seen them offer a shred of evidence otherwise other than to say that Paul's arguments are wrong because ... they are wrong.)

That being said, proponents of the viewpoint that increasing government spending during a recession hurts rather than helps the economy must overcome what would seem to be popular wisdom as well as get their point across to a world that really does not seem to want to hear what they say. Matt Yglesias recently wrote in an article in *Slate* that such a viewpoint really amounts to little more than a philosophy of despair and helplessness. With that perception (a false perception, to be sure) attached as unwanted baggage, people pursuing our reasoning must be prepared to explain *everything* with the understanding that even the clearest explanation is going to be rejected by others.

Ours was not the minority point of view, at least in the 19th and early 20th centuries. When faced with a massive financial panic and recession

in 1837, Martin Van Buren declared he had neither constitutional authority nor sound economic doctrine for government to ramp up spending. More than 80 years later, Warren G. Harding told conferees who met to discuss potential government action during the Panic of 1921 that the best thing the government could do was ... nothing.

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How is it that the  
policies changed essentially  
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massive government  
intervention?

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How, then, did the intellectual and political forces change in the way that governments, and especially the federal government, dealt with economic downturns? How is it that the policies changed essentially from *laissez faire* to massive government intervention, and why is it that those who once were seen as intellectually correct are now publicly regarded as villains? And how did economic theory, which once recommended a *laissez-faire* approach to dealing with economic downturns, turn into a mechanism that supports irresponsible behavior on behalf of national governments? We must look to history for the answers.

### Competing theories on economic downturns

Long before there was an Austrian school of economics and long before John Maynard Keynes wrote his terribly influential *General Theory* in the 1930s, there were the arguments between the followers of Thomas Malthus and those of Jean-Baptiste Say. Malthus, a British clergyman who is more famous for his writings on population growth than economic demand (he said that population growth would outstrip the world's food supply, bringing on mass starvation), wrote that an economy is under the constant danger that people will stop spending money and, thus, leave a "glut" of commodities.

(It should be noted that even Malthus's ideas on "overproduction" or "underconsumption" were not new. Bernard Mandeville in his early 18th-century poem, "The Fable of the Bees," had said many of the same things, claiming that what would seem to be "private vices" — spending all of one's income and failing to save — were "publick virtues.")

The presence of the "glut" would set off a chain reaction beginning with an increase in unemployment, as business owners would lay off workers because of the lack of de-

mand for their products. Those workers then would lose their purchasing power, decreasing demand even further, until the economy went into crisis. Thus, the very productive power of the economy would prove to be its undoing, as producers would create more goods than could be sold, causing "general gluts" in the market and further depressing it.

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Classical economists argued that production itself was the source of "purchasing power," not money.

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Classical economists such as Say, David Ricardo, and later John Stuart Mill, however, argued that production itself was the source of "purchasing power," not money. Unlike Malthus, who held that production and consumption were two separate and unrelated entities, Ricardo, Say, and their followers noted that the purposeful end of production *was* consumption. There was no causality in Malthus's argument, they noted, and no reason that people would just choose arbitrarily to stop consuming the goods they had produced.

Furthermore, Say argued, if there were a "glut" of commodities on the market, the glut would be

“proportional,” not general in that it would be impossible for there to be a general overproduction of goods. Instead, Say wrote that some goods might be temporarily overproduced for market demand, but at the same time, other goods would be “underproduced,” and over time the economy would find its balance.

Interesting enough, the classical economists fully accepted Malthus’s theories on population (leading to Ricardo’s “Iron Law of Wages” in which wages always would fall to subsistence), but they rejected Malthus’s views of “overproduction.” Events have discredited the former viewpoint, and they should have discredited the latter, but modern intellectuals in the end still embrace Malthusian population theory and have formalized his theory of why economic downturns exist.

In the mid 1800s, Karl Marx further systematized the Malthusian theory of business downturns, but with a new twist: he argued that the presence of profit that went to the capitalists was an “unjust expropriation” of the wages of labor and it deprived workers of the “purchasing power” that would permit them to “buy back” the goods they had produced. Nonetheless, the result was the same, that being a “general

glut” of products, which ultimately would drive down the economy. In the Marxian view, the systematic “expropriation” of the wages of laborers would lead to crisis, as the glut of products would result in layoffs and mass unemployment, which would be the tinder that would spark revolution and ultimately the utopia of communism.

None of the theories that have appeared so far could be labeled “business cycle” theories, although they laid building blocks for them. Certainly, many intellectuals (although not many economists) embraced Marx’s views, and Marx gave them ammunition against capitalism, as it not only was predatory but also sowed the seeds of its own demise.

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**NEXT MONTH:**  
**“Keynesians, Austrians, and  
the Continuing Economic  
Depression, Part 2”**  
*by William L. Anderson*

# I Was Fooled by the War-Makers

by *Thomas E. Woods Jr.*



**T**wenty years ago, as I was completing my freshman year in college, I was a full-blown neoconservative. Except I didn't know it. Having concluded that I was not a leftist, I simply decided by process of elimination that I must be a Rush Limbaughian.

Like most people, I was unaware that any alternative to those two choices existed, or that in some ways they were two sides of a common statist coin. In particular, I embraced a neoconservative foreign policy with gusto. The way to show you weren't a commie was by supporting the U.S. military as it doled out summary justice to bad guys all over the world. And frankly, it was exciting to watch it all unfold on TV.

I never gave the human cost of

war a second thought and became impatient with anyone who did. War was like a video game I could enjoy from the comfort of my home. Devastation and human suffering were quite beside the point: the righteous U.S. government was dispensing justice to the wicked, and that was that. What are you, a liberal?

The Persian Gulf War of 1991 was the first U.S. conflict of my college career. During the months-long U.S. military buildup in the Gulf known as Operation Desert Shield I eagerly promoted the mission to anyone foolish enough to listen.

When war came, it was swift and decisive. Very few American casualties were suffered, while the Iraqi forces were destroyed. Some 100,000 were burned alive by a chemical agent or buried alive in the desert while making a retreat.

Believe it or not, that actually bothered me, in spite of how voracious a consumer of war propaganda I was. No one defended Saddam Hussein's invasion of Kuwait, which he launched in response to that country's slant oil drilling, but was the outcome of the Persian Gulf War not a terrible tragedy for the Iraqi people — virtually none of whom had had anything to do with

Saddam Hussein's fateful decision — all the same? A far poorer country than ours suddenly had a lot more widows and orphans, not to mention a great many civilian deaths to grieve over and much destruction to repair.

### Lopsided counts

Mothers and fathers were crying themselves to exhaustion over children they had lost, or who, worse still, were dying agonizing deaths before their very eyes. There is no worse anguish for parents than to watch their children suffer and to be helpless to do anything about it.

Was it really right that we Americans should meanwhile be celebrating with a Bob Hope special, and — on cue — flattered by the ceaseless reminders that ours was the awesomest country ever?

It later transpired that the Kuwaiti government had hired a public-relations firm in the United States to sell the idea of military invasion to the American people. We later learned that the major atrocity story — that Iraqi troops had removed Kuwaiti babies from incubators and thrown them onto hospital floors — had been a fraud: the emotional young woman who testified to that effect in Washington turned

out to be the daughter of the Kuwaiti ambassador to the United States.

Although I had strongly favored military action by the U.S. government from the start, in the wake of George H.W. Bush's declaration of victory I could not stop thinking about the lopsided casualty counts, the waves of killing rained down on a ramshackle army facing the greatest military machine in the world. Now these were soldiers, not civilians, so by the logic of war I was supposed to hate them or at least not care about them, their deaths being cause for celebration rather than regret.

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It later transpired that the Kuwaiti government had hired a public-relations firm in the United States to sell the idea of military invasion to the American people.

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I was having trouble doing that.

I went to see my European history professor, Charles Maier, to discuss my misgivings about the war. Maier, a liberal in the *New Republic* mold, suggested I read a recent article in that magazine making the case for the war. I did, and (believe it or not) that helped to suppress any contrary thoughts for

a while.

I was already beginning to read libertarian literature by the early 1990s because of my support for the market economy. My reading of the economic works of Murray Rothbard led inevitably to his philosophical works. The Rothbard essay “War, Peace, and the State” leaves an impression on the mind one can never quite shake.

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**Rothbard famously observed that one could uncover the libertarian position on X by imagining a gang of thugs carrying out the state action in question.**

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Rothbard famously observed that one could uncover the libertarian position on X by imagining a gang of thugs carrying out the state action in question. If thugs can’t just grab your money, for instance, neither can a well-dressed group of thugs calling itself “the state.”

“War, Peace, and the State” takes that analysis and applies it to war. If you steal my TV, I can take it back from you. But I may not walk down the street firing a gun every which way and harming third parties in order to make you surrender my TV. Likewise, even assuming a war-making state to be absolutely in the

right, it has no greater moral entitlement to harm third parties in pursuit of its ends than a private individual does.

Simply because some politician utters the word “war,” we have been conditioned to believe it just and good that the rights of everyone within the confines of an arbitrary border are abruptly cancelled. What would in any other circumstance be murder and atrocity becomes an antiseptic matter of public policy.

The lingering effects of war can inspire callousness even after the guns have fallen silent. Many of us have seen the notorious clip from *60 Minutes* in which Madeleine Albright, then U.S. ambassador to the United Nations and soon-to-be U.S. secretary of State, declared that the price of half a million dead children as a result of the sanctions against Iraq during the 1990s had been “worth it.” Note that she did not dispute the figure. She looked the interviewer in the eye and said that the deaths of half a million kids were worth it in pursuit of one man she and her colleagues didn’t like.

Now suppose the Soviet Union, during the height of the Cold War, had killed half a million children in the course of a sanctions policy. We would never have heard the end of it.

“We”

One of the great triumphs of the government propaganda machine in self-described democracies is the “we are the government” line. It makes the subject population somewhat more compliant than it might be if a particular family passed down the power to govern from one generation to another, with no chance (short of outright revolution) that anyone else will ever hold the reins of power. More important, criticisms of their government’s foreign policy now come to be seen as personal affronts. We are the government, after all, so how dare you criticize “our” foreign policy!

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Some Americans defended a series of policies which, if pursued by the Soviet Union 30 years ago, they themselves would have condemned.

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For that reason, opponents of American foreign policy should, when speaking on this topic, eliminate the pronoun “we” from their vocabulary. “We” did not kill those Iraqi kids. In 2002 and 2003 “we” did not repeat transparent untruths about the alleged threat posed by a devastated Iraq. “We” did not lay waste to an already-suffering coun-

try, killing hundreds of thousands and displacing four million others.

They did this. The American political class. We did not.

What some Americans did do, though, was to make sorry excuses for their political overlords. Some Americans defended a series of policies which, if pursued by the Soviet Union 30 years ago, they themselves would have condemned as grotesque violations of basic standards of morality. But with the U.S. government as the perpetrator, everything was different. They were as gullible on foreign policy as left-liberals are on domestic policy. They dutifully searched for evidence to corroborate their leaders’ claims, even when their leaders had long since abandoned those claims. They accepted the most transparent propaganda without batting an eye.

### The insensibility to suffering

Until 1991, I had done pretty much the same thing. But following the Persian Gulf War I began to have doubts. Within a few years I had come to regret my laziness, and the readiness with which I accepted foreign-policy propaganda from the very people I knew I couldn’t trust when it came to the economy, the Constitution, or pretty much anything else.

The 19th-century writer Elihu Burritt noted the great sympathy the human race extended to those who have been the victims of misfortunes: famine, shipwreck, railway accidents, whatever. He then invited his readers to “compare the feeling with which the community hears of the loss or peril of a few human lives by these accidents with which the news of the death or mutilation of thousands of men, equally precious, on the field of battle is received.”

*How different is the valuation! how different in universal sympathy! War seems to reverse our best and boasted civilization, to carry back human society to the dark ages of barbarism, to cheapen the public appreciation of human life almost to the standard of brute beasts.... And this demoralization of sentiment is not confined to the two or three nations engaged in war; it extends to the most distant and neutral nations, and they read of thousands slain or mangled in a single battle with but a little more humane sensibility than they would read of the loss of so many pawns by a move on a chessboard. With what deep*

*sympathy the American nation, even to the very slaves, heard of the suffering in Ireland by the potato famine! What shiploads of corn and provisions they sent over to relieve that suffering! But how little of that benevolent sympathy and of that generous aid would they have given to the same amount of suffering inflicted by war upon the people of a foreign country! This ... is one of the very worst works of war. It is not only the demoralization, but almost the transformation, of human nature. We can generally ascertain how many lives have been lost in a war. The tax-gatherer lets us know how much money it costs. But no registry kept on earth can tell us how much is lost to the world by this insensibility to human suffering which a war produces in the whole family circle of nations.*

I was once blind to the effects of war on my own moral compass and to how callous I had become toward entire countries and the fellow human beings who inhabited them. When I collaborated with Murray Polner on *We Who Dared to Say No to War: American Antiwar Writing*

*from 1812 to Now* (Basic Books, 2008), it was in a spirit of contrition and reparation for having once cheered on what I now know to be evil.

“I am getting more and more convinced that the war-peace question is the key to the whole libertarian business,” Rothbard noted privately in 1956. I am equally

convinced. If we can't get this right, who cares about the Department of Education or the minimum wage?

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*Thomas E. Woods Jr. is the New York Times best-selling author of 11 books and the founder of [www.LibertyClassroom.com](http://www.LibertyClassroom.com).*

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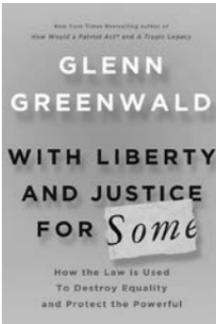
*America, with the same voice which spoke herself into existence as a nation, proclaimed to mankind the inextinguishable rights of human nature, and the only lawful foundations of government.*

— John Adams

# Unequal Justice

by *Matthew Harwood*

*With Liberty and Justice for Some: How the Law Is Used to Destroy Equality and Protect the Powerful* by Glenn Greenwald (New York: Metropolitan Books, 2011), 304 pages.



In August, something incredible happened: a three-judge panel of the Seventh Circuit Court of Appeals, in a split decision, allowed a lawsuit seeking monetary damages to proceed against former Defense Secretary Donald Rumsfeld. Largely ignored by the mainstream press, two private American security contractors in Iraq alleged that Rumsfeld created the conditions that led to their indefinite detention and torture at the hands of U.S. military personnel in early 2006. Working for a private Iraqi security firm in Iraq’s “Red Zone,” Donald

Vance and Nathan Ertel discovered the company was engaging in illegal activities, such as trading “liquor to American soldiers in exchange for U.S. weapons and ammunition that Shield Group Security then used or sold for a profit.” Following their consciences, they became FBI whistleblowers.

Suspicious of where their loyalties lay, Shield Group Security confiscated their credentials to enter the “Green Zone,” effectively imprisoning them in the company compound. Vance and Ertel alerted their U.S. government contacts of what had occurred and U.S. personnel rescued them. Or so they thought. Instead they were transferred to Iraq’s Camp Cropper and put into solitary confinement in freezing cold, bug-ridden cells smeared with excrement without being charged with a crime. Inside their cells, the lights were never turned off and heavy metal or country music was hellishly pumped in to deprive them of sleep. Ertel and Vance also allege they were physically abused and threatened.

Six weeks later in the case of Ertel and three months later in the case of Vance, they were released without explanation. They suffered all that, they say, because local U.S. officials wanted to figure out what

information they had passed to the FBI stateside. But such cruel and unusual punishment could happen, their lawsuit alleges, only because Rumsfeld had created a brutal detention system that their attorney described as “the abyss.”

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**As quickly as the scales of justice appeared to come eerily into balance, one scale crashed back down to earth, lifting Rumsfeld over Lady Justice’s head.**

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And to everyone’s surprise a two-justice majority agreed that the lawsuit had merit, allowing it to proceed. “United States law provides a civil damages remedy for aliens who are tortured by their own governments,” wrote Circuit Judge David Hamilton for the majority. “It would be startling and unprecedented to conclude that the United States would not provide such a remedy to its own citizens.”

Finally, a Bush administration figure would have to explain to a court his responsibility in carrying out a worldwide torture regime instituted after 9/11. But as quickly as the scales of justice appeared to come eerily into balance, one scale crashed back down to earth, lifting Rumsfeld over Lady Justice’s head. Vacating its split decision in late

October after government protest, the full Seventh Circuit now will rehear the entire case before deciding whether Rumsfeld will have to answer Ertel’s and Vance’s complaints against him and thus possibly be held financially accountable for the injuries the two men suffered.

Ertel’s and Vance’s suffering is only one of the latest and increasingly disturbing examples of what constitutional lawyer and Salon.com columnist Glenn Greenwald refers to as America’s two-tiered justice system in his new book, *With Liberty and Justice for Some*. It’s a system where the rich and powerful exist outside of the law and the poor and powerless get no relief. Indeed equality before the law, one of America’s most hallowed precepts, has deteriorated into a grim fairy tale, argues Greenwald, where political and business elites, often in collusion, get away with serious breaches of American and international law.

From torture to aggression in American foreign policy and warrantless wiretapping to systematic financial fraud domestically, a public-private partnership has formed to immunize American government and corporate elites while they profit from violating the law and American norms. Greenwald

isn't surprised by this situation, which is often marked by the revolving door between government and corporate America, remarking, "The U.S. government and industry interests essentially form one gigantic, amalgamated, inseparable entity — with a public division and a private one."

Throughout the book, Greenwald oozes bipartisan contempt for the corruption whereby elite criminality has reduced the United States to banana-republic status. He is the perfect writer for the moment, when both left- and right-wingers, represented by Occupy Wall Street and the grassroots of the Tea Party, have each crafted narratives of disaffection and disillusionment with American imperial politics, corporatism, and the corruption both create. Greenwald ranks now as heir apparent to a very much diminished Noam Chomsky as the American Left's most eloquent and indignant voice against privilege and illegitimate power in all its ideological guises.

### The two-tiered legal system

Historically, Greenwald traces America's two-tiered legal system to one crystallizing moment: Gerald Ford's pardon of Richard Nixon for his role in the widespread law-

breaking associated with the Watergate scandal. "Although there have been episodes of unpunished elite malfeasance throughout American history," writes Greenwald, "the explicit, systematic embrace of the notion that such malfeasance should be shielded from legal consequences begins with the Watergate scandal — one of the clearest cases of widespread, deliberate criminality at the highest level of the government."

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**"The explicit, systematic embrace of the notion that such malfeasance should be shielded from legal consequences begins with the Watergate scandal."**

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What was once a shocking display of power over principle has become a given, according to Greenwald, who fires off example after example to destroy any counter-argument. One of the worst was the Iran-Contra scandal, where the Reagan administration traded weapons for hostages with Iran and used the money from the weapons sale to fund the Contras, a guerrilla group attempting to overthrow the Sandanista government in Nicaragua. Although administration officials were indicted for this "clear-cut crime," Greenwald observes

“not a single one of them would serve even a day in prison.” Fast-forward to recent history and you’ll find George W. Bush commuting the 30-month sentence of Dick Cheney’s chief of staff Lawrence “Scooter” Libby to zero for crimes associated with the outing of CIA Agent Valerie Plame.

Greenwald also deftly illuminates the double standards and injustices that warp the American justice system “into a devastating tool used to entrench privilege, entitlement, and unearned wealth.” Nothing exemplifies that better than the massive financial crisis in which Wall Street firms received \$700 billion in taxpayer bailouts while America’s plebians got nothing in return but a wrecked economy marked by unprecedented foreclosure rates — a striking example of socializing risk and privatizing gains. “Even the massive recklessness and fraud that in 2008 spawned one of the worst financial crises in modern history has produced very little legal accountability — and almost no criminal liability — for the perpetrators so far, and is quite unlikely to do so in the future,” he writes. And when corporate lawbreaking can be directly tied to government pressure, as when the largest U.S. telecommuni-

cations companies cooperated with Bush administration figures to illegally spy on Americans, the solution is simple: Congress crafts and passes legislation that provides retroactive immunity for elite crimes rather than sending the executives and high-level officials to jail. “There is no more compelling example of the death of the rule of law in America than the bipartisan scheme to vest the nation’s largest telecoms with retroactive immunity, both criminal and civil, for the transgressions they committed on a grand scale,” Greenwald observes.

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But when examining how financial elites should have been held accountable for their frauds and gross negligence, Greenwald finds a prescription in a curious place — Theodore Roosevelt. “When Roosevelt assumed the presidency, businesses were threatening to destroy the basic principle of equality under the law, just as they have done during the past decade-plus orgy of deregulation,” Greenwald writes. “Yet

through sheer force of personality and resolute confidence in the justice of his convictions, Roosevelt persuaded the citizenry and his fellow elected officials to regulate and reduce the power of those who held the most influence.”

Such vaunted treatment of Theodore Rex is perplexing, considering the 26th president’s unabashed jingoism. Progressivism had many faces at the turn of the 20th century; Roosevelt’s was its most monstrous. It’s not a stretch to observe Greenwald would have loathed this war-loving, power-hungry apologist of torture. Indeed, even a cursory glance at either the work of Robert Higgs or Gabriel Kolko should have dissuaded him from crowning an aristocrat such as Teddy Roosevelt as the enemy of corporate power and privilege. That, and a bit of Founding Father hagiography in the introduction, are Greenwald’s main failings in an otherwise essential book for those interested in how elites crawl over the webs that ensnare average Americans.

### Draconian law

But the most valuable portion of Greenwald’s book isn’t his examination of elite impunity; it’s how draconian the law has become for the poorest and least powerful Ameri-

cans. “When ordinary Americans come in contact with the justice system, everything changes. The world we have been examining reverses,” Greenwald argues. “In the United States, the lack of accountability for elites goes hand-in-hand with a lack of mercy for everyone else.”

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**“In the United States, the lack of accountability for elites goes hand-in-hand with a lack of mercy for everyone else.”**

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Greenwald marshals some horrifying statistics to back such a distressing claim. Today, the United States boasts the world’s largest prison population in both absolute and per-capita terms. Twenty-five percent of the world’s prisoners live in cages in the “freest country on earth,” a figure somewhere between 2.2 and 2.4 million people. The next-closest rival in terms of prisoner population is China, at 1.6 million people. China has a population of 1.3 billion people; the United States’s population is around 300 million.

Citing mandatory minimum sentencing and “three strikes and you’re out” laws, Greenwald observes, “Leniency and mercy, once the hallmarks of civilized rule, to

say nothing of the great Western religions, have come to be scornfully equated with coddling, weakness, and liberalism.” Today, the book isn’t just thrown at small-time offenders; it’s used to crush them, like pests.

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**If compassion and justice can’t inspire Americans to reform their legal system, self-interest should, because the excessive proliferation of laws means you’ve probably violated one.**

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That, however, isn’t merely an indictment of America’s ruling elite, but of us all. “Many Americans acquiesce to the prison state because neither they nor their families nor their friends are at risk,” he writes. “That’s what allows the population to largely tolerate and even cheer for a system that imposes extreme punishments for the pettiest offenses.” We, by and large, have become petit Marquis de Sades, deriving great pleasure from punishing other, lesser Americans, most often of color, for punishment’s sake, particularly for victimless crimes such as drug use, gambling, and prostitution. One of Greenwald’s most egregious examples is the story of Jessica Hall. An unemployed, black, mother of three, Hall was sentenced

to two years behind bars in Virginia for throwing a cup full of ice into a car that had just cut her off. “[She] had no prior criminal record,” notes Greenwald. “Nobody was injured in the incident.”

But if compassion and justice can’t inspire Americans to reform their legal system, self-interest should, because the excessive proliferation of laws means you’ve probably violated one not too long ago. The United States’s legal system has become a perverse lottery, where the lucky ones are those whose numbers aren’t called. Relying on the work of criminologists Katherine Beckett and Theodore Sasson, Greenwald notes that police arrested more than two million Americans for consensual or victimless crimes in 2000. For every five arrests made that year, fewer than one was for a serious crime such as murder, rape, assault, or larceny. “It should hardly be controversial,” argues Greenwald, “that a system of criminal law that theoretically renders a substantial portion — if not an outright majority — of the citizenry subject to long prison terms is both excessive and unjust.”

And yet the prison doors continue to close on petty crooks as the war criminals, the eavesdroppers,

and the fraudsters breathe fresh air, free to continually create the fairy tales that justify their behavior as indispensable to America's security and wealth. Ironically, just two months after the book's publication, Barack Obama signed the National Defense Authorization Act (NDAA), a deliberately vague law that codifies the worst abuses of the war on terror and could allow the indefinite detention of American citizens. Whether you read Greenwald's incisive and meticulous work online or in print, he demonstrates that 11 years of Bush and Obama have made hyperbole nearly impossible to achieve when criticizing the

American justice system and those who preside over it and outside of it.

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