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The best and only safe road to honor, glory, and true dignity is JUSTICE.

— *George Washington*

FUTURE OF FREEDOM

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The Evil of the National-Security State

Part 7

by *Jacob G. Hornberger*



One of the most fascinating aspects of the Warren Commission hearings was the extreme secrecy under which the hearings were conducted. Most of the hearings, both evidentiary and administrative, were closed to the public. Moreover, at the conclusion of the hearings the Commission ordered that most of the records be sealed from public view for 75 years.

Why? If the accused assassin, Lee Harvey Oswald, really was nothing more than a lone-nut assassin who decided to kill John Kennedy after learning that his motorcade was traveling past the

building in which Oswald was working, why all the secrecy? Why not simply open up everything to the public?

The answer lies in the concept “national security.” From the moment Kennedy’s assassination took place, the evidence suggests that high U.S. officials, including the new president, Lyndon Johnson, were operating on two tracks: one that pointed to Oswald as a lone-nut assassin and the other that pointed to Oswald as an agent of Cuba and the Soviet Union.

The first track was directed to the American people. Within a few hours after Oswald had been arrested, U.S. officials bent over backwards to assure Americans that Oswald had acted alone in killing the president. Federal officials immediately shut down any investigation into whether Kennedy had been killed as part of a conspiracy.

The second track involved what might be considered the gravest threat to national security in U.S. history, even graver than the Cuban Missile Crisis, which had brought the United States and the Soviet Union to the brink of nuclear war several months before the assassination.

If the American people were to learn that Oswald had been operating as an agent of Cuba and the Soviet Union when he killed their president, there is little doubt that they would have demanded immediate retaliation against both countries, which inevitably would have led to nuclear war.

It was the U.S. national-security state itself that had begun the assassination game by repeatedly trying to assassinate Cuba's leader, Fidel Castro.

The state-sponsored assassination of a foreign head of state would clearly have been considered an act of war. How could the United States not respond militarily to the communist assassination of its president at the height of the Cold War?

Why wouldn't the U.S. government be willing to respond in such a fashion? One possibility involves a deep national-security secret at the time: It was the U.S. national-security state itself — specifically the CIA — that had begun the assassination game by repeatedly trying to assassinate Cuba's leader, Fidel Castro. Also kept secret, on grounds of na-

tional security, was the fact that the CIA had entered into a partnership with the Mafia to assassinate Castro.

Therefore, how could Lyndon Johnson and the U.S. national-security state justify going to war against Cuba and the Soviet Union to retaliate for assassinating Kennedy, a war that would inevitably turn nuclear and cost the lives of tens of millions of Americans, given that the Soviet Union and Cuba would have been retaliating, not instigating, if they had used Oswald to assassinate Kennedy?

Shutting down track two

That would help to explain why U.S. officials immediately shut down any investigation into whether Oswald acted in concert with others. Under the official version of events, U.S. officials had no doubts that Oswald had done the shooting. But suppose they had concluded that he had acted in concert with others and that the only likely co-conspirators were Cuba and the Soviet Union. Owing to the threat of a massive war involving nuclear weapons, the evidence suggests that they used that threat to pin the murder solely on Oswald as a

lone-nut assassin, to shut down any serious investigation into whether Kennedy was killed as part of a conspiracy, and to help cover up the evidence that he had been killed as part of a conspiracy.

The CIA steadfastly refuses to disclose all its information regarding Joannides's relationship with the DRE.

Immediately after the shooting, the anti-Castro group with which Oswald had made contact in New Orleans, the Directorio Revolucionario Estudantil (DRE), began issuing public statements publicizing Oswald's connections to Cuba, the Soviet Union, and communism. They talked about Oswald's attempted defection to the Soviet Union, his pamphleteering for the Fair Play for Cuba Committee, and his pro-communist proclivities. The DRE was obviously doing its best to connect Kennedy's assassin to Cuba and the Soviet Union.

What Americans did not know at the time and, in fact, would not learn for many years was that the DRE was being closely supervised and funded by the CIA, specifically by a CIA

agent named George Joannides. When the House Select Committee on Assassinations began re-investigating Kennedy's assassination in the late 1970s, the CIA called Joannides out of retirement to serve as the its liaison to the committee. Left secret, however, was Joannides's role with the DRE in the months leading up to the assassination. Later, in the 1990s, when the Assassination Records Review Board (ARRB), which had been established in the wake of the outcry caused by Oliver Stone's movie *JFK*, began forcing the disclosure of assassination-related documents, the chairman of the committee suggested that the CIA had obstructed justice by keeping Joannides's role secret. By that time, Joannides had died and, therefore, was unable to testify. It is interesting that to the present day the CIA steadfastly refuses to disclose all its information regarding Joannides's relationship with the DRE.

When Johnson was establishing a commission to investigate the assassination, the evidence suggests that he employed track two — Oswald's supposed complicity with Cuba and the Soviet Union — with at least two of the

people he was recruiting to be on the commission — Chief Justice Earl Warren, who would become chairman of the commission, and Sen. Richard Russell. When both of them resisted serving on the commission, Johnson raised the specter of a nuclear war that would take the lives of some 40 million Americans.

When Warren and Russell resisted serving on the commission, Johnson raised the specter of a nuclear war.

Now, ask yourself: Why would Johnson say that? If Oswald was, indeed, nothing more than a lone-nut assassin, then how could an investigation into the assassination possibly lead to a nuclear war between the United States and the Soviet Union? The answer is this: by confirming, through an official government investigation, that Oswald's connections to the Soviet Union rose to a level of a Soviet-Cuban-Oswald conspiracy to kill Kennedy, which would very likely lead to retaliation and nuclear war. Thus, when Johnson told Warren and Russell about the possibility of a nuclear war arising out of the Kennedy assassination, he could have been alluding only to (1) the possi-

bility that Oswald was acting on behalf of Cuba and the Soviet Union when he assassinated Kennedy, and (2) the importance to national security (and to the lives of millions of people) of pinning the murder solely on Oswald to avoid nuclear war with the Soviets.

Obviously, there was more than sufficient evidence to connect Oswald to Cuba and the Soviets — his self-professed devotion to communism, his attempt to defect to the Soviet Union, his connections to the Fair Play for Cuba Committee and the U.S. Communist Party, and his possible recent visits to the Cuban and Soviet embassies in Mexico City, where he may have met with one of the top assassins for the KGB.

But there was more than that. There was also evidence that Kennedy had been shot from the front. If Oswald shot from behind Kennedy, and if Kennedy was also shot from the front, then that could mean only one thing: Oswald wasn't acting alone when he shot at the president, and the only likely co-conspirators, given Oswald's background and connections, were Cuba and the Soviet Union.

Shot from the front

What was the evidence that Kennedy had been shot from the front? What follows is some of it.

First, there were the dozens of people who rushed toward the grassy knoll in front of the president's motorcade immediately after the assassination because they were certain that shots had been fired from that direction.

Second, there were several Dallas physicians and nurses who treated Kennedy who stated that there was a hole in the back of Kennedy's head, which they took to be an exit wound.

Third, there was the statement of Secret Service agent Clint Hill, the agent who jumped on the back of the president's limousine immediately after the shooting and pushed Jacqueline Kennedy back into the car, that confirmed the hole in the back of Kennedy's head.

Fourth, there was the so-called Harper Fragment of Kennedy's skull that was found after the shooting, which Dallas physicians established had come from the back of his head.

Fifth, there was the testimony before the ARRB of Navy Petty Officer Sandra Spencer, who served in the Naval Photographic

Center, where she developed official photographs for the White House, in which she testified seeing an autopsy photograph showing the hole in the back of Kennedy's head.

Given all that evidence and more, it would not have been difficult to convince people that Oswald had not acted alone.

Sixth, there was the testimony before the House Select Committee on Assassinations of several autopsy personnel confirming the hole at the back of Kennedy's head.

Seventh, there was the press conference given by Dallas physicians after Kennedy was declared dead in which they stated that he had been shot through the front of the neck.

Eighth, there is the photograph of White House Press Secretary Malcolm Kilduff immediately after the assassination in which he pointed to the right temple of his head to indicate that Kennedy had been shot in the head from the front.

So given all that evidence and more, it would not have been difficult to convince people that Oswald had not acted alone in

shooting the president. All that would have to be done is to show people that Oswald was shooting from the back and that at least one other person was shooting from the front. And to exploit the grave national-security and nuclear-war implications of that conspiracy, all that would have to be done is to show people Oswald's connections to communism, Cuba, and the Soviet Union.

The evidence suggests that while track one — the lone-nut assassin theory — was used on the American people, track two — the national-security threat — was employed on people within the government to cover up the evidence of conspiracy.

In fact, the evidence suggests that track two was employed not only on Warren Commission members but also on national-security officials within the military, who were ultimately charged with conducting the autopsy of the president's body.

The role of the military

Why the military? After all, Oswald was ostensibly a civilian. He was also supposedly nothing more than a lone nut who decided to assassinate the president. The

assassination was purely a Texas state crime, since assassinating the president wasn't a federal crime at that time. What possible business would a principal agency within the national-security state have conducting an autopsy on the president's body?

There are two likely reasons: (1) to wrap the investigation into the assassination within the intrigue of "national security," thereby ensuring that Americans wouldn't ask too many questions when proceedings were kept secret; and (2) to ensure active participation of the military, with oaths of silence, in a national-security cover-up of shots fired from the front.

Threatening to use deadly force against the Texas coroner, the Secret Service forced their way out of Parkland Hospital with the president's body.

Under Texas law, Texas officials were required to conduct an autopsy on the president's body. Yet Secret Service officials absolutely refused to permit that autopsy to be conducted. Brandishing guns and threatening to use deadly force against the Texas coroner, they forced their way

out of Parkland Hospital with the president's body.

Given the culture of the military, it would not have been difficult to falsify the autopsy.

Meanwhile, Lyndon Johnson was waiting for the casket at Dallas Love Field, where his plane was waiting on the tarmac and seats in the back of the plane were being removed in anticipation of the casket's arrival. Although Johnson had raised the specter that the United States might be under an attack by the Soviet Union while he was waiting at Parkland Hospital, he refused to permit his plane to take off until Kennedy's casket had been delivered to it. Since an autopsy would obviously have taken several hours — an unacceptable delay to Johnson's returning to Washington — it is fairly obvious that the Secret Service agents were operating on orders from Johnson to get the casket out of Parkland without the autopsy and quickly delivered to Johnson's plane at Love Field.

Why was it so important to get the body out of the hands of the Dallas pathologist? Because an honest and genuine autopsy

would have reflected that shots had been fired from the front, which obviously would have destroyed the lone-nut-assassin theory and inevitably led to the nuclear-war scenario. That is, Americans would have seen that shots were fired from the front, which they would have connected to Oswald's pre-assassination, pro-communist activities and, thus, would have concluded that the Soviets and Cubans were also behind the assassination. In the high emotions of the time, they would have demanded immediate retaliation, which would inevitably have escalated to nuclear war. Getting the autopsy out of the hands of Texas officials and into the hands of the national-security state would have been the only way to avoid that outcome.

Given the culture of the military, it would not have been difficult to falsify the autopsy. All that high U.S. officials, including the president, would have had to do is explain that the United States was facing the biggest national-security crisis in its history and that the military was needed to conduct a false autopsy to save the nation and the world from a nuclear holocaust,

one that the Kennedy administration would have been responsible for starting, owing to the fact that it had initiated the assassination game with its assassination attempts on Castro.

Under such a scenario, there isn't a military man in the world who would have refused the orders to do whatever was necessary to save the country and, equally important, to keep whatever he had to do secret for the rest of this life.

In fact, the military required participants in the autopsy to sign formal secrecy oaths.

In fact, the military required participants in the autopsy to sign formal secrecy oaths and specifically told them that if they ever violated the oaths, they would be facing court-martial or worse. When the House Select Committee on Assassinations attempted to talk to some of the enlisted men about their participation in the autopsy in the 1970s, many of them were still too scared to talk.

It all seems quite strange, given the government's official story that Oswald was nothing more than a lone-nut assassin. But it all

makes perfect sense if in fact the government was using the military to suppress evidence of a conspiracy that could lead the nation into nuclear war.

It also makes sense of why the Warren Commission would order its records to be kept secret for 75 years, notwithstanding its official conclusion that Oswald had acted alone. If national security depended on keeping evidence of a conspiracy secret from Americans, owing to the possibility that they would demand retaliation for the assassination, it would obviously be important to keep that information from generations of Americans.

The Warren Commission's order to delay release of Kennedy-assassination records benefited the national-security state in many ways. For example, the role of the CIA and George Joannides in the activities of the DRE wasn't discovered until after Joannides was dead and after two investigations into the Kennedy assassination had been conducted.

After the House Select Committee on Assassinations conducted its hearings, several former enlisted men, now released from their oaths of secrecy, came forward and disclosed to private

assassination researchers that they had witnessed the president's body arriving at the Bethesda morgue where the autopsy was conducted, wrapped inside a body bag inside a plain shipping casket. Yet the president body's had left Parkland Hospital wrapped in white sheets and placed in an expensive ornate burial casket.

Restraining the ARRB

Later, the Assassination Records Review Board came up with additional evidence, including an official report contemporaneously prepared by one Sgt. Roger Boyajian, that buttressed the case that Kennedy's body had arrived at the morgue more than an hour earlier than officially reported and in a different casket from the one that the body was placed into at Parkland. (And that implies that the Dallas casket that Jacqueline Kennedy escorted from Andrews Air Force Base to Bethesda Naval Hospital was empty.)

What would have been the purpose for doing that? One purpose would have been to alter the body before the formal autopsy began in order to conceal evidence of shots from the front. In

fact, the official report filed by the two FBI agents present at the autopsy — agents who had never been called to testify before the Warren Commission or the House Select Committee — indicated that pre-autopsy surgery had in fact been conducted on Kennedy's head.

So did the ARRB investigate whether the autopsy had been falsified? No. Why? Because when Congress established the ARRB, it strictly prohibited it from reinvestigating the case. Imagine that. Its mission was strictly limited to securing the release of documents. Why would Congress do that? Why wouldn't it want the ARRB to investigate if it came up with facts that needed to be investigated?

The official report filed by the two FBI agents present at the autopsy indicated that pre-autopsy surgery had in fact been conducted on Kennedy's head.

The ARRB also determined that there were two separate brain examinations, which was highly unusual, especially since the autopsy physicians maintained that only one examination had taken place. But even more

unusual, the ARRB also determined that two separate brains were examined, one that obviously did not belong to Kennedy.

Why would military officials do that? One reason would be to hide evidence of a bullet that had entered the president's head from the front and exited from the back. In fact, the second brain examined had a weight that was greater than a normal human brain, notwithstanding the fact that everyone agrees that there was an extremely large amount of brain destroyed by the shot that hit Kennedy in the head.

Did the ARRB investigate that? No. Again, its charter prohibited it from reinvestigating any part of the case, no matter what newly discovered records revealed.

For years, people had believed that the famous Zapruder film had ended up in the offices of *Life* magazine, after the magazine purchased it from Abraham Zapruder. Not so. As detailed in the five-volume book *Inside the Assassination Records Review Board*, by Douglas P. Horne, who served on the ARRB staff, the film actually ended up in the hands of the CIA. (Horne's book, along with the book *Best Evi-*

dence, by David Lifton, provides a detailed analysis of many of the matters discussed in this article.)

The evidence suggests that the Zapruder film was transported to the CIA's top-secret film center at Kodak headquarters.

Why the CIA? After all, this was supposedly an assassination conducted by a lone nut. What interest would one of the principal agencies of the national-security state have in a film of an assassination committed by a lone nut? One possible explanation is an alteration of the film, specifically to hide evidence of an exit hole in the back of the president's head.

Impossible, you say? Well, as Horne details in his article "The Two NPIC Zapruder Film Events: Signposts Pointing to the Film's Alteration," which is posted at LewRockwell.com, the film was taken to a top-secret CIA facility in Washington, D.C., on the Saturday night following the assassination. There, the film was watched and briefing boards were prepared for CIA officials.

The evidence suggests that the film was then transported to the CIA's top-secret film center at

Kodak headquarters in Rochester, New York. Why there? One possible reason was to alter the film, given that that facility did, in fact, have the means by which to conduct a professional alteration of it.

Did the ARRB investigate that? No. Again, Congress limited its charter to getting records disclosed and prohibited it from reinvestigating the case.

The ARRB took the statements and testimony of the official autopsy photographer as well as people involved in the top-secret development of the autopsy photographs. The evidence revealed not only that there were photographs in the official collection that had not been taken by the official photographer but also that some of the photographs that the photographer took were not included within the autopsy collection.

Among the official autopsy photographs was one that showed the back of the president's head to be fully intact, which contra-

dicted everyone who stated that there was an exit hole in the back of the president's head.

Did the ARRB conduct an investigation into the autopsy photos? No. Congress had prohibited it from doing so.

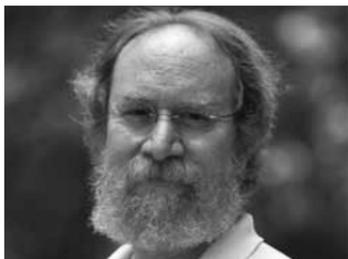
An obvious question arises: If there was a national-security cover-up in the investigation of the Kennedy assassination, can we really blame U.S. officials for having done so? The answer lies in whether the cover-up was actually designed to protect national security or for a much more nefarious reason.

Jacob Hornberger is founder and president of The Future of Freedom Foundation.

NEXT MONTH:
“The Evil of the National-Security State, Part 8”
by *Jacob G. Hornberger*

Don't Let the Aurora Shooting Curtail the Right of Self-Defense

by Sheldon Richman



The July shooting in the Aurora, Colorado, movie theater, which took 12 lives and injured 58 during the midnight premier of *The Dark Knight Rises*, has incited the usual bitter controversy over guns. One side says tighter gun restrictions could have prevented the horrible incident that night. The other responds that more guns in the hands of law-abiding people might have prevented it.

While the theater chain prohibits firearms, it is hard to say that the accused shooter, James Holmes, would have been stopped by armed moviegoers. He wore protection from head to toe and caused mass confusion by setting off gas. That isn't to say that a few shots might not have stunned

him, giving others time to subdue him. Perhaps there would have been fewer victims that night. We'll never know.

However one comes down on this issue, one should understand that it is not relevant to the gun-policy question. Even if there were no chance of stopping Holmes, that would not justify restricting law-abiding people from carrying handguns. Their right to self-defense should be inviolable.

Let's go over some basics, which the gun controllers stubbornly refuse to acknowledge:

People intent on breaking the law against murder are not likely to respect a law against firearms possession. If they can get guns nowhere else, they will go into the black market. The only people restricted by gun laws will be law-abiding people. This point is so obvious, one wonders how some deny or ignore it.

The criminal, unfortunately, chooses the time, place, and manner of his crime. I don't like that rule either, but that's the way it is. Criminals aren't completely irrational, so they tend not to pick victims standing near cops. When someone is attacked, calling 911 (even when possible) will do little good. Moreover, the police are under no legal obligation to defend any given person. The

courts have spoken on this — not that the survivors' ability to sue the police would bring much comfort.

The upshot is that, high-flown political theory aside, no one can truly delegate his right to or responsibility for his own self-defense. Ultimately, *you* are the only person who can look out for your safety because you are only one who is with you 24/7; therefore, the only one you can count on when the criminal targets you is you. That's just a fact. (The rich and powerful can afford armed guards, but that is not an option for the rest of us.)

Protecting innocents

Another fact is that while guns are used to take innocent life, they are also used to protect innocent life. The numbers are in dispute — ranging from 100,000 to more than 2 million times a year — and solid statistics are hard to come by: people make things up and embellish their memories, while other factors may lead to an undercount. But no reasonable person can doubt that people use guns to prevent violent crime, often — if not usually — without firing them. “If policymakers are truly interested in harm reduction, they should pause to consider how many crimes — murders, rapes, assaults, robberies — are

thwarted each year by ordinary persons with guns,” write Clayton E. Cramer and David Burnett in the Cato Institute report “Tough Targets.” At the completion of their survey of defensive gun use, they conclude, “[As] the scores of incidents described in this study show, gun owners stop a lot of criminal mayhem — attempted murders, rapes, assaults, robberies — every year.”

Another fact is that while guns are used to take innocent life, they are also used to protect innocent life.

Gun opponents downplay this by distracting us with dubious statistics about how many times criminals disarm and kill their victims with their own guns or about how many guns are used to escalate arguments over card games and fender benders. The fact remains: guns save lives.

But that fact is unappreciated. Cramer and Burnett write,

Many defensive gun uses never make the news. Sometimes that is because the person using a gun in self-defense saw no need to call the police — he or she scared off the bad guy. In some cases, the victim might not want to explain to the police

that he has a gun, perhaps because he is a felon, or perhaps because he lives in a jurisdiction with very restrictive gun control laws. Sometimes the police do get called, but the officers do not find the circumstances sufficiently important to issue a press release. After all, “Man Scares away Burglar, No Shots Fired” is not particularly newsworthy, unless you live in a very small town.

Local news media sometimes report defensive uses of guns, especially when an elderly person or shopkeeper uses a gun to thwart a would-be criminal, but not always with the proper perspective. In 2009 the *Miami New Times* headlined a story about shopkeepers’ shooting of a thief “South Florida Store Clerks Go Vigilante.”

The national media show a distinct lack of interest in defensive-gun-use stories. Eager for wall-to-wall coverage of the rare mass shooting, they apparently have no time to report life-saving uses of firearms. Even when a would-be mass murderer is thwarted by a private gun-owner, you’d be hard-pressed to find a national report. In 2002 a suspended Appalachian School of Law student entered the Virginia campus

and opened fire, killing the dean, a professor, and a student. The gunman also wounded three others. When the shots rang out, two students independently headed to their cars to retrieve their handguns. (They were not allowed to carry them on campus.) The students confronted the killer, at which point he dropped his gun and was restrained by other students. They undoubtedly saved lives. That was not the first time that a potential mass murder was stopped by an armed individual. Did you hear about that incident? No wonder some people believe that handguns are only tools for criminals.

The national media show a distinct lack of interest in defensive-gun-use stories.

Even if we concede that tighter gun laws would have stopped the Aurora shooting — unlikely since a determined Holmes could have gotten guns in the inevitable black market — those laws also would have cost innocent lives because law-abiding people who could have used guns to defend themselves — abused wives and girlfriends, for example — would have been unable to do so. Why are those lives less important than the others?

People are not interchangeable. Each person has rights. Even if we knew that gun control could save one life — or a hundred — in one place, it would not justify putting other people at the mercy of criminals somewhere else. A life saved does not cancel out a life lost. A tragedy has still occurred. People have a right to defend themselves, and handguns are by far the best way for smaller, weaker innocent people — women take note — to protect themselves from larger, stronger bad people. If all guns were to disappear, who would gain the advantage? Rape and murder predate guns. As it was once said, “God created man. Sam Colt made them equal.”

Finally, it is unappreciated that along with increasing gun possession and liberalized concealed-carry laws, violent crime for years has been declining. According to the FBI, in 1990 there were 729.6 violent crimes per 100,000 of population. By 2009 the rate had dropped more than 40 percent, to 429.4. For murder and nonnegligent homicide, the rate had dropped from 9.4 to 5.0, about 46 percent. Perhaps the decline has something to do with spreading gun ownership. In any case, the Aurora tragedy should not

overshadow that happy fact.

“There is no consistent association between gun crimes and easy access to guns or the right to carry,” Brian Doherty of *Reason* magazine writes. Politicians unfortunately have every incentive “to do something” in the wake of a tragic incident such as Aurora. Fortunately in recent years, the polling of public opinion has indicated majority opposition to new gun laws. Let’s hope that that majority holds. Instead of passing new laws, Congress and the state legislatures should repeal the old ones.

Sheldon Richman is senior fellow at The Future of Freedom Foundation, and author of Tethered Citizens: Time to Repeal the Welfare State. Visit his blog, “Free Association,” at www.sheldonrichman.com. Email him at sheldon@sheldonrichman.com.

NEXT MONTH:
“Medicare Is Doomed”
by Sheldon Richman

Don't Trust the Feds' Happiness Index

by James Bovard



The Obama administration is financing research to devise a new gauge for Americans' happiness. A National Academy of Sciences panel is currently analyzing proposals for surveying Americans' "subjective well-being." But there are grave perils in any "national happiness index" Uncle Sam might concoct.

Critics increasingly complain that the Gross Domestic Product does not accurately measure citizens' quality of life. The chairman of Obama's Council of Economic Advisers, Alan Krueger, advocates devising a government statistic to gauge Americans' "flow of emotional experience during daily activities." Obama's designee for World Bank president, Jim Yong King, warned that "the quest for

growth in GDP and corporate profits has in fact worsened the lives of millions of women and men."

But economic-growth numbers were venerated in large part because they provided pretexts for politicians to endlessly intervene in everyone else's lives. Simply because government enshrined one faulty standard, the feds are not entitled to hatch another bogus gauge.

The happiness-survey panel has received help from the Census Bureau. Measuring moods is far more difficult than counting people, but the Census Bureau doesn't even do a good job of that — as I learned working for them in southern Illinois in 1980. As long as census takers didn't get arrested for drunkenness or public indecency and returned at the end of the day with a stack of filled-out forms, the bosses were satisfied. No one knew what was going on, and no one was responsible for anything. Management repeatedly flip-flopped on whether we should count or disregard illegal aliens living in the trailer parks we swept through. The final tally was accurate, plus or minus 10 percent.

Would the feds manipulate happiness statistics the way they jiggle the unemployment rate? If someone failed to actively seek joy dur-

ing the previous six-month period, would he be formally excluded from the official count? Would government officials invent “seasonal adjustments” to disregard month-to-month swings in reported dependency?

Is there any reason to expect a federal happiness index to be more credible than federal reports on the inflation rate? Would official mood surveys disregard any unhappiness felt by middle-aged men losing their hair — the same way the Consumer Price Index often ignores jumps in housing and food prices?

The official inflation rate is reduced by “hedonic adjustments” supposed to be related to the rise in the quality of consumer products. Would the national happiness rating be ratcheted up by imputing the extra contentment that would exist if people recognized all the wonderful things government does for them?

In the same way that U.S. economic statistics help politicians create an illusion of prosperity, a Gross American Contentment (GAC) index could provide a mirage of legitimacy for the welfare state. At a Brookings Institution workshop last November, leading happiness-survey experts (including National Academy of Science panelists) sug-

gested that “policy makers may want to educate the public and present metrics so that a growth in well-being from, say, 7.2 to 7.4 provides as much meaning as would a 2 percent growth in GDP.” Could the presentation of such metrics “educate” people to the point that it distracted them from the misery they suffered in recessions? Probably not, unless accompanied by massive doses of Prozac.

Is there any reason to expect a federal happiness index to be more credible than federal reports on the inflation rate?

Anyone who still reveres federal stats should remember the “multipliers” of the past few years. We were told that every dollar spent on the 2009 stimulus package would produce \$1.57 in economic activity. That every dollar of food stamps “generates \$1.84 in economic activity.” That every dollar of unemployment benefits begets a \$2 increase in economic activity. According to those formulas, a robust recovery arrived two years ago.

With “subjective well-being” surveys, would we be assured that deficit spending automatically has a “happiness multiplier” of 2.4? The proliferation of such multipliers

would be limited only by the number of social scientists desperate to receive federal grants and sinecures.

Government officials have perennially falsely assumed that their own power will somehow give happiness to people under their thumb.

The Brookings workshop also included discussions of how happiness surveys that gauged the benefits of “trust and social cohesion” could revalue rural post offices to “take into account the pleasure individuals derive from the social interactions facilitated by a visit to this local meeting site.” If alleviating loneliness becomes a sufficient pretext for subsidies, then the federal budget deficit will soon be doubling. That example is symptomatic of a tendency to view government as a national therapist. (The panel did not discuss the impact on national happiness of the Postal Service’s losing so many letters.)

Perennial peril

Any survey of public sentiment could easily be skewed by the choice of questions or the time of the week (folks are happier on Saturday). The workshop report noted, “Researchers also face hurdles in predicting

and measuring counterfactuals, such as how happy married people would be if they had never married.” To simply go around asking that question would spur a surge in 911 calls for police to respond to domestic disturbances.

The Brookings panel concluded, “In the policy realm, the foremost challenge will be addressing accusations of paternalism that often surface among critics of well-being research.” And why shouldn’t people be concerned about how the pretensions of paternalism would once again unleash their rulers? Government officials have perennially falsely assumed that their own power will somehow give happiness to people under their thumb. A *Washington Post* report on the happiness-survey panel noted one problem: the Gallup polling organization, which is already tracking variations in happiness responses, “found that asking political questions before asking about well-being significantly depresses the life satisfaction score.” So why would experts assume that more government intervention (or more government surveys) would make people happier?

To trust politicians to define happiness is like trusting politicians to define freedom. They will tamper

with the terminology to maximize their own prerogatives. Happiness surveys will open a Pandora's box with pretexts for new government programs to reduce inequities in supposed contentment between different sexes, ethnicities, regions, and who knows what else.

Federal statistics have long been perilous to Americans' freedom and prosperity. Agricultural policy is a morass in part because the feds define as a farmer "any operation that sells at least one thousand dollars of agricultural commodities." If someone sells a single horse for \$1,000, he is categorized as if he were a full-time farmer. The vast majority of the nation's 2.2 million farmers are hobby farmers, gentleman farmers, or part-time farmers. Yet politicians perennially invoke meaningless statistics on "average" farm income to justify deluging a cadre of wealthy landowners with handouts. (The largest 10 percent of farms snare most of the subsidies.)

The No Child Left Behind Act of 2002 is another example of how government statistics spawn mass delusions. In order to close the "achievement gap" between different groups and races, the federal government mandated that states' test scores show "average yearly progress" towards all students'

achieving "proficiency" in reading and math by 2014. Most states responded by lowering their educational standards in order to create an illusion of progress. The Education Department knew in the first year that many states were lowering their standards in order to create that illusion but approved the charade and boosted the funding to the educational con artists. School kids were forced to waste billions of hours taking tests that produced nothing except bureaucratic and political bragging rights.

Federal statistics have long been perilous to Americans' freedom and prosperity.

Happiness surveys will provide another trump card for politicians to play against any limits on their spending or power. When an inspector general report obliterates any sober justification for a program's existence, congressmen will invoke survey results showing that it warms people's hearts. Make-work boondoggles such as AmeriCorps could be magically transformed into "make happiness" triumphs.

Why bother with happiness surveys when federal agencies have long scorned overwhelming evi-

dence that their policies produce misery? Even the Transportation Security Agency's former chief Kip Hawley now admits that TSA's degradation of average travelers is unnecessary, but the TSA clings to its power regardless. Likewise, politicians have known for decades that the Internal Revenue Code's hellish complexity torments Americans. But any pain inflicted in the name of revenue enhancement is worth the price — at least according to Beltway metrics.

The government cannot be trusted to accurately assess the impact of its own power on people's contentment. Rather than concocting new government indexes, we should curtail our trust in existing government data. Federal statistics will never be more reliable than the politicians who pull the strings of the agency that compiles the numbers.

It was a common saying during the 1930s that “we cannot squander our way to prosperity.” Similarly, we cannot statistically delude ourselves to national happiness. The Framers of the Constitution already created the only “happiness index” the nation needs: the Bill of Rights. The Framers recognized that people

would be happier when government was on a leash and its powers were clearly limited. More accurately, they recognized that if the government was not oppressing people, they were far more likely to find happiness on their own.

Government statistics routinely produce mass delusions — at least among policymakers. Any new happiness index is likely to simply provide politicians with pretexts to further trample people's constitutional rights. Why should people trust federal statistics to do anything except propel and sanctify more government meddling?

James Bovard serves as policy advisor to The Future of Freedom Foundation and is the author of Attention Deficit Democracy (Palgrave, 2006), Terrorism and Tyranny (Palgrave, 2003), and seven other books.

NEXT MONTH:
“The Lingering Curse of
‘Bush Freedom’”
by James Bovard

Social Engineering Through Criminal Law

by Ridgway Knight Foley Jr.



Stealth defines the statist who seeks to channel all human conduct as he thinks best.

Such external human controls upon personal action represent the antithesis of liberty. This essay explicates a particularly surreptitious and dangerous means currently employed to dominate and command free men who attempt to act freely.

Contrary to the essential statist doctrine, men and women who believe in liberty consider human beings as purposive, acting individuals possessing an infinite web of motives and desires, drives and dreams. By our nature, then, we acting free beings want to choose and act indi-

vidually as we assess our internal goals and personal values in light of the world surrounding us. Accordingly, we generally wish to make our own choices, and we dislike and distrust someone who seeks either to select for us or to foreclose our individual choice. The existence of this attribute requires the statist to employ deceit to achieve his goal of a complete command society. Hence, statisticians must lie, cheat, and steal. They must disguise their intentions by clever words and devious means. They must use such ploys because freedom-loving men and women will recoil and rebel at their illiberal schemes unless they are artfully camouflaged and charmingly packaged.

Human history records a single fundamental political and philosophical revolution in human action, the American Revolution of the late 18th century. Those revolutionary protagonists understood most clearly both the moral implications and the empirical value of individual choice-caused action and the continuing dire threat to liberty posed by organized force directing or foreclosing such personal choices. Those who constructed the Constitution of the United States

wrestled with the design and implementation of a governing legal structure that would accommodate personal liberty and safeguard constructive human actors from needless and offensive state constraints. Two hundred twenty-five years later, we look back and see a continuing assault on liberty by elitists who believe that they know better than we how to live our lives and how we should act, choose, and behave. The record reveals many incremental incursions, some obvious, others obnoxiously devious and hidden, but none more malignant than the current ploy of using the criminal law to channel conduct that is essentially neither forceful nor fraudulent.

We look back and see a continuing assault on liberty by elitists who believe that they know better than we how to live our lives.

Consider this apt, frightening, and unrecognized example of a stealth assault on personal liberty. Current clandestine use of skewed legal principles in a manner discordant with traditional Anglo-American jurisprudence is undermining individual choice by making conduct dis-

liked by the statist subject to criminal-law penalties, including fines and imprisonment, shunning and notoriety, thereby channeling conduct into the avenues desired by the social engineers who wish to fit us all into a Procrustean bed.

Understanding this sneak attack requires a brief primer on basic common-law legal theory. Fundamental formal analysis divided the common law into civil and criminal components. The civil law, in theory, dealt with separate and distinct disputes between individuals and groups of individuals, while the criminal law prosecuted individual violations of national and local statutes, penalizing personally harmful conduct against other human inhabitants, violations viewed concurrently both as an assault on the state and as an attack on the individual victim.

Malum in se

The brilliance of the common civil law lay in its development in an open-textured form. Thus, individual disputes were decided individually, on the preparation and presentation of a specific factual background to the individual disagreement, and appli-

cation of sound legal principles to those facts, instead of the continental model of extended codes preordaining all kinds of human endeavor. While the courts tried to decide like cases in a like manner (creating and employing doctrines of *stare decisis* and *res judicata*, and varying theories of claim and issue preclusion), judges and juries could and did look carefully at the specific facts of each particular case, and judges could and did apply legal rules in light of those facts. The Roman influence in equity jurisprudence (constructed on statutory directives from a legislative lawgiver), commencing in the 13th century, modified the common-law tradition somewhat, as did occasional legislative-law interference, but the civil-law tradition remained and encouraged the development of the common law and supported the concurrent emergence and flowering of personal liberty.

To the contrary, Anglo-American criminal law consisted of rules (as opposed to orders) developed from a statutory and more limited base. Since the state prosecuted criminal conduct, and since it applied harsh and sometimes lasting consequences

in a successful prosecution, a panoply of individual protections developed over the years, such as a right to specificity of charge, to a trial by a jury of the defendant's peers, and to proof of guilt of the specific charge beyond a reasonable doubt and to a moral certainty.

Members of society were on notice that one committed a *malum in se* crime at his peril.

In addition, the criminal law component divided into two disparate parts from early times: crimes fell into categories of *malum in se* (evil in and of itself) and *malum prohibitum* (wrong because the lawgiver says it is wrong). Legislation commonly penalized rape, robbery, murder, burglary, theft, assault, battery, and kidnapping as obvious examples of *malum in se* crimes. Most civil and virtuous men would consider those acts as heinous, as conduct that no proper society should or could permit, behavior that any organized state must outlaw if it is to survive and prosper for any length of time. Moreover, only a very few incompetent individuals would ever presume that committing

those forbidden acts could be permitted and would go unpunished. In other words, members of society were on notice that one committed a *malum in se* crime at his peril, and that “every man is presumed to know the law.” Very importantly, *malum in se* crimes required proof of a moral component, that the defendant intended by his act to harm another person. Lack of a felonious intent, for example, led to the 19th-century insanity defenses; if insane, the actor could not *intend* to murder, and therefore should be committed to an asylum instead of a prison or the gallows.

Malum prohibitum

Malum prohibitum conduct differed. The common law suffered the tatters of prohibited conduct that offended either the mores of the particular society or community or, more likely, the whim of the king or his cohorts. Blue laws, prostitution, Sunday laws, regulation of obscenity, and all manner of strange statutes dot the landscape of history. The most that can be said of this fact is that, blessedly, relatively few such rules survived long and, at least during the flowering of the United States, a more libertarian

attitude generally limited the number and scope of such intrusions. More simply said, “mind your own business” became a byword as the young country grew and prospered, and by and large Americans became tolerant of their neighbors’ differences if they did others no harm.

Malum prohibitum commands circumscribed, defined, and channeled human conduct that could just as well be left to the individual actor.

Moreover, in general and most profoundly, even the run-of-the-mill *malum prohibitum* conduct possessed some semblance of a moral component, that is, that the act punished was conduct and consequence intended by the actor. The scarcity of such rules meant that most persons very likely knew about the particular local law that prohibited the proscribed conduct. Hence, most ordinary *malum prohibitum* constraints left negligent and unintended acts and omissions alleged to cause individual harm to the open texture of the civil law, to be decided on a case-by-case factual basis.

Dissimilar from *malum in se*

crimes, *malum prohibitum* constraints circumscribe, define, and channel human conduct that can just as well be left to the individual actor. Consider the following simplistic examples. Sunday or blue laws are intended to enforce religious orthodoxy; absence of those regulations allows the religious and virtuous to keep their Sunday unimpeded, and also permits nonbelievers or different believers to live their lives as they think best. Both believer and nonbeliever can exist in community without harm or strife. Laws forbidding usury can be discarded, leaving individuals free to select with whom they do their business of borrowing, on what terms, and at what rate. Laws interdicting prostitution or unorthodox sexual activity may be forgone without requiring anyone to engage in, or refrain from, adult consensual sexual conduct. A society can endure and prosper in the absence of such restraints on personal choice.

Without fanfare, the past decades have witnessed an almost silent increase in *malum prohibitum* “crimes.” In virtually all cases, conduct that could be and should be unrestricted unless forceful or fraudulent is forbid-

den by busybodies who persuade thoughtless legislators to authorize criminal penalties for acts or omissions contrary to the prescribed rule. Consider some of the following common instances.

The past decades have witnessed an almost silent increase in *malum prohibitum* “crimes.”

Possession of pornographic images represents a ripe controversy. One certainly can make a case for barring mistreatment of children and disabled adults, whether that mistreatment is sexual, emotional, or physical in nature: when one cannot consent meaningfully, the law correctly infers nonconsent, and such untoward conduct becomes assault, battery, rape, false imprisonment, or fraud, *malum in se* crimes in any civilized society. However, if one privately views “dirty” pictures on a personal computer, why should the criminal law apply? Some members of society might consider such conduct odious or repellent, but a free society must make room for different or unusual conduct that does not adversely affect the equal, reciprocal rights of others.

Sundry examples arise in the

context of investment, banking, and transactional enterprises, where the traditional concept of punishable fraud has been so stretched out of shape as to bear scant resemblance to its former self. Customarily, proof of fraud required an intentionally false and dishonest statement of fact designed to mislead the opponent, and which in fact did mislead him to his detriment. Moreover, the misled party must have exercised basic common sense and elemental intelligence in protecting himself in the marketplace. However, with amelioration of that original concept, and the concurrent growth of a dumbed-down public produced and ensured by compulsory state institutions of public indoctrination, those who sell securities or other business interests often find themselves defending both criminal charges and civil claims when an investment fails or the gain disappoints. Purchasers of products or business interests conveniently forget that some products can injure and some investments can fail, and that mankind is particularly inept at predicting the future. And when a gang of disappointed buyers or investors conspire in a class-ac-

tion setting to charge the seller or the promoter or the banker or the advisor with “criminal fraud,” defense against such a mighty state-funded prosecution is costly and the outcome very uncertain.

Manufacturers of perfectly lawful and useful products also find themselves targets of the new and enhanced criminal law.

Manufacturers of perfectly lawful and useful products also find themselves targets of the new and enhanced criminal law. For decades the civil law has been bloated with strange and thoughtless legal theories to mulct the producer. Market-share and enterprise-liability contrivances demonstrate some of these assaults on the citadel of production, doctrines that enable disappointed or greedy consumers to collect inflated money damages without any showing of traditional fault and causation. The concurrent growth of punitive or exemplary damages — which deserves a separate analysis as to both its dubious antecedents and its deleterious economic effects — affords an additional means of legally mulcting the

productive and creative person and entitling those who delight in sloth and victimhood.

The altered concepts enhance liability for the creative and productive class, but at least they pay lip-service to a continued separation of traditional civil and criminal components of the common law. In contrast, the new *malum prohibitum* crimes make no such pretense. Instead they apply criminal penalties to productive behavior. For example, employers may be fined or imprisoned for “unlawful hiring”; that is, one who produces a perfectly good, useful, and legitimate product or service risks criminal sanctions if he hires a person and the state does not approve of the particular worker, normally a person who has not become a legal resident of the country. It does not matter that the worker and the employer are acting nonviolently and nonaggressively, or that they are making a useful good or are providing a desirable service or are developing important ideas; the charged employer goes to jail.

New crimes

Consider another example increasingly marring the landscape of commerce today: an owner or

manager or other executive of a legal and useful business enterprise may face charges of manslaughter or even second-degree murder if a worker dies on the job. All that is required is for the legislature to decree that the business or occupation involves “unreasonable risk and danger” or to create some other verbal concoction denoting enhanced possibility of harm. This is nonsense: danger lurks in all human endeavor and unless the manager or owner coerces the employee in some real fashion, both parties ought to recognize and assume the ordinary and common risks that attend human life.

Malum prohibitum crimes apply criminal penalties to productive behavior.

A current ridiculous proposal deserves unmitigated ridicule. The Arizona legislature is considering a bipartisan bill that would apply criminal penalties when a person employs words on Facebook or Twitter that another person might find “annoying” or “offensive”! What happens to freedom of thought and expression? Whither unpopular ideas and cutting-edge theories, and

open debate in the cauldron of public discourse? Castration of discussion ensures the demise of any advance of civilization, inasmuch as forbidding “annoying” or “offensive” challenges to established idols and ideas mandates that civilization will remain stuck in the mud of existing concepts, deterred from any creative change for the better. Nothing could chill common discussion more than using the amorphous measures of “annoying” and “offensive” to punish words and thoughts; after all, few more-subjective terms exist in the English language.

Moreover, the more-standard criminal law itself participates in this burgeoning development of new and unusual crimes. Consider the ascendancy of “hate crimes” that lead to enhanced penalties for common *malum in se* offenses. In this world of new-speak, if an assailant beats a victim, he commits a simple battery, an unwanted touching of the body of another; but if the victim belongs to a selected different race, religion, creed, culture, or some other differentiating feature *du jour* from the attacker, the state now converts a simple battery into a dreaded hate-crime

battery, and upon conviction the assailant receives a greater penalty. Apparently, rape, robbery, and murder hurt much less when the assailant does not hate you.

Consider the ascendancy of
“hate crimes” that lead to
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Finally, even the penalty phase of criminal-law sentencing participates in channeling human conduct in accordance with the mandates of the social engineers. Instead of the common fines and imprisonment, judges now add or substitute sentences of “community service”; that is, they assign the convicted man or woman to work without recompense for favored programs and places and institutions. Interesting to note, I look in vain to find anyone sentenced to study the pursuit of liberty in the mode of the Founding Fathers, or to read *Economics in One Lesson*, or to go to work for a living. Somehow, the “community service” seems always to comprise some favorite institution or issue of the sentencing jurist.

The death march toward extended criminalization of pro-

ductive conduct will continue unabated until citizens recognize the demon for what it is and rebel against this mongrel concept. Until that time, we will continue to step through Mr. Carroll's

Looking Glass into Mr. Huxley's Brave New World.

Ridgway K. (Dick) Foley Jr., an appellate litigator, practices law in Oregon.

On every question of construction, carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.

— Thomas Jefferson

Destroying the Young with the Minimum Wage

Part 1

by Gregory Bresiger



The minimum wage, a price control as futile as all other government price controls, continues to damage the U.S. economy and much of the world.

But the obscene irony of the minimum-wage law is that it hurts some of the very people it is supposedly designed to help — young people seeking employment. The government's setting a higher price for their employment means it is more difficult for them to find a first job. That first job can be so important in any person's life. That first job can provide valuable experience — even if it pays little — because it can put someone on the

road to bigger and better things.

In April, economists said that not nearly enough jobs were created. The U.S. unemployment rate dropped from 8.2 percent to 8.1 percent, according to government figures. But look behind the numbers. They went down because approximately 342,000 people quit looking for work.

Who is hurt the most by minimum-wage laws that produce sluggish job growth?

They hurt people at the low end of scale, those with few skills trying to find a job that will give them some, as well as young people just beginning their work lives. They are the most frequent victims of minimum-wage laws. Indeed, for teenagers and young adults 25 and under, those who often earn the minimum wage, these are hard times.

The teenage jobless rate, for example, was about 250 percent higher than it was for adult men and women. Teenagers, said the U.S. Labor Department, had a 24.7 percent rate compared to 7.5 percent and 7.4 percent for adult men and women, respectively. Those younger than 25 aren't doing much better. The U.S. Labor Department reported they had a 16.4 percent jobless rate.

What is the effect on businesses and individuals of setting wages artificially high for a class of workers, young and old, who are just trying to get started, many of whom desperately want work?

The minimum wage's economic effects are obviously egregious. But the damage caused by government wage controls goes beyond the economic.

That first job

Think of our own lives. What would have happened if we didn't get that first job as teenagers or in our early 20s? What would have been the effect of spending the first five or ten years of young adulthood unemployed, as now happens routinely to tens of millions of young people?

Flawed minimum-wage policies are being put into effect at a time of "staggeringly high" youth unemployment in the advanced welfare-state democracies across the globe, according to Nemat Shafik, deputy managing director of the International Monetary Fund (IMF).

The current problems of youth unemployment, he writes, threaten to create "a lost generation." Observing that youth unemployment for persons 15–24 is high even in the United States, he notes the cul-

tural as well as the economic results of these numbers. They have had "long term consequences for economic growth because of the loss or degradation of human capital," he writes at his blog.

Flawed minimum-wage policies are being put into effect at a time of "staggeringly high" youth unemployment.

Charles Murray, in his latest book, *Coming Apart*, documents the problem. He warns that millions of young Americans, especially white men, are giving up on the idea of work. The minimum wage certainly is part of the problem.

Shafik says that the problem of youth unemployment is worldwide, with some countries such as Greece, where they abide by the myths of minimum-wage laws, registering a 50 percent youth-unemployment rate. That is a frightening number. Is America headed down the same road?

Shafik's comments are logical. How many of us, as we progress through life, started out in high school or college with a low-paying or minimum-wage job. It didn't pay much. But it was a building block to a better job. We learned a lot from that first job. And even if all we

learned was how to get to work on time and how to interact responsibly with bosses and fellow workers, we were on the road to better things.

In some ways, that first job was as critical to a career as a good education. In fact, one can say that it supplemented formal education. For many people that first job made it possible to pay for higher education or for other things — or just made it possible to stay out of poverty.

That first job was as critical to a career as a good education.

As a young person I remember that my best friend, Eugene, had a minimum-wage job in high school that helped support his fatherless family. After school, Eugene went on to have a good full-time job and raise a family. His “minimum wage” or low-paying jobs in high school had been a key part of his personal development.

What happens to the millions of Eugenes today because the cost of employing them has been set too high? In the case of people working their way through school, it would have been a terrible loss not to have a job to help defray the costs of an education.

Tinkering

More important, to paraphrase Shafik, without those first jobs to begin our work lives the ability to develop “human capital” would have been hurt.

Yet remarkably, at a time of high unemployment, numerous state legislatures and the federal government will inevitably talk about raising the minimum wage as a compassionate way to help the poor and young people. It reminds one of a comment of the Victorian prime minister who complained of government attempts to tinker with the economy in bad times: “Why can’t they leave it alone?”

Still, lawmakers in many places just can’t stop tinkering. So raising the minimum wage, governments playing with prices — a form of central planning with all its faults — is an idea that is supported in many places. In state legislatures, including that in New York, more minimum-wage laws are under discussion. At the same time, New York City is also discussing imposing a “living wage” on contractors who conduct business with the city.

The New York State legislature has pending minimum-wage increases that would raise the wage by \$1.25 to \$8.50 and also index the minimum wage to inflation. State

Assembly Speaker Sheldon Silver has said raising the minimum wage is “a top priority” of this session of the state legislature. A spokeswoman for the speaker said he is “optimistic” that the minimum-wage measure will pass this year.

So what’s wrong with raising the minimum wage by \$1.25? After all, most of us aren’t employers. Supposedly, we won’t be paying for it and some of our poor neighbors will benefit from it. What’s wrong with a cost imposed on someone else?

The problem is that the long-term effect of such a policy is rarely appreciated until the damage has been done. It is the classic case of what one brilliant economist called “what is seen and what is not seen.”

A higher minimum wage would have a devastating effect on them, according to several small-business owners in the New York/New Jersey/Connecticut region.

“You’re talking about a 17 percent to 18 percent increase in the wage of your minimum-wage worker who isn’t even trained,” says Pat Orzano, who owns a 7-Eleven store in Massapequa, New York. Orzano emphasizes that she is speaking for herself, not for the 7-Eleven corporation.

She adds that raising pay for the newest worker, one who is often in his first job, would have a ripple effect. Other workers, who have more experience, would demand a higher rate of pay.

She explains that the government is imposing higher wage costs at a time when her store sales have been sluggish. Unfortunately, Orzano and millions of other small-business people can’t lobby and pass a law that gives them higher sales. They must compete with other store owners and earn higher sales in part by offering low prices.

These New York minimum-wage changes, if approved, would take effect in January 2014, according to the Assembly bill. Similar bills are under consideration in New Jersey and Connecticut.

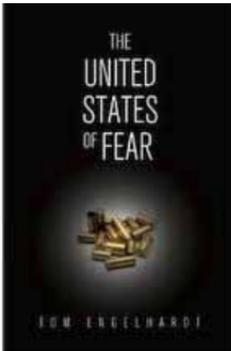
Gregory Bresiger is editor of Clearing Quarterly and Directory and also writes for the New York Post Sunday Business Section.

NEXT MONTH:
“Destroying the Young with the Minimum Wage, Part 2”
by Gregory Bresiger

Playthings of the Gods

by Matthew Harwood

The United States of Fear by Tom Engelhardt (Chicago: Haymarket Books, 2011); 230 pages.



On the night of March 11, 2012, Sgt. Robert Bales walked a short distance to two Afghan villages in Kandahar Province from Camp Belambay. Under the cover of darkness the soldier is alleged to have gone house to house shooting and stabbing to death 16 Afghan villagers, many of whom were women and children. Afterwards he lit some of the bodies on fire.

The rampage shootings made famous by the likes of Columbine and American postal workers had been exported to the Afghan

frontier. The press reaction, even on shows such as MSNBC's unabashedly progressive *Up with Chris Hayes*, was illustrative of the inner rot coursing through the heart of those who believe in American hegemony. Nary a word of concern or empathy was uttered for those who were murdered or their families or of how the American government could make restitution.

There was no rumination of why Afghans of all stripes hate the U.S. military. Rather, the talk was about us, the American people: whether incidents like Bales's alleged murder of innocent civilians would undermine American support for the longest war in the nation's history and how matters would play out in the forthcoming 2012 presidential campaign.

The response to Bales's rampage became one more callous example of America's imperial philosophy, as summarized by Tom Engelhardt, editor and founder of the website TomDispatch, in his incisive collection, *The United States of Fear*. "Here's the credo of the American war state in the twenty-first century," the avuncular anti-imperialist writes. "Please memorize it. The world is our oyster. We shall not

weep. We may missile (bomb, assassinate, night raid, invade) whom we please, when we please, where we please. This is to be called ‘American safety.’”

Engelhardt sees a lot of similarities between the United States and its one-time archenemy, the Soviet Union.

If there’s any paragraph that distills this short, essential book, an edited collection of Engelhardt’s TomDispatch essays woven into narrative form, it’s the above. In a deeply partisan but jingoist America, Engelhardt’s electronic pamphleteering has shown that the power of principle delivered through perfect prose can earn a diverse, hard-core following. Currently, TomDispatch articles, a project of the Nation Institute, appear on liberal sites such as Salon, lefty sites such as Truthout, libertarian sites such as Antiwar.com, and even paleoconservative sites such as the American Conservative. Nevertheless, despite his writings’ reception across the political spectrum, he’s a relative unknown, and American discourse and democracy are poorer for it.

Sovietizing America

But it isn’t hard to understand why that is so, especially inside the Washington, D.C., Beltway and within the far-flung reaches of the U.S. military-industrial complex. Engelhardt recognizes an uncomfortable truth no one in the Beltway wants to confront: he sees a lot of similarities between the United States and its one-time archenemy, the Soviet Union. “Mark it on your calendar,” Engelhardt writes. “It seems we’ve finally entered the Soviet era in America.”

The tragedy, as Engelhardt sees it, is that it didn’t have to go this way. Unlike the Soviet Union, the United States had no competitors for global supremacy. It therefore could have decided against full-fledged empire, embraced what was called in the early 1990s the “peace dividend,” and drawn down its worldwide military infrastructure. “Quite the opposite [would happen],” recounts Engelhardt:

[Successive] administrations would blindly head down the very path that had led the Soviets to ruin. They would serially agree that, in a world without significant enemies, the key to

global power was still the care and feeding of the American military and the military-industrial complex that went with it. As the years passed, that military would be sent regularly into the far reaches of the planet to fight frontier wars, establish military bases, and finally impose a global Pax Americana on the planet.

In other words, Uncle Sam began partying as though it was 1984, shot-gunning bullets not beer and slurring Kipling. And what's more disconcerting is that Osama bin Laden and al-Qaeda, for all their fanaticism, understood American weaknesses better than the liberal interventionists and the neoconservatives who glorify war for their own purposes. "It was our misfortune and Osama bin Laden's good luck that Washington's dreams were not those of a global policeman intent on bringing a criminal operation to justice, but of an imperial power whose leaders wanted to lock the oil heartlands of the planet down for decades to come," Engelhardt writes. "Think of him as practicing the Tao of Terrorism.... [The] less he did, the fewer operations he was ca-

pable of launching, the more the American military did for him in creating what collapsing Chinese dynasties used to call 'chaos under heaven.'"

Engelhardt excels as a tour guide on an Orwellian romp through America's wartime lexicon.

But that doesn't mean U.S. policy and military elites, much like Soviet planners, have to face the reality of an unwinnable war and maintaining the perception of benevolence and invulnerability they project to the world. Instead they corrupt the discourse as an artifice to keep a reckoning at bay. Engelhardt excels as a tour guide on an Orwellian romp through America's wartime lexicon. "Victory" in Iraq or Afghanistan becomes "the verbal equivalent of the Yeti" — you can kind of describe what it looks like but it doesn't exist. "Covert war" becomes the ultimate oxymoron of "in the news, but off the books." And "permanent bases" don't exist. They're just really big fortified housing units where American "tenants" will reside "for decades," armed to the teeth for self-defense.

Here Engelhardt mines the

comic territory of the late great outlaw comic Bill Hicks, who used to tell his audience that the first Gulf War never happened. “A war,” Hicks deadpanned, “is between two armies.” It’s a joke that never gets old because it’s as true in 2012 as it was when it was uttered in 1991.

It is a deeply moving exposé of American indifference to the suffering the United States causes in pursuit of perfect security.

But it’s Engelhardt’s concern for the victims of the Global War on Terrorism in “Their Dead and Ours” that makes this book essential reading. It is a deeply moving and enraging exposé of American indifference to the suffering the United States causes in pursuit of perfect security. For Engelhardt, U.S. foreign policy and military elites have become Olympian gods who choose from on high who lives and who dies. Interesting enough, the civilization that gave us an example of democracy to look up to also provided a mythology of imperial indifference: “If [the Greek gods] sometimes felt sympathy for the mortals whose lives they repeatedly threw into havoc, they

were incapable of real empathy,” Engelhardt writes. “Such is the nature of the world when your view is the Olympian one and what you see from the heights are so many barely distinguishable mammals scurrying about.”

The American mainstream press, according to Engelhardt, is disproportionately to blame for that. Case in point: the WikiLeaks disclosure of American military field reports from Afghanistan and Iraq. The press played up Chairman of the Joint Chiefs of Staff Adm. Mike Mullen’s comments that WikiLeaks “might already have on their hands the blood of some young soldier or that of an Afghan family”; or Defense Secretary Robert Gates’s talking of WikiLeaks’s “moral culpability,” while downplaying the fact that the military documents confirmed service members were swimming in pools of blood.

Engelhardt, using the tried and true thought experiment of an alien visitor, responds to such selective, tribal outrage that the press pushes while obscuring inconvenient truths:

Here, then, is a fact that our Martian (but few Americans)

might notice: in a decade of futile and brutal war in Afghanistan and more than eight years of the same in Iraq, the United States has filled metaphorical tower upon tower with the exceedingly unmetaphorical bodies of civilian innocents, via air attacks, checkpoint shootings, night raids, artillery and missile fire, and, in some cases, the direct act of murder. Afghans and Iraqis have died in numbers impossible to count (though some have tried).

Engelhardt, as the back cover's blurbs tell us, has been compared to left-wing journalist I.F. Stone, but Mark Twain is a better fit, particularly because of the easy humor they share, the humaneness of their words, and their ferocious opposition to American imperialism. When reading the essays that make up *The United States of Fear*, it's hard not to think of Twain's "To the Person Sitting in Darkness" or his posthumously published "War Prayer." And like Twain, Engelhardt is a red-blooded American with the metaphors to prove it, "[When] the Bush unilateralists took control of the car of state, they souped it up, armed

it to the teeth, and sent it career-ing off to catastrophe."

The gamble

But the one thing Engelhardt fails to adequately show is that the United States's gloves-off, bloody embrace of empire has much to do with the "Fear" featured on the book's cover. What he does conclusively show is that American imperialism is fueled by a military-industrial complex that preys not so much on the American people's existential fears as on their tribal belief in American exceptionalism. Indeed, despite ample evidence, much of it showcased redundantly throughout the book, Engelhardt doesn't seem to understand that the American public consider the shadowy figures behind the cape of American hegemony patriots, not vampires preying on the body politic.

For all his trenchant criticism of American post-9/11 culture and values, there's an optimism to Engelhardt.

And maybe that's why *The United States of Fear* never feels preachy or self-righteous. For all his trenchant criticism of Ameri-

can post-9/11 culture and values, there's an optimism to Engelhardt that the United States will wake up from its attachment to war, witness the carnage, and realize that the militarism it has shot into itself has created a monster. And much like Dr. Frankenstein, the American people will attempt to kill the monstrosity they spawned from a toxic combination of their ambition, fear, and narcissism and finally be content with their limitations. "It's going to feel better to focus on American problems ... instead of talking incessantly about what a model we are while we bomb and torture and assassinate abroad with impunity," he assures. That underlying optimism, however, has to be difficult to maintain for anyone who sat through the Republican primary debates, as loose talk of more warmaking in Iran achieved near-constant applause, while Ron Paul's anti-imperialism was roundly booed.

"All I ask is that, in the midst of a murderous world, we agree to reflect on murder and to make a choice," the absurdist philosopher and novelist Albert Camus wrote in 1946's "Neither Victims nor Executioners" as the Cold

War battle lines became clear. "After that, we can distinguish those who accept the consequences of being murderers themselves or the accomplices of murderers, and those who refuse to do so with all their force and being. Since this terrible dividing line does actually exist, it will be a gain if it be clearly marked."

Since the smoke of the smoldering ruins of the World Trade Center rose above the New York skyline, Engelhardt has taken it upon himself with all his force and being to put a portion of Camus's challenge into effect: he continues to show us that dividing line, no matter how hard the new mandarins of power try to obscure it. He has indeed taken Camus's "formidable gamble: that words are more powerful than munitions" and pushed all in.

Matthew Harwood is a journalist working in Washington, D.C. He holds an M. Litt. in International Security Studies from the University of St. Andrews and is a frequent contributor to the Guardian and the Huffington Post. His work has appeared in the Washington Monthly and online at Columbia Journalism Review and Alternet.

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