



# FUTURE OF FREEDOM

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*An empire remains powerful as long as its subjects rejoice in it.*

— *Livy*

# FUTURE OF FREEDOM

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# Terrorism and the Bill of Rights

by Jacob G. Hornberger



In the aftermath of the Boston bombings last spring, GOP Sens. John McCain and Lindsey Graham and others called on Barack Obama to treat the surviving suspect in the bombings, Dzhokhar Tsarnaev, as an “enemy combatant” rather than as a criminal defendant. The episode highlighted the revolutionary change in the relationship of the American people to the federal government that took place in the wake of the 9/11 attacks. For while Obama rejected the plea to treat Tsarnaev as an enemy combatant, no one can dispute the fact that the president of the United States now wields the discretionary authority to go either way — enemy combatant or criminal defendant — with respect to people who are suspected of being terrorists.

Ever since 9/11 the president of the United States, together with the Pentagon and the CIA, has been wielding extraordinary emergency powers that historically have been wielded by the most powerful dictators in history. They include the power of the government to seize people, including Americans, cart them away to a military dungeon or concentration camp, torture them, keep them incarcerated indefinitely, and even execute them, perhaps after some sort of kangaroo military tribunal — all without judicial process to determine whether the person had done anything to warrant such treatment.

Such powers also include the power to assassinate people, including Americans, again without any sort of formal charges, trial by jury, due process of law, or other procedural rights and guarantees.

Consider, for example, Egypt under Hosni Mubarak’s military dictatorship and Chile under the military dictatorship of Augusto Pinochet. Those two dictators wielded the extraordinary emergency powers that the president of the United States now wields. (It is worth noting that Mubarak and Pinochet wielded such powers with the full support of the U.S. national-security state, which helped them

fortify their dictatorial hold over their citizenry.)

How did such a revolutionary transformation take place in the United States? After all, doesn't the Constitution determine the extent of the government's powers over the citizenry? Where does the Constitution grant those dictatorial powers to the president?

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**Extraordinary powers at the hands of U.S. officials arose in the immediate aftermath of the 9/11 attacks.**

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Those extraordinary powers at the hands of U.S. officials arose in the immediate aftermath of the 9/11 attacks. George W. Bush declared that the 9/11 attacks were an act of war and that America was now formally at war, just as in World War I and World War II, only this was a "war on terror" rather than a war against nation-states such as Germany and Japan. The president decreed that he now wielded all the powers of a military commander in chief, including the power to employ the military to capture and kill the enemy.

Since it's legal to kill the enemy in wartime, Bush, and later Obama, said that U.S. forces now had the legal authority to kill terrorists any-

where in the world. Obama would use the same reasoning to justify his drone assassination program, a program by which the Pentagon and the CIA are permitted to kill people, including Americans, without explanation or justification to anyone.

Moreover, since the terrorists were waging war without wearing uniforms, Bush reasoned, they were illegal enemy combatants. That meant that they weren't entitled to the protections of the Geneva Convention, which prohibits torture of prisoners of war.

U.S. officials made it clear that this particular war, unlike most other wars, would continue for a very long time, in fact longer than the lifetimes of most Americans living at that time. It would very likely take decades, they said, for U.S. forces to finally prevail in the war on terrorism.

Moreover, this war was global in nature, Bush told the American people. Terrorists are located not just in Iraq, Afghanistan, Pakistan, and Yemen. They are everywhere, including right here in the United States. That means that the entire world is the battlefield in the war on terrorism. Thus Bush's extraordinary powers by which he would employ the military and the CIA to capture, torture, incarcerate, and

kill the enemy would extend to every country in the world.

## Federal crime

There was one big problem, however, with Bush's reasoning: Terrorism is a criminal offense. It is listed in the U.S. Code as a federal crime. People who are accused of terrorism have long been prosecuted in federal district court. If they are acquitted, they're set free. If convicted, they are sentenced to die or to serve time in a federal penitentiary.

Since terrorism is a criminal offense, it shouldn't surprise anyone that there have been lots of people who have been criminally prosecuted for terrorism in federal court. One notable example is a man named Zacharias Moussaoui, who was charged with having conspired to participate in the 9/11 attacks. At the behest of the U.S. Justice Department, he was indicted for terrorism by a federal grand jury, prosecuted in federal court, convicted, and sentenced. He is now residing in a federal penitentiary rather than in a prisoner of war camp.

The same holds true for a man named Ramzi Yousef. He was charged in federal court with the terrorist attack on the World Trade Center in 1993, an attack that was, in principle, no different from the

9/11 attacks that would take place eight years later. After a few years on the lam, Yousef was arrested in Pakistan, brought to the United States, prosecuted for terrorism in federal district court, convicted, and sentenced. Like Moussaoui, he now resides in a federal penitentiary rather than a POW camp.

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If a person is treated as a criminal defendant, under our system of justice he is presumed to be innocent.

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Is there any difference between treating someone as an enemy combatant in the war on terror and as a criminal defendant charged with terrorism? The difference is like night and day.

If a person is treated as a criminal defendant, under our system of justice he is presumed to be innocent. That's why we refer to people who are charged with the crime of terrorism as suspected terrorists or accused terrorists. The government must prove that the person actually committed the crime. That burden of proof is not an easy one to meet. The government must prove the person's guilt beyond a reasonable doubt.

That's not all. The trial is held in a federal courtroom and is open to

the public. The defendant is entitled to be formally notified of what exactly he's charged with, which enables him to prepare a defense to the charge. Moreover, the defendant can elect to have a jury of ordinary American citizens hear the evidence and determine whether the government has met its burden of proof.

The government is prohibited from torturing the accused into confessing to the crime. In fact, if the accused chooses to remain silent during the trial, there is nothing the government can do about it. The accused person is also entitled to have a lawyer defend him against the government's lawyers. He can cross-examine the government's witnesses in an attempt to show that their testimony is false or deceptive. He can summon witnesses in his own behalf.

If the defendant is acquitted, he walks out of the courtroom a free person because the jury's verdict is final.

## OVERTURNING THE BILL OF RIGHTS

In other words, under our system of justice a person charged with the federal crime of terrorism is entitled to all the procedural rights and guarantees provided in the Bill of Rights, specifically those enu-

merated in the Fourth, Fifth, Sixth, and Eight Amendments to the Constitution.

Why did our American ancestors demand the enactment of the Fourth, Fifth, Sixth, and Eight Amendments immediately after the federal government was called into existence with the Constitution? It was owing to their deep concern that the federal government would end up arresting, incarcerating, torturing, and killing people for illegitimate reasons, something that tyrannical regimes had done throughout history.

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**The government is prohibited from torturing the accused into confessing to the crime.**

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One of the earliest instances of citizen resistance to the wielding of such omnipotent power took place in the year 1215. That was when the barons of England forced their own king — King John — to formally acknowledge that his powers over the English people were limited, not omnipotent. In the Magna Carta, the king acknowledged that he could no longer go against people or their property in violation of "the law of the land." That phrase would ultimately evolve into the phrase "due process

of law” that our ancestors employed in the Fifth Amendment.

Thus when Bush began wielding the discretionary power of treating a person as either a suspected terrorist or a criminal defendant, he brought about a revolutionary transformation in the Bill of Rights, without even the semblance of a constitutional amendment. The president, the Pentagon, and the CIA now had the authority to circumvent the Fourth, Fifth, Sixth, and Eighth Amendments to the Constitution whenever they wanted.

The most notable example of this discretionary authority involves an American citizen named Jose Padilla. Accused of terrorism, he was labeled an enemy combatant, taken to a military dungeon in South Carolina, and incarcerated and tortured for three years. Afterwards, U.S. officials suddenly converted him to criminal-defendant status, indicting him and convicting him of terrorism.

It's important to note that what they did to Padilla they can now do to every other American.

Another notable example involves the cases of two American citizens, Anwar al-Awlaki and his 16-year-old son Abdulrahman. Anwar al-Awlaki was suspected of being a terrorist. U.S. officials decided

to label him an enemy combatant rather than a criminal defendant. U.S. officials then assassinated him in Yemen. It's not clear why they also assassinated his 16-year-old son because Obama, the Pentagon, and the CIA have steadfastly maintained silence with respect to the boy's assassination. Their position is that the war on terror and “national security” entitle them to remain silent on why they assassinate people, including Americans, as part of that war.

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The president, the Pentagon, and the CIA now wield the post-9/11 legal authority to do to any American what they did to Anwar and Abdulrahman al-Awlaki. That includes assassinations on American soil because, don't forget, this is a global war on terrorism. And they don't have to explain or justify any killing as long as they intimate that the assassination relates to the war on terror.

It's important to note that under this bifurcated system, two people who commit the same offense can

be treated in two completely different ways. It would be difficult to find a better example of a violation of the principles of the rule of law and equal treatment under the law. It's also important to note that the Pentagon now takes the position that it is no longer bound by a jury verdict of acquittal in a federal district court trial of an accused terrorist. Even if a jury decides that the government hasn't met its burden of proof, the Pentagon can nonetheless take the person into custody and treat him as an enemy combatant.

The extraordinary powers now wielded by the president, the Pentagon, and the CIA are clearly not what our American ancestors had

in mind when they enacted the Constitution and the Bill of Rights. There is no way to reconcile such dictatorial powers and such an arbitrary and capricious system with the principles of a free society.

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

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### NEXT MONTH:

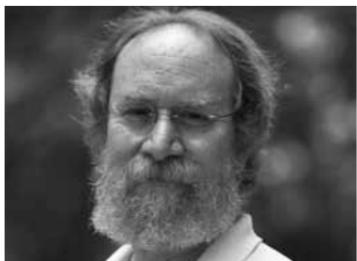
**“How I Came to Reject the Welfare State, Part 1”**  
*by Jacob G. Hornberger*

*Great things are done when men and mountains meet.*

— William Blake

# The Market Is a Beautiful Thing

by Sheldon Richman



**M**arket advocates tend to respect the intellect of their fellow human beings. You can tell by their reliance on philosophical, moral, economic, and historical arguments when trying to persuade others. But what if most people's aversion to the market isn't founded on philosophy, morality, economics, or history? What if their objection is aesthetic?

More and more I've come to think that is the case, and I believe I witnessed an example recently at a lecture I gave at St. Lawrence University. During the Q&A a woman asked, in all sincerity, why society couldn't do without money, since so many bad things are associated with it. She also suggested that cooperation is better than market competition. I replied that since money fa-

cilitates exchange and exchange is cooperation, it follows that money facilitates cooperation — a lovely thing, indeed. Government, I added, corrupts money.

I also said that competition is what happens when we are free to decide with whom we will cooperate. I don't know whether my response prompted her to rethink her objections to the market, but I am confident her objection was aesthetic. For her, money and competition are ugly. Perhaps I didn't respond on an aesthetic level; it's something I have to work on. But I tried, and so must we all when we encounter these sorts of objections.

Like that nice woman, many decent people dislike markets because they find them unattractive. And they associate markets with other things they find unattractive besides money and competition: (rugged, atomistic) individualism, selfishness, and profit. F.A. Hayek noticed this, writing in "Individualism: True and False": "The belief that individualism approves and encourages human selfishness is one of the main reasons why so many people dislike it." If that's the case, philosophical, moral, economic, and historical arguments may fall on deaf ears. The objections must be met on an aesthetic level.

In other words, advocates of free markets must demonstrate that markets are things of beauty. Fortunately, that is not hard to do.

## Uncommanded harmony

The freed market is a political-legal setting in which people are at liberty to peacefully pursue their chosen plans. This activity generates, unintentionally, an undesigned order that facilitates cooperation and coordination among even distant strangers, making each person's pursuit more effective and efficient than otherwise. The price system is the primary means by which that is accomplished. To many people, the price system seems impersonal and cold, but it is the key to the market's beauty, for it is what gives the market its coordinative and corrective power, which, although generated by individuals' purposive action, transcends them.

The market is beautiful not because it lives up to some mathematically elegant equilibrium model — but because it does not! Its beauty lies in its power to coordinate activity and correct errors. And it does that work without compulsion or authoritarian central direction. As a result, when truly free — no privileges, no arbitrary restrictions

— the market gives all a better chance at living in any peaceful way they wish. How lovely!

That is where we should place our emphasis. Frédéric Bastiat knew what he was doing when he called his (unfinished) magnum opus *Economic Harmonies*. His purpose throughout was to show that the market setting harmonizes people's deepest interests and enables them to further their own causes by cooperating with others through exchange. For him, a central feature of the market is its inexorable transfer of wealth from the private to the "communal domain," as technological innovation and competition increasingly substitute the gratis services of nature for arduous human labor. As a description of this harmony, his book is a work of art — as is Ludwig von Mises's *Human Action*, which is dedicated to showing that markets are social cooperation. (That nearly was the title of the work).

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**The price system seems  
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key to the market's beauty.**

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To most people the quintessential market "force," the law of supply and demand, seems sterile and cold, but it is the market's beauty

in action, and we must find ways to communicate it in that way. Adam Smith saw it. Indulge me as I quote from *The Wealth of Nations* (book 1, chapter 7):

The market price of every particular commodity is regulated by the proportion between the quantity which is actually brought to market, and the demand of those who are willing to pay the natural price of the commodity, or the whole value of the rent, labour, and profit, which must be paid in order to bring it thither. Such people may be called the effectual demanders, and their demand the effectual demand; since it may be sufficient to effectuate the bringing of the commodity to market....

When the quantity of any commodity which is brought to market falls short of the effectual demand, all those who are willing to pay the whole value of the rent, wages, and profit, which must be paid in order to bring it thither, cannot be supplied with the quantity which they want. Rather than want [i.e., do without] it altogether, some of them will be willing to give more. A

competition will immediately begin among them, and the market price will rise more or less above the natural price....

When the quantity brought to market exceeds the effectual demand, it cannot be all sold to those who are willing to pay the whole value of the rent, wages, and profit, which must be paid in order to bring it thither. Some part must be sold to those who are willing to pay less, and the low price which they give for it must reduce the price of the whole. The market price will sink more or less below the natural price....

If at any time it [quantity] exceeds the effectual demand, some of the component parts of its price must be paid below their natural rate. If it is rent, the interest of the landlords will immediately prompt them to withdraw a part of their land; and if it is wages or profit, the interest of the labourers in the one case, and of their employers in the other, will prompt them to withdraw a part of their labour or stock from this employment. The quantity brought to market will soon be no more than sufficient to supply the effectual

demand. All the different parts of its price will rise to their natural rate, and the whole price to its natural price.

If, on the contrary, the quantity brought to market should at any time fall short of the effectual demand, some of the component parts of its price must rise above their natural rate. If it is rent, the interest of all other landlords will naturally prompt them to prepare more land for the raising of this commodity; if it is wages or profit, the interest of all other labourers and dealers will soon prompt them to employ more labour and stock in preparing and bringing it to market. The quantity brought thither will soon be sufficient to supply the effectual demand. All the different parts of its price will soon sink to their natural rate, and the whole price to its natural price.

This dynamic (it is not a mechanism) operates for all goods and services simultaneously. So when the market price of a good falls below the level sufficient “to bring it thither,” some producers will move to the production of some other good for which the market price is above the

level required “to bring it thither,” setting in motion a lowering of the latter good’s market price. The preferences of consumers — reflected in prices — tell producers, “We have enough of good X, but we need more of good Y.” And producers have an incentive to respond cooperatively and produce more of good Y. All this and more — the division of labor, for example — go on without command — if the market is free.

What could be lovelier!

Bastiat commented, “We should be shutting our eyes to the facts if we refused to recognize that society cannot present such complicated combinations in which civil and criminal law play so little part without being subject to a prodigiously ingenious mechanism.”

Not just prodigiously ingenious, Monsieur Bastiat. Beautiful!

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**NEXT MONTH:**  
“**Government Is the Problem**”  
*by Sheldon Richman*

# Obama's Latest Democracy Scam

by James Bovard



In his campaign earlier this year to subvert the Second Amendment, Barack Obama unveiled one of the oldest tricks in the demagogue playbook. Speaking in Colorado, he scoffed at Americans who say, “I need a gun to protect myself from the government” or “We can’t do background checks because the government is going to come take our guns away.”

Obama assured listeners: “Well, the government is us. These officials are elected by you. I am elected by you. I am constrained, as they are constrained, by a system that our Founders put in place. It’s a government of and by and for the people.”

Unfortunately, many Americans are lulled by such assertions from the nation’s most powerful man. But almost 200 years ago, Sen.

John Taylor, in his masterful book, *Tyranny Unmasked*, warned, “Self-government is flattered to destroy self-government.” Obama’s assertions fit a long pattern of presidents’ invoking democracy to sanctify unleashing themselves to do as they please.

The more vehemently a president equates democracy with freedom, the greater the danger he very likely poses to Americans’ rights. Abraham Lincoln was by far the most avid champion of democracy among 19th-century presidents — and the president with the greatest visible contempt for the Constitution and the Bill of Rights. He swayed people to view national unity as the essence of freedom or self-rule. That he suspended habeas corpus, jailed 20,000 people without charges, forcibly closed hundreds of newspapers that criticized him, and sent in federal troops to shut down state legislatures was irrelevant because he proclaimed “that this nation shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the earth.” Lysander Spooner, a Massachusetts abolitionist, ridiculed Lincoln’s claim that the Civil War was fought to preserve a “government by consent.” Spooner ob-

served, “The only idea ... ever manifested as to what is a government of consent, is this — that it is one to which everybody must consent, or be shot.”

## “Our” crimes

Woodrow Wilson declared in 1919, “In the last analysis ... a people are responsible for the acts of their government.” But Wilson’s own record was one of endless idealistic appeals followed by the crassest betrayals of Americans and anyone else in the world who trusted him. Were “the people” responsible for his promises in 1916 to keep the United States out of Europe’s war? Or were they responsible for the Congress’s declaration of war against Germany? Were “the people” responsible when Wilson — who had campaigned as a champion of freedom — rammed a Sedition Act through Congress that empowered the feds to imprison anyone who muttered a kind word about the kaiser? Were they responsible for Wilson’s devious dealings with the Prohibition lobby that banned the sale of beer across the land?

Franklin Roosevelt declared in 1938, “Let us never forget that government is ourselves and not an alien power over us.” But it wasn’t “ourselves” that ravaged the nation

with the New Deal’s thousands of decrees that crippled Americans’ right to make contracts or use their own property. When he ran for re-election in 1936, he never mentioned his plan (revealed in early 1937) to pack the nation’s highest court with new appointees to rubberstamp his decrees. Yet because he won in 1936, he implied that the citizenry were somehow bound to accept all of his power grabs as if they themselves had willed them.

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**The more vehemently a president equates democracy with freedom, the greater the danger he very likely poses to Americans’ rights.**

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Bill Clinton declared on October 7, 1996, “The government is just the people, acting together — just the people acting together.” But it wasn’t “the people” who sent in the tanks at Waco, leaving 80 people dead in their wake. It wasn’t “the people” who ordered U.S. planes to bomb Belgrade and kill scores of Serbian women and children. And it wasn’t “the people” who concocted a scheme to rent out the Lincoln bedroom for \$100,000 per night in campaign contributions.

The “people = government” doctrine presumes that the citizen’s unspoken wishes animate each re-

striction inflicted on him. But drivers who exceed speed limits are not “self-ticketed,” and travelers who get accosted by TSA agents at airports are not molesting themselves. As Sheldon Richman observed, “When you rushed to finish your income-tax return at the last minute on April 15, were you in fear of yourself and your fellow Americans or the IRS?”

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**If the rulers are above the law,  
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The “people = government” doctrine is equivalent to political infantilism — an agreement to pretend that the citizen’s wishes animate each restriction or exaction inflicted on him. This doctrine essentially makes masochism the driving force of political life — assuming that if government is beating the citizens, they must want to be beaten, and thus they have no right to complain.

The notion that “the people are the government” is one of the biggest slanders that the average citizen will endure in his lifetime. It assumes that a person is born politically damned with the weight of all of the past and future sins of his government on his head. The no-

tion that “you are the government” is simply a way to shift the guilt for every crime by the government onto every victim of government.

And what about Obama’s assertion that Americans have nothing to fear because “I am constrained ... by a system that our Founders put in place?” Listening to Obama, one would think that the United States was reposing in the Golden Age of the Rule of Law. Yet a few weeks earlier, during Sen. Rand Paul’s filibuster, the Obama administration fiercely resisted admitting any limitations on the president’s prerogative to kill Americans solely on the basis of his own decree. And the Obama administration continues to claim a right to covertly read Americans’ email without a warrant — a brazen violation of the Fourth Amendment prohibition of unreasonable searches.

If the rulers are above the law, then law becomes a tool of oppression, not a bulwark of the rights of the people. Many Americans were shocked in 1977 when the former president Richard Nixon told interviewer David Frost, “When the president does it that means that it is not illegal.” But that doctrine seems to have become the unofficial Oval Office motto in recent decades. While Obama has not been as

brazen in his contempt for the rule of law as was George W. Bush, he did drop an iron curtain around the crimes of his predecessor and ensured that his own agents would almost certainly be legally immune for any wrongdoing they committed under his orders. But as long as rulers are above the law, citizens have the same type of freedom that slaves had on days when their masters chose not to beat them.

## The battering ram

If the citizen is the government, why are there far harsher penalties for any private citizen who pushes, threatens, or injures a federal employee than the punishment for feds when they take the same actions against private citizens? Why are governments allowed to claim sovereign immunity when their employees kill private citizens? Why is it routine procedure for politicians and government employees to lie to citizens, but a federal crime for citizens (such as Martha Stewart) to lie to the government? Many state-government vehicles have license plates declaring, "For Public Use." But if a private citizen assumes that the license plate means what it says and drives off in the car, he will be charged with grand larceny. Yet by assuring people that they are the

government, politicians attempt to make all the coercion, all the expropriation, all the intrusive searches, all the prison sentences for victimless crimes irrelevant.

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## Why are governments allowed to claim sovereign immunity when their employees kill private citizens?

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There is no way to reconcile individual liberty with empowering the government to arrest almost everyone on the basis of vague or all-expansive laws. The fact that legislators at some level of government voted on a law (which they may or may not have read) before enacting new penalties does nothing to loosen the handcuffs around citizens' wrists. The fact that people had the chance to vote for a member of Congress or a state legislator does nothing to lighten their subjugation when they encounter a government agent hungry to fill his quota for arrests. Legislators rarely rein in overzealous police or other enforcement agents when their aggression boosts government revenue.

The verbal switcheroos by Franklin Roosevelt, Clinton, and Obama were the types of shams easily foreseen in this nation's founding era. In his book, Taylor

justly warned, "Tyranny is wonderfully acute in transferring to itself, the weapons of liberty. It has converted charters invented for her use, into pick-pockets for robbing her. It has used even representation to lash her." And the rhetoric of democracy, when exploited by power-hungry politicians, easily becomes a battering ram against liberty. The hazier people's thinking about government becomes, the easier it is for rulers to invoke freedom to destroy freedom.

Obama is only the latest in a long series of presidents who sought to induce mass complacency about freedom. But the more people there are who assume that democracy automatically protects their rights, the more likely it is that the American political system will self-destruct. At this point, democracy is a system of government under which the peo-

ple are automatically liable for whatever the government does to them.

It has been at least a generation since America had a president who seemed half as trustworthy as your average used-car dealer. There is no reason to expect Obama or his successor to be any different from the demagogues who previously occupied the Oval Office.

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**NEXT MONTH:**  
**"Will the Government Produce a Body Count from Shootings by Police?"**  
**by James Bovard**

TIMRELY



# The War on Americans

by David D'Amato



That the consumption of certain drugs ought to be proscribed by law is probably taken for granted by most people. The presumption in favor of banning some drugs has become so strong, so embedded in the mainstream of popular discourse as to be practically beyond debate — notwithstanding either philosophical or empirical issues that stand in contradiction to the accepted view. But at this stage in the American experiment in drug prohibition, the case for legalizing drugs, for leaving them within the realm of permissible choices, is worth another look. As defenders of individual rights and responsibility, libertarians have been making that case since the Drug War's incipency.

It isn't that libertarians don't recognize the problems presented by drug use, but rather that we chal-

lenge the assumption that there is any rational relationship between the Drug War and lessening the destructive power and prevalence of drugs within society. The question we ask isn't whether using drugs is a good decision for the individual person; it is whether a person, under a system of just laws, ought to have the right to decide which substances are fit for his consumption — whether smoking marijuana, for instance, is among the legitimate prerogatives of an adult in civil society.

Libertarians approach that question, ultimately the question of the rights of the individual, in a distinct manner, one that uniquely demarcates our philosophy from others who attend to specific policy questions less consistently. That distinctly libertarian approach is what Herbert Spencer described as "the law of equal freedom," the notion that "every man has freedom to do all that he wills, provided he infringes not on the equal freedom of any other man." For Spencer and for libertarians, the law of equal freedom means that every person has the right to legislate for himself, no government having any ethical authority to substitute its judgment for that of the individual person. Libertarians deny that the state is any more competent to make fun-

damental decisions about the danger of a particular substance than is the individual person.

As a matter of course, some members of society will make self-destructive choices, acting against their own interests, even in ways that could have grave consequences. In the absence of the kind of infringement of others' freedom that Spencer's formulation interdicts, however, adults must be left free from the grip of invasive laws and regulations. Champions of the war on drugs argue that indeed drug users do pose the kind of threat to their neighbors that the law of equal freedom is designed to confront — that illegal drugs cause people to engage in acts that threaten society at large. But such causal arguments do not withstand even cursory scrutiny, especially given that dangerous and mind-altering substances such as alcohol fall on the permissible side of the arbitrary line drawn by policymakers. To justify the ban of a particular activity within a free society, the connection between that activity and the harm that putatively results from it cannot be a tenuous one. It is not enough, then, that drug users may cause harm to others. As the Cato Institute's Doug Bandow notes, any number of perfectly legal activities (gambling, the abuse of al-

cohol, and tobacco use, among them) may yield externalities, indirect harm or costs to others. To pursue a plan that would hope to eliminate all such externalities or undesirable consequences from human behavior and interaction would be to preclude even the possibility of a free society.

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**Adults must be left free  
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and regulations.**

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Furthermore, the drug warriors who most loudly trumpet the externalities argument in favor of the war on drugs often ignore the externalities of prohibition laws, the unforeseen, negative consequences of wielding such a blunt instrument as state power. As the eclectic libertarian lawyer and theorist Stephen Pearl Andrews argued, any essay at crafting laws "applicable in all respects" to "the infinite millions of events" implicated by the diversities of human society will be vain, doomed from the outset by the simple lack of the ability to predict every outcome of a given piece of legislation. The untold number of possible aftereffects "mocks at all human attempts to make laws, or constitutions, or regulations, or governmental institutions of any

sort, which shall work justly and harmoniously amidst the unforeseen contingencies of the future.” Andrews’s words articulate one of the central rationales that today’s libertarians appeal to in opposing drug prohibition: Even assuming, for the sake of argument, that individual persons don’t have a fundamental right to make their own choices regarding the substances they consume, the supposed remedy in this case is far worse than the disease it purports to treat. And the “treatment” comes at an enormous cost to Americans.

## The most expensive cost

The Drug Policy Alliance estimates that the “amount spent annually in the United States on the war on drugs” now exceeds \$50 billion, with the Office of National Drug Control Policy (ONDCP) disingenuously leaving billions of dollars out of the budget data that it releases to the public. The ONDCP reasoned that the federal drug budget ought to reflect only spending to reduce drug use — not, as it previously had, expenditures tied to the “consequences of drug use,” which of course include enforcement and the prosecution of the war on drugs. Americans are supposed to judge the efficacy of the patchwork of pol-

icies at both the federal and state levels using sketchy and incomplete data that necessarily omit what we should arguably regard as the most important and expensive piece of the puzzle. Given the logic professed by Washington as underlying the War on Drugs — that its objective is to reduce drug use and its attendant harms within society — it ought to come as no surprise that the militaristic law-enforcement features of drug prohibition would be downplayed or deliberately obfuscated. Were those features not so hidden, Americans might begin to get the idea that the War on Drugs has been really quite impotent in assailing drugs themselves, and rather better at unjustly destroying lives and expanding the police state.

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## The Drug War has “relied heavily on military ideology.”

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As criminal-justice scholar Peter B. Kraska observes, the Drug War has “relied heavily on military ideology and practice, yet this fact has been almost completely ignored by crime and justice academics.” The research of Kraska and others has revealed the dominant philosophy underlying the War on Drugs as one that embraces the war aspect of its name in the most literal way.

The public-policy ban on certain substances has served as motivation and justification for a steady increase in police paramilitary units, with special forces groups such as Delta Force and the Navy Seals functioning as the template, write Kraska and Matthew D. Michelle. Such forays of municipal police forces into military technology and tactics have naturally meant millions of dollars in contracts for the firms that manufacture the equipment used. Worse than the fiscal costs, however, are the erosions of civil liberties that have accompanied the transition to military ideology within American police departments, an ideology that has continued to grow apace, especially in the “national security” climate that emerged after 9/11. In the new political reality of paranoia, perpetual crisis, and emergency, it has been ever easier for the phenomenon of militarization, which was already well under way, to escalate, to build on police-state measures already in place.

Radley Balko, a libertarian journalist who focuses on police abuse, notes that the militarization of America’s police is encouraged by a number of federal programs, among them the Byrne grant program, which sets a large portion of funds aside specifically for enforcement of

the drug laws. Similarly, federal programs have cemented a pipeline that transfers military gear intended for war to local police. The extreme domestic militarization wrought by these Drug War policies — from armored tanks to military-style machine guns — are simply incompatible with the goals of and the conditions for a free society; they blur the lines between the U.S. armed forces and the police in ways that should make everyone uncomfortable, setting a dangerous precedent and encouraging clandestine, opaque practices and tactics.

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**The militarization of America’s police is encouraged by a number of federal programs.**

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But if drug prohibition is such bad policy on purely economic and utilitarian grounds, why does it endure? An inquiry into and analysis of the connection between Drug War policy and the interests that have skin in the game, so to speak, proves illuminative in the discovery of an answer to that question. Indeed, experience has proven it impossible to be too cynical about the political machinations that sustain the War on Drugs. In addition to police forces, private prison companies are an influential driver of drug

prohibition and associated policies, forming a multibillion dollar industry that spends millions lobbying policymakers. (As George Mason University economists Abigail R. Hall and Christopher J. Coyne write, “Consider that the revenue for the two largest private prison businesses total [sic] nearly \$3 billion annually.”) With 25 percent of the world’s prisoners, the United States, the ACLU notes, has far and away the most of any country, despite having only about 5 percent of the global population. Imprisoning such a disproportionately large segment of the American population is a costly undertaking, translating into staggeringly huge figures — approximately \$75 billion in federal and state combined spending and the employment of about 800,000 people, according to the CNBC program “Behind Bars: Inside America’s Prison Industry.” The burgeoning prison industry understands both its influence and the relationship between it and the War on Drugs. This is not to suggest any conspiratorial intent on the part of business and government. It only stands to reason that interested actors who stand to benefit from the enactment of particular policies will lobby zealously for their position. To be sure, Hall and Coyne

note, the industry itself acknowledges that demand for the service it provides hinges critically on drug prohibition and the harsh penalties associated with it.

The Drug War, an amalgam of big money interests and state and federal policies, has become a creature unto itself, with its own momentum and extremely high stakes. Libertarians understand that harm can come from drug use (though many people use all kinds of drugs responsibly), but we recognize that the solution — whatever it is — cannot possibly be the failed nightmare of waste, imprisonment, and authoritarianism delivered by the War on Drugs. It would be more accurately named a war on American society and people, one far more deleterious than drug use, the vast proportion of which is confined to marijuana. The end of drug prohibition would be a victory for personal freedom and a blow at the creeping police state now so widely documented; it is not the cause only of seeming weirdo radicals and potheads, but rather of all reasonable people.

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*David S. D’Amato is an attorney with an LL.M. in international law and business.*

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# Stupidity or Plan?

by Scott Horton



**A**re America's disasters abroad a result of stupidity or some elaborate plan? An observer of modern U.S. foreign policy can be torn on that one.

It makes sense that generals, contractors, and other national-security state types will invent and follow a deliberate policy of divide and rule, as well as to create crises to move on to the next big job. But if one looks closely, it does begin to seem that perhaps narrow-minded, short-sighted stupidity is a better overall explanation of the causes and results of the U.S. government's recent behavior in other people's countries.

George W. Bush's unprovoked invasion of Iraq in 2003 destabilized the entire region and created plenty of new problems for his successor to deal with, but Barack Obama has taken every opportunity to only make matters worse.

For example, in Libya it appears the main reason the Obama administration took America to war on the side of Islamist rebels against Qaddafi in 2011 was that the empire simply had a bad public-relations problem after the successful revolutions in Tunisia and Egypt.

## Uncle Sam and the 40 thieves

When the "Arab Spring" began — mostly as a consequence of the global currency devaluation and price inflation precipitated by the Federal Reserve and Bush administration to disguise the upfront costs of the war on terrorism — there was no escaping the fact, even in the American media, that as protesters gathered by the millions in capitals across the Middle East, seeking a modicum of self-government for a change, the United States was the bad guy behind every dictator in the region: in Morocco, Algeria, Libya (where one-time top enemy Muammar Qaddafi had been the United States's friend since 2003), Tunisia, Egypt, Saudi Arabia, Yemen, Oman, Bahrain, Qatar, United Arab Emirates, Kuwait, Iraq, and Jordan. The only governments in the region the United States was not backing in 2011 were Syria, even though for many years its regime tortured prisoners for the American

administrations of Bill Clinton and George W. Bush, and Iran, at least since its revolution and declaration of independence in 1979 (or when Ronald Reagan sold arms to both sides of the Iran-Iraq war in the 1980s, if you want to count that).

Otherwise, if there was a tyranny anywhere between Morocco and India, America was behind the regime. And through the tear gas delivered by canisters labeled “Made in the U.S.A.” everyone could see it. It had never been more clear.

### Losing Egypt

Even though the Middle Eastern protesters in 2011 were largely focused on challenging their own individual despots, they were also, at least in effect, challenging U.S. dominance in the region.

In the case of Egypt the U.S. government did everything it could to keep 30-year U.S. sock-puppet dictator and Secretary of State Hillary Clinton’s “family friend” Hosni Mubarak in power until the bitter end. The administration was so clumsy in its panic, it actually urged the peaceful protesters whose skulls were being cracked open by interior-ministry truncheons to restrain themselves and blurted right on the front page of the *New York Times* its determination to keep Mubarak in

power; failing that, the administration would settle for Omar Suleiman, the loyal head of Egypt’s secret torture police, to be pharaoh-puppet runner-up.

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If there was a tyranny  
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After Mubarak was overthrown by the popular uprising, the U.S. government failed to get either Suleiman the torturer the job as fill-in dictator or their favored liberal groups a majority in parliament. Instead American meddlers were unceremoniously arrested and deported, and an independent Egyptian political process with fair elections took root, starting with votes for a new parliament and president and major victories for the conservative-Islamist Muslim Brotherhood in both cases.

This was earthshattering. Clinton may have been pushing for “democratic reform” in some parts of the Middle East, but only in the context of staving off real revolution and the threat of diminished influence for the United States. What the empire got instead was “The World Turned Upside-Down” in Arabic. The rest of the region sat

up and took notice. “Day of Rage” protests broke out across the Muslim world.

## Regime change in Libya

When the demonstrations started soon after in Libya, it was Clinton’s idea of a chance to at least confuse the issue by trying to sell the notion that America was the comic-book Superman that liberated France from the Nazis back in the olden days and always supports underdog popular “democratic” protesters against their mean old dictators. Michael Hastings reported in *Rolling Stone* that after the revolution in Egypt, Clinton was desperate for another chance to try to shape the narrative of the “Arab Spring” in that way. That is why she pushed Obama to overrule Defense Secretary Robert Gates’s advice and take the side of the rebels against Qaddafi.

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### The American people didn’t seem to really care whom their government bombed anymore.

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The Libyan dictator had been invited in from the cold by Bush in 2003 but was still a bit erratic. He was asking for a bit more than the usual cut for his country’s oil sales and hadn’t come through on buying all the armored personnel car-

riers and other equipment the U.S. government and its friends had been trying to sell him. And so to the empire he was expendable for the sake of political spin.

The *casus belli* invoked — that Qaddafi’s men were certain to murder every last man, woman, and child in the city of Benghazi if the United States and NATO did not immediately intervene — was notable for being completely laughable on its face, and perhaps even for being unnecessary, since by then the American people didn’t seem to really care whom their government bombed anymore.

But who was to replace Qaddafi? The war was not fought in behalf of “the people of Libya,” but for the Libyan Islamic Fighting Group and the Libyan veterans of al-Qaeda in Iraq, predominant in the east of the country, whom Qaddafi had specialized in suppressing. Those fighters, just as the wacky colonel had been claiming, were now being backed and led by American and European special forces on the ground and supported by American-bought and -armed NATO planes from the air. When the mujahideen finally caught Qaddafi and tortured and murdered him on the side of the road, Clinton only laughed, “We came, we saw, he died.”

Today, virtually all the conservative criticism of the Obama administration about the jihadist attack on the makeshift U.S. consulate in Benghazi in eastern Libya on September 11, 2012, has focused only on the lousy security and poor immediate response to the attack. It has entirely missed the point that the war itself, with the full support of the leadership of the Republican Party, had been fought for America's enemies. As Rachel Maddow explained on her MSNBC show, only days before the attack al-Qaeda leader Ayman al-Zawahiri had put out an audio message calling for the Libyan mujahideen to avenge the death of an al-Qaeda operative named Sheik Yaya al-Libi, killed in a CIA drone strike in Pakistan the previous June. (Apparently this al-Libi was the brother of the man the Bush administration tortured into implicating Iraqi dictator Saddam Hussein in the training of al-Qaeda in chemical weapons and airliner hijacking; he later "committed suicide" in one of CIA partner Qaddafi's prisons.) Zawahiri's call to the mujahideen in Libya to avenge the attack against their comrade was a call to Americas' "allies" who had Ambassador Stevens and his men surrounded.

It's as though American foreign policy is being made around the re-

ality depicted in the propaganda rather than the truth the spin is meant to conceal.

The 2011 war has led to chaos in Libya to this day, with ongoing racial pogroms and mass rapes of black sub-Saharan Africans, and different militias and tribal and criminal groups fighting against one another for power. The conflict has also spread beyond Libya's borders, both to Mali and Syria so far.

### Palling around with terrorists in Syria

Libyan arms and fighters have been turning up in Syria, where the United States is also backing the jihadists, in that case against the Shi'ite-backed Ba'athist dictatorship of Bashar al-Assad. One can confidently predict continued disaster at the hands of American intervention there as well, especially since the policy makes absolutely no sense whatsoever to begin with.

Seizing on the protests that brought down the dictatorships in Tunisia and Egypt in 2011, a massive protest movement was launched by the Syrian people demanding major reforms from the Ba'athist tyranny. But that was very quickly co-opted by ruthless jihadist suicide bombers, civilian-slaughterers, and prisoner-beheaders from al-Qaeda in Iraq and other

mujahideen from Saudi Arabia and around the Middle East and Central Asia, reportedly even Chechnya and Afghanistan.

Middle East correspondent Patrick Cockburn of the *Independent* newspaper in the United Kingdom fears the worst: a Lebanese civil war-style, 15-year multi-ethnic, multi-faction, multi-militia tribal conflict of death, pain, and foreign intervention. The grief and fatalities so far — in the tens of thousands — could be just the beginning.

But instead of staying out of this hornets' nest, the U.S. government has, since at least the end of 2011, worked with the governments of Turkey, Jordan, Saudi Arabia, and Qatar in coordinating money, weapons, intelligence sharing, and training for the rebels. It has also encouraged them to refuse negotiations with the Syrian government until Assad agrees to leave power first, thus helping to perpetuate a long-term, no-win grind.

For now at least, it is not altogether clear the Assad regime is going to fall without an escalation by outside powers. The major cities are still under his government's control.

The al-Nusra Front jihadist rebels do control parts of the countryside and a few small towns, but they don't control Damascus, Aleppo, or

the other population centers. The Assad regime has majority support of the population of the country, and they have very motivated backers in virtually every faction except the Sunni Arabs. Even many Sunnis have kept the peace they've made with the Shi'ites and have stayed out of the fight, if they are not outright loyal to the regime.

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**One can confidently predict  
continued disaster at the hands of  
American intervention.**

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Syrian Kurds and Druze factions are reported to be split for and against the regime. But otherwise all the Shi'ites, Alawi, and different factions of Christians are backing the regime because they fear a nightmare future if it falls.

The rebels have made it clear that the only thing standing between members of those minority groups and beheadings is the Assad tyranny. But they — the beheaders — are the guys that the CIA is organizing the whole war for. (Unlike matters in the recent Iraq war, al-Qaeda makes up the supermajority of the entire Sunni-based insurgency in Syria, according to McClellan's David Enders.)

In Iraq the U.S. government fought against Saddam Hussein's

Sunni-based Ba'ath Party government, and later Sunni-based “insurgents,” which included “al-Qaeda in Iraq,” in favor of the Iranian-backed Shi’ites. Now in Syria it’s backing the “al-Qaeda in Iraq”-type Sunnis against the Iranian-backed Shi’ite Ba’athists.

In other words, America has created a “Shi’ite Crescent” — an Iraq-Iran-Syria-Hezbollah alliance that they feared so much — by invading Iraq and turning it over to Iran’s best friends in the Da’wa Party and Supreme Islamic Council. Since they can’t reinvoke Iraq and install a Saudi-allied Sunni regime there, the U.S. government figures it can at least try to take out Syria’s Assad as a consolation prize.

The Obama administration sweats up and down this intervention is meant to isolate and prevent the jihadists from taking the lead and reaping the gains of the war. Indeed, in 2011 and 2012 Clinton tried repeatedly to set up “ruling councils” of “moderate” puppets, mostly Syrian expatriates living in the West, to try to assume some level of power over the fighters and prepare for the next regime.

But those “moderates” have had to turn right around and declare their loyalty to the jihadists in their own desperate bids at credibility,

underscoring the fact that moderates are not fighting in the insurgency in Syria. U.S. and allied money and weapons have continued to show up in the hands of the al-Nusra Front jihadists.

In effect, all the talk of support for and training of “moderates” simply amounts to a small bit of not-very-plausible deniability for the U.S. government’s aiding of the ideological cousins of the 9/11 attackers and the worst of those who fought against the American occupation of Iraq (for example Abu Musab al-Zarqawi’s civilian-butcherering monsters, as opposed to regular Iraqi “insurgents”).

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### America has created the “Shi’ite Crescent” – an Iraq-Iran-Syria-Hezbollah alliance.

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This isn’t how it was supposed to be. The governments of America, Israel, and Turkey apparently thought they could secure a quick victory against Assad and would be able to work well with his replacements, but instead have found him much more difficult to dislodge from power than Qaddafi, and his opponents more frightening and uncontrollable. Thus far the United States and its allies have refrained from sending more than light

weapons, money, and “humanitarian aid” to the rebels, and there are indications that Turkish public opinion, which is decidedly against intervention in Syria, is preventing the Erdogan government from escalating further.

However, once the president of the United States issues a declaration that the president of another country must leave power, it becomes nearly impossible to retract it. So even though Obama and others of his highest-level officials have complained publicly about the danger of moving too hard and fast in Syria and inadvertently helping the bin Ladenites, the U.S. government’s slow-motion, half-hearted support has still only aided their war against Assad, even if it has not succeeded in overthrowing him.

Recent media reports that the U.S. government is considering CIA drone strikes against the al-Nusra fighters in Syria and that federal prosecutors are hypocritically indicting Americans for joining up with them should not, even if true, be allowed to obscure the role the United States has been playing thus far in helping the Syrian mujahideen in their insurgency against the Ba’athist regime.

Perhaps this is the end of the Obamaites’ magnificent ploy to use

Assad and the old al-Qaeda in Iraq brigade to weaken each other. Maybe they’ve even changed their minds about losing the old stable Ba’athist regime in Syria and now truly mean to leave their jihadi friends high and dry in another new Bay of Pigs-style backstab. They may not have even decided what to do next at all.

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**The war has certainly weakened Assad, but the blowback is already being felt in Iraq.**

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The war has certainly weakened Assad, but the blowback is already being felt in Iraq, as the Syrian rebellion has “energized” the old Sunni-based insurgency and al-Qaeda in Iraq’s war against Prime Minister Nouri al-Maliki and the U.S.- and Iranian-installed government in Baghdad.

(It has been reported that there are enough CIA agents still in Iraq to try to help Maliki’s forces chase the jihadis back across the line into Syria, where they can be useful again.)

Will Syria even exist when all is said and done in Obama’s war? In early April the al-Nusra fighters of Syria formally declared their allegiance to al-Qaeda leader Zawahiri in Pakistan and their alliance with Iraqi al-Qaeda, naming their new

group “The Islamic State of Iraq and the Levant.”

Ever since the summer of 2012 there has been some talk among the rebels of resorting to secession and alliance — perhaps even merger — with the predominately Sunni areas of Iraq if they cannot succeed in toppling the power in Damascus — the beginning of Bush’s and Osama bin Laden’s ridiculous Islamofascist caliphate!

### What in the world?

For at least the past year the Democrats have publicly warned of the dangers of arming the rebels in Syria and then have continued to do exactly that. But if they know better, why do they persist?

In March 2012 Obama gave an interview to Jeffrey Goldberg at *The Atlantic* in which he explained that the policy of regime change in Syria is all about weakening and isolating its ally Iran. He never even pretended for a moment to invoke the hardships of the poor unfortunate civilian masses of Syria who

need rescuing from dictatorship. And why would he be so determined to weaken Iran, right after the U.S. government finished fighting a war in Iraq that only empowered the ayatollahs and their allies, that he would go to such lengths as to back bin Ladenite madmen in Syria?

Because in 1979 Iran had the audacity to declare independence from the U.S. empire after 26 years of dictatorship under the U.S. stooge-dictator Shah Mohammad Reza Pahlavi, and it maintains a “safeguarded” civilian nuclear program, which apparently is considered the vaguest of “existential threats” by Benjamin Netanyahu, prime minister of Israel.

So is this stupidity or plan? Perhaps the question should be, Whose stupid plan?

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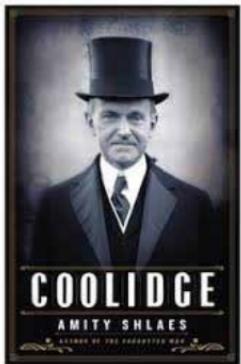
*Scott Horton is host of the Scott Horton Show, weekdays 12-2 p.m. Eastern at No Agenda Global Radio (listen at noagendastream.com or scotthorton.org).*

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# Slightly Limited Government's Nearly Last Hurrah

by Joseph R. Stromberg

*Coolidge* by Amity Shlaes (New York: Harper, 2013), 456 pages.



*I am for economy. After that, I am for more economy.*

— Calvin Coolidge (1920)

Amity Shlaes's *Coolidge* is a compelling biography of John Calvin Coolidge (1872–1933), 30th president of the United States. It is a well-paced narrative with elements of novelistic plotting and repeated themes both great and small. Indeed, the story begins with debt and thrift among Coolidge's 19th-century Vermont ancestors, a theme found

throughout the book. (Other themes are cooperation, compromise, and loyalty.) Coolidge emerges as a representative of an older and often admirable American type: a crusty New Englander thoroughly committed to good morals, a service ethic, economic independence, and a naive faith in creditor ideology. The book may (as some suggest) reflect some larger project requiring rehabilitation of early 20th-century Republicans; in any case, it is a useful and readable book about a president who has deserved more attention than he has normally received.

Growing up among religious, hardworking, and parsimonious Vermont farmers, Coolidge learned early the value of good management and thrift to survival and success. After graduating from Amherst College in Massachusetts in 1895 he read law in Northampton, Mass., and opened his own law office in 1898.

Rising in his profession through quiet diligence, Coolidge found himself drawn into Republican Party politics. Here, too, he advanced steadily through the ranks: town councilman, solicitor, state legislator. Personally frugal, Coolidge was a mild Progressive when it came to state legislation, but seems to have had no distinctive views on the world war.

After serving as lieutenant governor (1916–1918) Coolidge became governor of Massachusetts and gained considerable national attention by successfully suppressing the Boston police strike of September 1919. (Here his mild Progressivism had reached its limits.) The next year an unsought vice-presidential nomination threw him directly into national affairs, running alongside Republican presidential nominee, Warren Gamaliel Harding of Ohio, a powerful senator and influential glad-hander. Harding offered the American people “normalcy” — a turn toward everyday pursuits, away from war and world-improving crusades.

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**Shlaes reconstructs  
the economic thinking behind  
Coolidge's and Mellon's  
budgetary and tax initiatives.**

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As vice president, Coolidge focused on reducing federal debt (\$27 billion) run up during the late insanity (1917–1918). On Harding's death (August 2, 1924), he continued economizing and worked closely with Treasury Secretary Andrew Mellon, an important industrial and investment capitalist. Duly nominated and elected, Coolidge became president in his own right.

Valuing continuity, he retained Harding's cabinet until various scandals involving Harding's free-wheeling associates forced his hand.

Shlaes reconstructs the economic thinking behind Coolidge's and Mellon's budgetary and tax initiatives. The argument was that, given existing arrangements (corporate capitalism, politically immovable tariffs, et cetera), the path to growth and general prosperity lay in cutting high marginal tax rates on the wealthy and severely reducing federal spending, while paying off debt and avoiding deficits. Lower rates would yield higher revenues, and for a few years that was the case. Then natural disasters and other unforeseen occasions for spending arrested their fiscal strategy.

Shlaes sketches Coolidge's adventures with his big-business side-kicks Thomas Edison, Henry Ford, and Harvey Firestone. Generally opposed to public projects, Coolidge was drawn into sculptor Gutzon Borglum's ambitious Mount Rushmore scheme and set up his summer-vacation White House in South Dakota.

Foreign affairs are largely absent. Shlaes notes American intervention in Nicaragua but emphasizes Coolidge's support for the 1928 Kellogg-Briand Pact, or General Treaty

for Renunciation of War as an Instrument of National Policy. The death of Coolidge's son John Jr. in July 1924 was a severe blow. For personal details the author draws partly on the memoirs of Secret Service Agent Edmund Starling — an American classic. Coolidge's decision not to run for reelection confounded friends and foes alike and cleared the way for his secretary of commerce, the ambitious and consciously corporatist Herbert Hoover. Back home in Northampton, Mass., Coolidge took on a new challenge: a popular and well-received newspaper column, which he wrote for one year. He died on January 5, 1933.

## Lessons

It might tempt us to see the so-called Old Right movement of roughly 1933–1955 as an effort to sustain Coolidge's “limited government” against the onrushing tide of New Deal state-building. If we were naive, we might even link Coolidge with a single “conservative” movement continuous with the present. Shlaes is quick to make comparisons between the economic rhetoric of Coolidge and recent Republicans. In terms of *rhetoric* that seems fair; in most other ways, no. After Congress passed an ex-

pensive veterans' bonus bill over Coolidge's vetoes, Sen. Carter Glass (D.-Va.) said, “If the Republicans had possessed courage, they would have created a deficit and then we would not have a bonus.” Here indeed was a lesson for the future, and that future did belong to Ronald Reagan and others, but only after a further lesson had been learned. Best expressed by John T. Flynn, the lesson was that the White House could more easily stampede Congress into massive spending on alleged “defense” than on any other project. (Politicians who sow enough deficit, debt, and doubt by stuffing the military-industrial beast may squeeze social spending somewhat, but they needn't take up bragging about any across-the-board frugality. Even Grover Norquist is figuring this out.)

## Sins of the Republicans

Such big issues of policy demand context. Once New Deal partisans had written the history of their times, it became controversial to defend the Republican administrations of the 1920s from two great crimes laid at their feet: “isolationism” and “laissez faire.” A handful of historians try to lessen these charges by minimizing the first and denying the second. Thomas B. Sil-

ver writes that neither Coolidge nor Hoover “ever uttered a word in favor of laissez-faire” (true enough) and cites a committed laissez-faire economist, Murray Rothbard, as “a bitter critic” of those presidents (also true). (See Silver’s *Coolidge and the Historians*.)

### The real sins of the Republicans

Let us pursue these twin infamies of the 1920s. In foreign affairs we find a continuation (in milder form) of both Republican Open Door imperialism and its Wilsonian implementation through international agreement. (Wilson wanted to work through a Big-Powers’ League; the Republicans through successive treaties.) Certainly, American imperial policymakers of the 1920s worked under certain constraints, including budgetary ones, and tended to limit their military interventions to the Western Hemisphere, but their economic diplomacy reached everywhere. Little “isolationism” comes into sight.

Laissez faire was equally absent, but deeper background is needed. As Richard F. Bensel has written, from 1865 American central government busily subsidized industrial development and protected the big accumulations of capital that resulted (*Yankee Leviathan: The*

*Origins of Central State Authority in America, 1859–1877*). It was “weak” in European terms, maybe, but strong and ruthless enough to defend its clients by all means necessary. (This is my evaluation. See Gabriel Kolko’s *Main Currents in Modern American History*.)

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**The lesson was that the White House could more easily stampede Congress into massive spending on alleged “defense.”**

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Thomas Ferguson describes the resulting System of 1896 as a coalition of large, labor-intensive, and protectionist corporations and Republican officeholders. (“From Normalcy to New Deal: Industrial Structure, Party Competition, and American Public Policy in the Great Depression,” *International Organization*, Winter 1984, pp. 41–94.) This coalition’s programmatic goals were “limited,” no doubt, compared to those of socialists or certain Progressives, but its powers tended to be as unlimited as elite interests dictated. Domestic repression during World War I had taught even the very dim this lesson about latent but available powers. (After the war a rising bloc of capital-intensive, internationalist firms interested in “free trade” would threaten the 1896 settlement

and ultimately triumph in the New Deal, according to Ferguson.)

Despite the system's rather rigid parameters, Mellon's mantras on sundry water-like flows of general prosperity contained some truth, but lacked appeal, for example, to farmers burdened by tariffs and deflation. (Shlaes notes this problem.) Foreign markets were supposed to take up the slack, but getting them without reducing tariffs made roundabout methods necessary. As Rothbard tells us in *America's Great Depression*, they included monetary expansion by the Federal Reserve (encouraged by Mellon) to ensure European purchase of American exports, including farm products, to bail out British economic positions, and to prop up specific acceptance banks.

### Limits of the concept of limited government

By helping to bring on a boom-and-bust cycle, the Republicans' nonisolationist foreign economic policy would have injured "laissez

faire" at home, had such a thing been on hand. As a creed, Official Laissez Faire Liberalism was already what Albert Jay Nock called it in 1935: the "touting of 'rugged individualism' and agonized fustian about the Constitution," which were "frankly unscrupulous" (*Our Enemy the State*). Under the circumstances, it was somewhat idle to speak of preserving "limited" government; instead, it was a matter, perhaps, of how much more unlimited it might become. (The sky's the limit in this land of the free.)

Little enough of that was Calvin Coolidge's fault. Like the hedgehog, he had one trick. His was economizing, and he was very good at it. His very narrowness of focus permitted him to serve as short-run spokesman for a class to whom he was generally superior. We could hardly say the same for any of Coolidge's political heirs.

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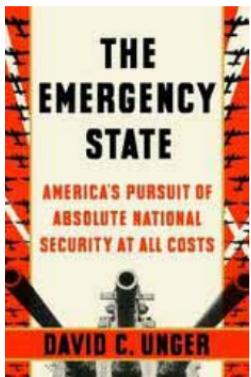
*Joseph Stromberg is a historian and freelance writer.*

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# Jingo Democrats

by Matthew Harwood

*The Emergency State: America's Pursuit of Absolute Security at All Costs*  
by David C. Unger (New York: Penguin Press, 2012), 368 pages.



During a meeting on the Bosnian crisis in the early 1990s, Madeleine Albright, the U.S. ambassador to the UN, furiously asked Colin Powell, chairman of the Joint Chiefs of Staff, "What's the point of having this superb military you're always talking about if we can't use it?" In his memoir, Powell described his shock at Albright's callousness. "I thought I would have an aneurysm. American GIs were not toy soldiers to be moved around on some sort of global game board." While Powell's reaction to Albright's

question seems divorced from reality and history — American servicemen have been the means to an imperial end for America's foreign-policy establishment since at least the Spanish-American War — the assumptions operating behind her question reflect the American foreign policy establishment's deep faith in its own righteousness to risk its own warriors' lives and its citizens' wealth in pursuit of that horrifyingly elastic concept, national security.

It's that reflexive militaristic mind-set within the executive branch and how it was constructed since World War II that David C. Unger, an editorial writer on foreign affairs for the *New York Times*, dissects in *The Emergency State: America's Pursuit of Absolute Security at All Costs*. Over the course of the book, Unger details how each successive administration paid fealty to the national-security state, regardless of the threat or risk to America's anti-colonial heritage, however imperfect in practice.

What makes *The Emergency State* so valuable and timely is that it's written by a principled modern "liberal" who faces the ugly truth: The national-security state was constructed, expanded, and sustained by Democratic administrations, although subservience and nourishment has always been bipartisan. Nearly two-

thirds of Unger's book is dedicated to examining how Democratic administrations propelled the United States toward global empire and the perpetual overt and covert wars it spawns. (The administration of George W. Bush, for all its pure lawlessness, receives a scant 15 pages.) Four administrations come in for the closest scrutiny: Franklin Roosevelt's and Harry Truman's for constructing the national-security state and normalizing its perpetual war footing, and Jimmy Carter's and Bill Clinton's for their failures to begin dismantling it when they had the opportunity.

## Omnipotent executive

Indeed it was the Progressives' most beloved president who Unger argues abused his oath of office and rapidly expanded and legitimized the notion of an omnipotent executive acting without constraint on national-security matters. "[Franklin] Roosevelt built the foundations of today's emergency state," writes Unger, naming him the godfather of America's global protection racket. While Roosevelt understood the gathering Nazi cataclysm earlier than most, he engaged in deceitful conduct to violate Congress's Neutrality Acts by providing Britain with military aid, which predictably led Germany to target American shipping. Even without Japan's attack

on Pearl Harbor, the United States would have soon been pulled into the war because of Roosevelt's anti-Nazi policies in the North Atlantic.

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## The national-security state was constructed and sustained by Democratic administrations.

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"In a constitutional democracy, the ends do not justify the means, especially when those means turn out to have long-lasting consequences," Unger argues. "The Constitution-bending shortcuts Roosevelt pioneered in these months have been expanded upon by peacetime successors from both parties, with very costly results for America's constitutional democracy and national security."

During his presidency Roosevelt also empowered FBI Director J. Edgar Hoover to monitor the president's political opponents and, to Roosevelt's perpetual shame, to round up more than 100,000 Japanese-American citizens and Japanese immigrants and place them in concentration camps after Pearl Harbor. Unger observes it was Roosevelt who labeled anyone who opposed his foreign policy as "isolationist," a smear tactic that is still practiced today. "From the vantage point of 2012," writes Unger, "Franklin Roosevelt can be seen as a founding father

of modern extraconstitutional presidential war making, the military-industrial complex, and covert federal surveillance of lawful domestic political activity.”

## National-security state

After Roosevelt’s death and the Allied victory in World War II, Truman extended his predecessor’s national-security state into peacetime, creating a dangerous precedent that Americans still pay for today. “Unlike the wartime emergency state, the peacetime variety has no logical termination, no moment when the emergency clearly ends and normal constitutional procedures come back into force,” Unger writes. “A new, security-based set of justifications for expanded presidential powers in peacetime was born.”

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### Truman signed the National Security Act of 1947, institutionalizing the emergency state.

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Truman signed the National Security Act of 1947, institutionalizing the emergency state by reorganizing the military into the Department of Defense and creating the National Security Council and the Central Intelligence Agency. The U.S.-led North Atlantic Treaty Organization arose to pro-

tect Europe from communism and ensure the demise of German militarism, a radical departure from the American tradition of avoiding peacetime entangling alliances. The threat from a devastated Soviet Russia was exaggerated, ending with Truman’s agreeing to the costly (both morally and financially) containment strategy that would send American boys to needlessly die for flawed strategic decisions and deter democracy by supporting brutal dictators across the globe in the name of anti-communism. In 1950 Truman’s National Security Council proposed a new global strategy outlined in a secret document called NSC-68, emphasizing military containment of the Red Menace, made possible by high levels of defense spending during peacetime. Signed by Truman that December after the Korean War began, the policies of NSC-68 gave birth to the permanent national-security state that has disfigured American democracy and its constitutional government ever since. It was “the (un)constitutional charter of the emerging security state,” Unger writes. “It declared, as a matter of national policy, that the ends of thwarting the Communist threat justified any American means, peaceful or violent, overt or covert,

and thus, by implication, constitutional or unconstitutional.”

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**Clinton, Unger argues, had a historic opportunity to seize the peace dividend.**

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The subsequent administrations of Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon, and Gerald Ford created a foreign policy dedicated to overthrowing unfriendly regimes, sometimes democratically elected; invading sovereign nations; and routinely violating human rights abroad and civil liberties domestically. In response to the abuses uncovered in the aftermath of the Pentagon Papers and Watergate, and by congressional committees, such as the Church Committee, the American people elected Jimmy Carter president. Carter promised Americans “a foreign policy that the American people both support, and, for a change, know about and understand.” He failed. For Unger, Carter was a principled man who genuinely believed in promoting democracy and human rights abroad, but who was also a hopelessly naive politician with no clear experience in how politics worked in the nation’s capital. “Repairing American constitutional democracy after three decades of the

emergency state required an experienced veteran of national politics, a Mr. Madison, not a Mr. Smith,” writes Unger. Instead of harnessing the emergency state, Carter acquiesced to it while stagflation, the Iranian hostage crisis, and the Soviet invasion of Afghanistan would leave him a one-term president.

## New enemies

After successive Republican administrations and the end of the Cold War, Americans elected Bill Clinton president. The threat of mutually assured destruction largely gone with the Soviet’s demise, Clinton, Unger argues, had a historic opportunity to seize the peace dividend and redirect America’s massive expenditures on national security back to the home front. Instead, the Clinton administration simply found new things for it to do, embracing armed humanitarian intervention, even after the disastrous Black Hawk Down episode in Somalia. As Unger puts it, “Maintaining such large standing forces with no clear mission created political pressures to justify the expense by using them, even when, as in Haiti or the Balkans, no vital national interests were at stake.”

During Clinton’s two terms, approximately 50 percent of all discretionary spending went to defense,

even though no true threats to national security existed to justify such expenditure. To justify the continued expense to the American people, Clinton's national-security adviser, Anthony Lake, articulated a policy of "enlargement," which Unger describes as a "repackaged version of universal containment and Wilsonian millenarianism." Instead of expanding democracy and free markets worldwide, Lake's foreign policy ensured the survival of the emergency state at the budgets its apparatchiks had grown accustomed to, according to Unger. "Lake's biggest anxiety was not about some new external threat but about the possibility that America might democratically decide to turn its attention inward toward domestic concerns."

Barack Obama — with his scorched-earth litigation at Gitmo, assassination of American citizens abroad, kill lists, and undeclared wars in various Arab countries, most flagrantly in Libya — has become a dangerous student of Roosevelt's and, ironically, a legitimizing force for the Bush administration's foreign-policy lawlessness that he was ostensibly elected to roll back in 2008. Republicans found it difficult to criticize Obama's foreign policy and executive unaccountability be-

cause he largely embraced the lack of constraints in national-security matters pushed by the neoconservative cabal of the Bush administration.

Unger concludes his book with ten proposals to help shutter the emergency state and once again place the American state on its constitutional foundations. While only one proposal out of ten would make libertarians retch — mandating universal military training to augment the all-volunteer military during congressionally declared wars — the exercise seems futile because it hinges on the American people's decision to organize a grassroots protest movement against the emergency state.

Call me cynical, but three-quarters of a century of an increasingly powerful national-security state leads me to believe that the American people won't rise to that occasion. Imperial overreach and the indebtedness that accompanies it might end the emergency state, but that will have nothing to do with American morality or a philosophical disgust at imperialism.

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