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# FUTURE OF FREEDOM

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*The life of the nation is secure only while the nation is honest, truthful, and virtuous.*

— Frederick Douglass

# FUTURE OF FREEDOM

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# Cuba and the Destruction of Conscience

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by *Jacob G. Hornberger*



Last summer, protests erupted in Cuba against the communist regime over poor economic and health conditions within the country. No doubt operating under pressure from the Pentagon and the CIA, President Biden used the Cuban government's suppression of the protests as an excuse to strengthen the decades-old U.S. economic embargo against Cuba.

Biden proclaimed that he was supporting the Cuban people in their quest for freedom, but his proclamation rings hollow. The entire purpose of the U.S. embargo on Cuba has long been to bring death and suffering to the Cuban people, with the aim of encouraging them to violently revolt against Cuba's communist regime and reinstall a regime

similar to that of Fulgencio Batista, the brutal and corrupt pro-U.S. dictator who was ousted from power by Cuban revolutionaries in 1959.

Biden was also undoubtedly responding to pressure from Cuban-Americans, many of whom love the embargo even while downplaying its horrific economic effects on the Cuban people. They say that it is Cuba's socialist system, not the embargo, that is the root cause of Cuba's woes. For their part, Cuban officials, not surprisingly, blame the horrific economic and healthcare conditions on the embargo, suggesting that if the embargo were lifted, Cuba's socialist system would finally produce its desired paradise.

The truth is that it is both Cuba's socialist economic system and the brutal U.S. embargo that have jointly wreaked untold suffering on the Cuban people. Ever since the communist revolution, the Cuban people have been squeezed within two sides of a vise, one side of which is Cuba's socialist system and the other side the U.S. economic embargo.

The larger questions are: Under what legal and moral authority does the U.S. government target the Cuban people with its embargo? What effect has the embargo had on the liberty and well-being of the American people? Why are U.S. officials

still so obsessed with regime change in Cuba?

### The stultification of conscience

Decades of interventionism against Cuba reflect how profoundly the conversion of the U.S. government to a national-security state after World War II has adversely affected the consciences of the American people.

By and large, Americans have long prided themselves on being a moral and religious people. Yet, here we have an economic policy of the U.S. government that knowingly, intentionally, and deliberately targets innocent people in a foreign country with death and suffering for the sake of achieving a political goal. How can such a policy be reconciled with moral, ethical, religious, Christian, or Jewish principles? In fact, isn't that why we condemn terrorism — because it targets innocent people as a way to achieve political goals?

The overwhelming majority of the American people have passively accepted this brutal and murderous policy for decades. The embargo, like economic sanctions, is simply considered a foreign-policy tool to pressure foreign regimes to comply with the dictates of U.S. officials. The fact that the embargo and sanc-

tions target innocent people with death and suffering is airbrushed out of people's minds.

We witnessed this phenomenon with the sanctions on Iraq during the 1990s, which contributed to the deaths of hundreds of thousands of Iraqi children. When U.S. ambassador to the United Nations Madeleine Albright was asked in 1996 by "Sixty Minutes" whether the deaths of half-a-million Iraqi children were worth it, she responded that while the issue was a difficult one, the deaths were in fact "worth it."

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As far as I know, not one single U.S. official, including her boss President Bill Clinton, condemned her statement, or even mildly criticized it. That's undoubtedly because Albright had simply expressed the mindset of U.S. officials with her statement.

By the same token, there was no mass uprising among the American people against continuing the sanctions. Moreover, the mainstream press wasn't publishing editorials and op-eds calling for an end to the

Iraq sanctions. Church ministers, who emphasize that life begins at conception, failed to come to the defense of the lives of the Iraqi children.

In fact, the sanctions continued for another five years, with nary a peep of protest from the American people. The only reason they came to an end was because the 2001 invasion of Iraq made them moot.

There were some people who did protest. Three high UN officials — Denis Haliday, Hans von Sponeck, and Jutta Burghardt — resigned their positions at the UN out of a crisis of conscience. They were ridiculed by U.S. officials, who, in their banality of evil, simply went on enforcing their sanctions.

There was also an American named Bert Sacks from the state of Washington who, acting from conscience, intentionally violated the sanctions by taking medicine and other vital supplies to the Iraqi people. U.S. officials fined him \$10,000 for daring to violate their beloved sanctions and then relentlessly pursued him for years, doing everything they could to collect their fine. To his everlasting credit, Sacks refused to pay and, in the end, never paid them a dime.

That didn't happen with most Americans, just as it hasn't hap-

pened with respect to the death and suffering wreaked by the U.S. government's decades-long embargo against the Cuban people. That's because the conversion of the U.S. government to a national-security state ended up stultifying the consciences of the American people, causing them to place the Pentagon and the CIA above their moral and religious principles. In a very real sense, the national-security state became their god.

### Assassination and conscience

Cuba provides a perfect example of the demise of conscience, especially when it comes to assassination.

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**U.S. officials, in their banality of evil, simply went on enforcing their sanctions.**

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Consider the CIA's assassination attempts against Cuban leader Fidel Castro. When those attempts came to light, there was no shock or horror among U.S. officials, the mainstream press, or the American public. After all, Castro and his communist regime had not initiated any acts of violence against the United States. Under what legal or moral authority did the CIA have the right to attempt to murder him?

There is certainly no provision in the Constitution, the document that called the federal government into existence, that delegates to U.S. officials the power to assassinate people. In fact, on the contrary, the Fifth Amendment expressly prohibits federal officials from depriving anyone, including foreigners, of life without due process of law.

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the United States.**

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Today, when the mainstream press brings up the CIA's assassination attempts against Castro, they inevitably mention in a yuck-yuck laughing manner the CIA's plans to use exploding cigars to kill Castro. But actually there is nothing humorous about it. The CIA was trying to murder a person who had never invaded the United States or committed an act of terrorism in the United States.

The CIA justified its assassination attempts on the ground that Castro was a communist and, even worse, had aligned Cuba with the Soviet Union. But so what? Since when does that authorize the CIA to engage in murder? Cuba is purportedly an independent nation.

Why can't it align itself with anyone it wants without having its officials taken out by U.S. officials through assassination?

But the American people passively accepted the CIA's power of assassination. When it became clear that the CIA had orchestrated the assassination of Congo leader Patrice Lumumba in 1961, the mindset among most Americans was passive indifference. Most Americans had decided to place their trust in the national-security establishment to keep them safe from the supposed communist threat and were willing to go along with whatever the Pentagon and the CIA decided.

### **Deference to authority**

After the debacle of the CIA's plan to have Cuban exiles invade Cuba at the Bay of Pigs, there were many laments and complaints over how President Kennedy and the CIA had handled the invasion. But hardly anyone questioned the U.S. government's authority to invade an independent nation for the purpose of regime change. That type of war had been condemned as a war crime at Nuremberg. Yet, when the U.S. government did it, Americans passively deferred to its authority, convinced that anything was justified in the name of the anti-com-

munist crusade being waged by the national-security establishment.

When it came to Cuba, the consciences of the American people simply went dead. That's why there was never any massive outcry against the assassination attempts and the cruel and deadly embargo against the Cuban people. It's also why the response was the same when Americans learned that the CIA had actually initiated terrorist strikes inside Cuba. Again, no big deal.

Where in the Constitution is the federal government authorized to initiate an economic embargo against a foreign country? Nowhere. But who cares about that? Ever since the U.S. government was converted to a national-security state, the Constitution has been a dead letter, as we can easily see with respect to assassinations, embargoes, sanctions, and acts of terrorism.

### Empire and Guantanamo

Therefore, it shouldn't surprise anyone that when the Pentagon and the CIA decided to construct their post 9/11 torture camp and prison center, they decided to do it at their imperial outpost at Guantanamo Bay, Cuba. Why Cuba? Because the Pentagon and the CIA intended to establish a Constitution-free zone

there. They figured that if they established it inside the United States, they might be subject to the principles of the Constitution and the jurisdiction of the Supreme Court. They decided that by establishing it in Cuba, they would be free of the principles in the Bill of Rights and free from interference by the federal courts.

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**The dark irony is that U.S. military officials take an oath to support and defend the Constitution.**

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The dark irony, of course, is that U.S. military officials take an oath to support and defend the Constitution. What a joke that oath is, given the Pentagon-CIA desire to establish a Constitution-free zone in Cuba.

With the establishment of Gitmo, followed by indefinite detention and kangaroo military tribunals, there was, once again, no mass outcry among the American people. Their founding document was being sullied and dirtied in a communist country by their own government officials. People being brutally tortured by U.S. officials, a grave violation of the most fundamental principles of morality, religion, and right conduct. Yet, once

again, the response was one of virtually complete deference to authority. The idea was that U.S. officials were now keeping us safe from the terrorists and the Muslims, rather than the communists. It was believed that their judgement on how to do that left no room for the exercise of individual conscience.

Under what legal and moral authority does the U.S. government even hold that property at Guantanamo Bay? Where in the Constitution does it delegate the power to maintain torture centers and prison camps in foreign countries? Indeed, where in the Constitution does it authorize federal officials to establish military bases on foreign lands? Is Cuba authorized to buy some land on the Florida coast and establish a military base there? How would the Pentagon and the CIA react to that?

The U.S. government's base at Guantanamo Bay actually stretches back to the aftermath of the Spanish-American War in 1898, which show how far back the U.S. obsession with Cuba goes. When the Cubans were fighting for their independence from the Spanish Empire, U.S. officials came to their assistance. When Spain surrendered, U.S. officials double-crossed the Cubans by telling them that the U.S.

government was now stepping into the shoes of the Spanish government. From then on, Cuba was ruled by a succession of brutal and corrupt dictatorships that followed the dictates of U.S. officials.

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**The embargo is a direct assault on the fundamental rights and liberties of the American people.**

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That's how the U.S. government got its base at Guantanamo Bay — by ordering one of its puppet regimes in Cuba to grant the United States a perpetual lease for a very nominal rent.

This doesn't seem to bother most Americans. When it comes to empire, conscience is dead there, too.

### **Destroying liberty at home**

There is something important to keep in mind about the embargo. It is a direct assault on the fundamental rights and liberties of the American people themselves, specifically, the rights of economic liberty, freedom of travel, the right to spend one's money any way he chooses, and freedom of association.

Keep in mind, after all, that when an American travels to Cuba and spends money there without the official permission of the U.S.

government, he will be arrested on his return by U.S. officials and then prosecuted, convicted, incarcerated, and fined.

Thus, the dark irony of the embargo is that it operates on the same socialist principle on which the Cuban Communist regime is based — the principle that holds that government officials wield the power to control how people spend their money, where they can travel, and with whom they can associate.

Finally, we would be remiss to not point out that many of those who rail against Cuba's socialist system are also ardent supporters of socialism here at home, in the form of Social Security, Medicare, Medicaid, central planning, drug laws, income taxation, occupational licensure, public (i.e., government) schooling, fiat (i.e., paper) money, travel restrictions, a Federal Reserve, public (i.e., government) housing, and other socialist pro-

grams found in Cuba and other communist regimes.

What we need in America is some serious soul-searching about how we started out as a nation, how we got to where we are, and what we need to get our nation back on the right track. Essential to that inner exploration is the desperate need for a resurgence of individual conscience within Americans all across the land. We will know that is achieved when the American people force the U.S. government to leave Cuba and the Cuban people alone.

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

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**NEXT MONTH:**  
**“The Real Lessons of the  
Afghanistan Disaster”**  
*by Jacob G. Hornberger*

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# The Biden Crackdown on Thought Crimes

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by James Bovard



**T**he Biden administration is seeking to radically narrow the boundaries of respectable American political thought. The administration has repeatedly issued statements and reports that could automatically castigate citizens who distrust the federal government. We may eventually learn that the new Biden guidelines spurred a vast increase in federal surveillance and other abuses against Americans who were guilty of nothing more than vigorous skepticism.

## Biden is Nixon on steroids

The Biden team is expanding the federal Enemies List perhaps faster than any time since the Nixon administration. In June, the Biden administration asserted that guys who are unable to score with wom-

en may be terrorist threats due to “involuntary celibate-violent extremism.” That revelation was included in the administration’s National Strategy for Countering Domestic Terrorism, which identified legions of new potential “domestic terrorists” that the feds can castigate and investigate.

The White House claims its new war on terrorism and extremism is “carefully tailored to address violence and reduce the factors that ... infringe on the free expression of ideas.” But the prerogative to define extremism includes the power to revile disapproved beliefs. The report warns that “narratives of fraud in the recent general election ... will almost certainly spur some [domestic violent extremists] to try to engage in violence this year.” If accusations of 2020 electoral shenanigans are formally labeled as extremist threats, that could result in far more repression (aided by Facebook and Twitter) of dissenting voices. How will this work out any better than the concerted campaign by the media and Big Tech last fall to suppress all information about Hunter Biden’s laptop before the election? And how can Biden be trusted to be the judge after he effectively accused Facebook of mass murder for refusing to totally cen-

or anyone who raised doubts about the COVID-19 vaccine?

The Biden administration is revving up for a war against an enemy which the feds have chosen to never explicitly define. According to a March report by Biden's Office of the Director of National Intelligence, "domestic violent extremists" include individuals who "take overt steps to violently resist or facilitate the overthrow of the U.S. government in support of their belief that the U.S. government is purposely exceeding its Constitutional authority." But that was the same belief that many Biden voters had regarding the Trump administration. Does the definition of extremism depend solely on which party captured the White House?

The Biden report writers were spooked by the existence of militia groups and flirt with the fantasy of outlawing them across the land. The report promises to explore "how to make better use of laws that already exist in all fifty states prohibiting certain private 'militia' activity, including ... state statutes prohibiting groups of people from organizing as private military units without the authorization of the state government, and state statutes that criminalize certain paramilitary activity." Most of the private

militia groups are guilty of nothing more than bluster and braggadocio. Besides, many of them are already overstocked with government informants who are counting on Uncle Sam for regular paychecks. Some politicians and pundits might like to see a new federal crime that labels any meeting of more than two gun owners as an illegal conspiracy.

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### Does the definition of extremism depend solely on which party captured the White House?

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The Biden report promises that the FBI and DHS will soon be releasing "a new edition of the Federal Government's Mobilization Indicators booklet that will include for the first time potential indicators of domestic terrorism-related mobilization." Will this latest publication be as boneheaded as the similar 2014 report by the National Counterterrorism Center entitled "Countering Violent Extremism: A Guide for Practitioners and Analysts"?

### The new Red Guard

As the *Intercept* summarized, that report "suggests that police, social workers and educators rate individuals on a scale of one to five in categories such as 'Expressions of

Hopelessness, Futility,’ ... and ‘Connection to Group Identity (Race, Nationality, Religion, Ethnicity)’ ... to alert government officials to individuals at risk of turning to radical violence, and to families or communities at risk of incubating extremist ideologies.” The report recommended judging families by their level of “Parent-Child Bonding” and rating localities on the basis in part of the “presence of ideologues or recruiters.” Former FBI agent Mike German commented, “The idea that the federal government would encourage local police, teachers, medical, and social-service employees to rate the communities, individuals, and families they serve for their potential to become terrorists is abhorrent on its face.”

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**“Conspiracy theory” is a magic phrase that expunges all previous federal abuses.**

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Biden’s “National Strategy for Countering Domestic Terrorism” report also declared that “enhancing faith in American democracy” requires “finding ways to counter the influence and impact of dangerous conspiracy theories.” In recent decades, conspiracy theories have multiplied almost as fast as govern-

ment lies and cover-ups. While many allegations have been ludicrously far-fetched, the political establishment and media routinely attach the “conspiracy theory” label to any challenge to their dominance.

According to Cass Sunstein, Harvard Law professor and Obama’s regulatory czar, a conspiracy theory is “an effort to explain some event or practice by reference to the machinations of powerful people, who have also managed to conceal their role.” Reasonable citizens are supposed to presume that government creates trillions of pages of new secrets each year for their own good, not to hide anything from the public.

“Conspiracy theory” is a magic phrase that expunges all previous federal abuses. Many liberals who invoke the phrase also ritually quote a 1965 book by former communist Richard Hofstadter, *The Paranoid Style in American Politics*. Hofstadter portrayed distrust of government as a proxy for mental illness, a paradigm that makes the character of critics more important than the conduct of government agencies. For Hofstadter, it was a self-evident truth that government was trustworthy because American politics had “a kind of professional code ... embodying the practical

wisdom of generations of politicians.”

### The rise of conspiracy theories

In the early 1960s, conspiracy theories were practically a non-issue because 75 percent of Americans trusted the federal government. Such credulity did not survive the assassination of John F. Kennedy. Seven days after Kennedy was shot on November 22, 1963, President Lyndon Johnson created a commission (later known as the Warren Commission) to suppress controversy about the killing.

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**After the Warren Commission findings were ridiculed, Johnson ordered the FBI to conduct wiretaps on the report’s critics.**

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Johnson browbeat the commission members into speedily issuing a report rubber-stamping the “crazed lone gunman” version of the assassination. House Minority Leader Gerald Ford, a member of the commission, revised the final staff report to change the location of where the bullet entered Kennedy’s body, thereby salvaging the so-called “magic bullet” theory.

After the Warren Commission findings were ridiculed as a whitewash, Johnson ordered the FBI to

conduct wiretaps on the report’s critics. To protect the official story, the commission sealed key records for 75 years. Truth would out only after all the people involved in any coverup had gotten their pensions and died.

The controversy surrounding the Warren Commission spurred the CIA to formally attack the notion of conspiracy theories. In a 1967 alert to its overseas stations and bases, the CIA declared that the fact that almost half of Americans did not believe Oswald acted alone “is a matter of concern to the U.S. government, including our organization” and endangers “the whole reputation of the American government.”

The memo instructed recipients to “employ propaganda assets” and exploit “friendly elite contacts (especially politicians and editors), pointing out ... parts of the conspiracy talk appear to be deliberately generated by Communist propagandists.” The ultimate proof of the government’s innocence: “Conspiracy on the large scale often suggested would be impossible to conceal in the United States.”

The *New York Times*, which exposed the CIA memo in 1977, noted that the CIA “mustered its propaganda machinery to support an

issue of far more concern to Americans, and to the C.I.A. itself, than to citizens of other countries.” According to historian Lance deHaven-Smith, author of *Conspiracy Theory in America*, “The CIA’s campaign to popularize the term ‘conspiracy theory’ and make conspiracy belief a target of ridicule and hostility must be credited ... with being one of the most successful propaganda initiatives of all time.” In 2014, the CIA released a heavily-redacted report admitting that it had been “complicit” in a JFK “cover-up” by withholding “incendiary” information from the Warren Commission. The CIA successfully concealed a wide range of assassinations and foreign coups it conducted until congressional investigations in the mid-1970s blew the whistle.

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**Only a village idiot, college professor, or editorial writer would presume the government had come clean.**

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“Conspiracy theory” allegations sometimes merely expose the navete of official scorekeepers. In April 2016, Chapman University surveyed Americans and announced that “the most prevalent conspiracy theory in the United States is that the government is con-

cealing information about the 9/11 attacks with slightly over half of Americans holding that belief.”

That survey did not ask whether people believed the World Trade Centers were blown up by an inside job or whether President George W. Bush secretly masterminded the attacks. Instead, folks were simply asked whether “government is concealing information” about the attacks. Only a village idiot, college professor, or editorial writer would presume the government had come clean.

Three months after the Chapman University survey was conducted, the Obama administration finally released 28 pages of a 2003 congressional report that revealed that Saudi government officials had directly financed some of the 9/11 hijackers in America. That disclosure shattered the storyline carefully constructed by the Bush administration, the 9/11 Commission, and legions of media accomplices. (Lawsuits continue in federal court seeking to force the U.S. government to disclose more information regarding the Saudi government role in the attacks.)

### **Conspiracy theories a tool for control**

“Conspiracy theory” is often a flag of convenience for the political-

media elite. In 2018, the *New York Times* asserted that Trump's use of the term "Deep State" and similar rhetoric "fanned fears that he is eroding public trust in institutions, undermining the idea of objective truth and sowing widespread suspicions about the government and news media." However, after allegations by anonymous government officials spurred Trump's first impeachment in 2019, *New York Times* columnist James Stewart cheered, "There is a Deep State, there is a bureaucracy in our country who has pledged to respect the Constitution, respect the rule of law... They work for the American people." *New York Times* editorial writer Michelle Cottle proclaimed, "The deep state is alive and well" and hailed it as "a collection of patriotic public servants." Almost immediately after its existence was no longer denied, the Deep State became the incarnation of virtue in Washington. After Biden was elected, references to the "Deep State" were once again labeled paranoid ravings.

Much of the establishment rage at "conspiracy theories" has been driven by the notion that rulers are entitled to intellectual passive obedience. The same *lèse-majesté* mindset has been widely adopted to

make a muddle of American history. Arthur Schlesinger, Jr., the court historian for President John F. Kennedy and a revered liberal intellectual, declared in 2004, "Historians today conclude that the colonists were driven to revolt in 1776 because of a false conviction that they faced a British conspiracy to destroy their freedom." What the hell is wrong with "historians today"?! Was the British imposition of martial law, confiscation of firearms, military blockades, suspension of habeas corpus, and censorship simply a deranged fantasy of Thomas Jefferson? The notion that the British would never conspire to destroy freedom would play poorly in Dublin, where the Irish suffered centuries of brutal British oppression. Why should anyone trust academics who were blind to British threats in the 1770s to accurately judge the danger that today's politicians pose to Americans' liberty?

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How does the Biden administration intend to fight "conspiracy theories?" The Biden terrorism report called for "enhancing faith in

government” by “accelerating work to contend with an information environment that challenges healthy democratic discourse.” Will Biden’s team rely on the “solution” suggested by Cass Sunstein: “cognitive infiltration of extremist groups” by government agents and informants to “undermine” them from within?

Does the Biden administration also propose banning Americans from learning anything from the history of prior federal debacles? Nixon White House aide Tom Charles Huston explained that the FBI’s COINTELPRO program continually stretched its target list “from the kid with a bomb to the kid with a picket sign, and from the kid with the picket sign to the kid with the bumper sticker of the opposing candidate. And you just keep going down the line.” A 1976 Senate report on COINTELPRO demanded assurances that a federal agency would never again “be permitted to conduct a secret war against those citizens it considers threats, to the established order.” Actually, the FBI and other agencies

have continued secretly warring against “threats,” and legions of informants are likely busy “cognitively infiltrating” at this moment.

Permitting politicians to blacklist any ideas they disapprove won’t “restore faith in democracy.” Extremism has always been a flag of political convenience, and the Biden team, the FBI, and their media allies will fan fears to sanctify new government crackdowns. But what if government is the most dangerous extremist of them all?

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**NEXT MONTH:**  
**“Bitter Belated Afghan  
Vindication”**  
*by James Bovard*

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# Predatory Pricing

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by *Laurence M. Vance*



Uncle Sam can't seem to make up his mind about how to define predatory pricing. Charge too little for a good or a service and the federal government might term it predatory pricing. But charge too much for a good or a service and the federal government might term it predatory pricing. And here is a related question: How does the federal government know what the price range of a good or a service should be so that it can determine whether a firm is practicing predatory pricing? It is my contention that predatory pricing is a misunderstanding, a misconception, a myth.

The most common example of predatory pricing is when a large firm offers a product for sale at a low price, which might even be below its cost, in order to drive its smaller competitors out of busi-

ness. Then, the idea is, the large firm can raise its prices to whatever level it wants and take advantage of consumers who now have no other choice but to buy from the large firm. According to the Federal Trade Commission (FTC):

Can prices ever be “too low?” The short answer is yes, but not very often. Generally, low prices benefit consumers. Consumers are harmed only if below-cost pricing allows a dominant competitor to knock its rivals out of the market and then raise prices to above-market levels for a substantial time. A firm's independent decision to reduce prices to a level below its own costs does not necessarily injure competition, and, in fact, may simply reflect particularly vigorous competition. Instances of a large firm using low prices to drive smaller competitors out of the market in hopes of raising prices after they leave are rare. This strategy can only be successful if the short-run losses from pricing below cost will be made up for by much higher prices over a longer period of time after competitors leave the market. Although the

FTC examines claims of predatory pricing carefully, courts, including the Supreme Court, have been skeptical of such claims.

In more technical economic terms, as stated in the U.S. Department of Justice document titled “Predatory Pricing: Strategic Theory and Legal Policy”:

In most general terms predatory pricing is defined in economic terms as a price reduction that is profitable only because of the added market power the predator gains from eliminating, disciplining or otherwise inhibiting the competitive conduct of a rival or potential rival. Stated more precisely, a predatory price is a price that is profit maximizing only because of its exclusionary or other anticompetitive effects. The anticompetitive effects of predatory pricing are higher prices and reduced output (including reduced innovation), achieved through the exclusion of a rival or potential rival.

The problem with this whole scenario is that it has never actually

happened, and is very unlikely to ever happen. Dominick T. Armen­tano, professor emeritus of economics at the University of Hartford, and author of *Antitrust: The Case for Repeal* (Mises Institute, 1999), in his survey of scores of antitrust cases, didn’t uncover a single successful example of predatory pricing. He concluded that “antitrust’s dirty little secret is that the laws have been employed consistently to hamper successful business organizations and protect their less efficient rivals.” Economist William L. Anderson, writing in the *Quarterly Journal of Austrian Economics* (2003), similarly concluded that “predatory pricing theory persists because well-placed individuals and organizations that benefit from accusing others of engaging in predatory pricing will use their resources to keep the theory alive.”

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**Armentano’s survey of scores of antitrust cases didn’t uncover a single successful example of predatory pricing.**

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Predatory pricing cases in the federal courts were infrequent until after the enactment of the Robinson-Patman Act in 1936. This legislation — which amended the Clayton Antitrust Act of 1914 — was

supposed to prevent “unfair” competition by outlawing price discrimination; that is, wholesalers charging retail customers different prices for the same product based on what the sellers think they can get the customers to pay. It was intended to prevent buyers of large volumes of goods from gaining an unfair advantage. Under the Robinson-Patman Act, only interstate commerce of tangible commodities of like grade and quality sold for “use, consumption, or resale” are subject to the Act’s provisions.

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**Some people are more worried about price gouging than they are about hurricanes.**

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During this time, plaintiffs won most litigated cases. However, the publication of the Areeda-Turner rule in 1975, which proposed a single standard of judgment based on average variable cost instead of vague formulations like below cost, ruinous competition, and predatory intent, caused plaintiff success rates to plummet. The first major and most important predatory pricing decision in modern times was the Supreme Court case of *Brooke Group Ltd. v. Brown & Williamson Tobacco* (1993). First, a federal district court found for the defendant

in *Liggett Group, Inc. v. Brown & Williamson Tobacco Corp.* (1990) because there was a “lack of injury to competition, lack of antitrust injury to Liggett, and lack of a causal link between the discriminatory rebates and Liggett’s alleged injury” (Liggett is the former corporate name of the petitioner). The U. S. Court of Appeals for the Fourth Circuit affirmed the verdict in 1992, as did the Supreme Court in 1993. Since this case, no predatory pricing plaintiff has prevailed in the federal court system.

The federal government (joined in most cases by the state governments) has a number of other things that it considers to be predatory pricing (even if the adjective is not always or consistently applied): pricing that is unjust, pricing that is out of line with the rest of the industry, pricing that is usurious, pricing that grossly exceeds some average or stated price, pricing that is exorbitant or unconscionable, pricing that harms the poor, pricing that is discriminatory, or pricing that is below cost.

### Price gouging

For those Americans who live near the Atlantic or Gulf coasts, the past few months, and on into next month, are hurricane season. Dur-

ing this time of year, some people are more worried about price gouging than they are about hurricanes.

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**Higher prices help prevent hoarding and create incentives for suppliers.**

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Price gouging is said to be the charging of a price for a good (or a service) that is higher than the usual, fair, or market price during times of national disaster or crisis. In economic terms, price gouging is an increase in the price of a good due to a temporary increase in demand rather than an increase in the cost of supplying the good. Price gouging is said to be predatory because it takes advantage of people who need convenient access to necessities during times of crisis. How high prices on a particular good have to go before they are considered to be predatory is completely arbitrary and subjective and depends on which state one is in.

Higher prices help prevent hoarding, create incentives for suppliers, encourage conservation, bring much-needed supplies into disaster zones, send a signal to entrepreneurs that profit opportunities are available, tell suppliers what their customers want the most, allocate goods more efficiently than

low prices and shortages would, and set off an economic chain reaction that ultimately remedies the shortages that led to the price gouging in the first place.

Price gouging is a crime in search of a victim. In any exchange, the seller is happy because he sells a good, and the buyer is happy because he buys a good. Where is the victim? That the buyer has to pay more than he would normally pay is irrelevant. If he doesn't like the price, then he doesn't make the purchase. The fact that he does means that he values the good more than the money. Price gouging is simply charging market prices for goods that are in high demand and short supply. Natural disasters, crises, and emergencies don't negate economic laws.

**Interest rates**

Predatory pricing is not limited to the prices of goods sold or services performed. The Federal Deposit Insurance Corporation (FDIC) broadly defines predatory lending as "imposing unfair and abusive loan terms on borrowers." Every state has laws that limit the rate of interest that can be charged on loans depending on the type of lender or borrower, the loan amount, and the nature of the loan contract. On the federal level, the

Military Lending Act, passed in 2006 and amended in 2017, protects members of the armed forces from predatory lending practices by capping the interest rate for loans given to service members and their covered dependents at an annual percentage rate (APR) of 36 percent.

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**Moneylending should be viewed as a business like any other business.**

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Payday loans are the predatory lending bogeymen. This is when a borrower writes a post-dated check to a lender in exchange for a cash advance of a lesser amount to hold him over until payday. When that day comes, the borrower either pays the lender the amount of the check or the lender cashes the check. The difference between the amount borrowed and the amount paid is the lender's fee. The APR for these small-dollar, short-term loans can be well over 100 percent. According to the *Journal of Economic Perspectives*, "there are more payday loan and check cashing stores nationwide than there are McDonald's, Burger King, Sears, J.C. Penney, and Target stores combined."

Clearly, there is a market for access to high-cost, short-term credit

by those who have been offered less credit than the amount they applied for or turned down for other forms of credit altogether. Government attempts to prevent excessive, unreasonable, or usurious levels of interest shut riskier borrowers out of this market entirely and increase the incidence of fraud, theft, and resorting to illegal loan sharking. Moneylending should be viewed as a business like any other business.

### Dumping

The most ridiculous case of predatory pricing is dumping. This is when a company sells goods in another country at prices below what it charges in its domestic market, often at a loss, to drive its domestic rivals and other foreign exporters out of business so it can achieve a monopoly and then raise its prices to whatever level it wants.

The World Trade Organization (WTO) has rules against predatory dumping, that is, dumping that harms producers in the targeted market. And so does the United States. According to the U.S. International Trade Commission (USITC):

U.S. industries may petition the government for relief from imports that are sold in the

United States at less than fair value (“dumped”) or which benefit from subsidies provided through foreign government programs. Under the law, the U.S. Department of Commerce determines whether the dumping or subsidizing exists and, if so, the margin of dumping or amount of the subsidy; the USITC determines whether there is material injury or threat of material injury to the domestic industry by reason of the dumped or subsidized imports.

Just this year, as reported by the Specialty Equipment Market Association (SEMA), the USITC “issued a final decision that U.S. industry is being harmed from imports of passenger and light-truck tires at less than fair value (“dumping”) from South Korea, Taiwan and Thailand, and that tires are being subsidized by the government of Vietnam.” The U.S. Department of Commerce then issued final calculations for dumping duties to be assessed for tires from South Korea (14.72 to 27.05 percent), Taiwan (20.04 to 101.84 percent), and Thailand (14.62 to 21.09 percent), as well as countervailing duties for tires from Vietnam (from 6.23 to 7.89 percent). The du-

ties are collected by U.S. Customs and Border Protection.

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### Anti-dumping laws benefit U.S. industries that don't want any foreign competition.

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Anti-dumping laws have nothing to do with “fair” trade or a “level playing field.” Their primary function is simply to provide an elaborate excuse for protectionism to benefit U.S. industries that don't want any foreign competition. They have been called by economists the most arbitrary and disruptive U.S. trade barrier. American consumers should be happy to purchase all of the products that are “dumped” on its shores by foreign companies. And it is foreigners who are harmed when their governments subsidize their industries, not Americans.

### Overdraft fees

The most recent outrage over predatory pricing concerns overdraft fees charged by banks. In an opinion piece (“Overdraft Fees Are Big Money for Small Banks”) that appeared online at *Politico* a few months ago, Aaron Klein, who is Senior Fellow in Economic Studies at the Brookings Institution, argues that “when it comes to predatory overdraft practices, big banks may

not be the worst offenders.” He begins by pointing out that overdraft fees, which can be as high as \$35 per “swipe of your debit card when you are out of money,” have “become big money for banks, generating more than \$31 billion in revenues in 2020.” This has come at the expense of tens of millions of families: “One out of eleven Americans spends \$350 or more a year in overdraft fees. Overdraft is one of many reasons why it is expensive to be poor in America.”

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### Some Americans have chronic money management problems.

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But just as all banks are not created equal, so all bank overdraft fee profits are not created equal. Klein found that “overdrafts are bigger business for some banks than others.” JPMorgan Chase collected the most in overdraft fees (“more than \$2 billion in 2019, which works out to more than \$35 in overdraft fees per account”), but this only amounted to 7 percent of total profit. For Citibank, overdraft fees only amounted to less than 1 percent of total profit. What Klein found surprising in his research is that “a small number of small banks make almost all their profit thanks to overdraft.” According to his calcula-

tions, “for multiple years running, at least six small banks depend on overdraft revenue for a majority of their profits.” And for three of those banks, “overdraft revenues have exceeded total profits for each of the past two years — meaning these banks lost money from banking, except for charging overdraft fees.” It is a handful of smaller banks that are “the true overdraft giants.”

Klein concludes: “It’s time for banks to stop assessing overdraft fees in a predatory manner, and it’s time for regulators to step up and make sure that happens. It’s no longer acceptable to permit some banks and credit unions to feed from the bottom with business models dependent on profiting from fees charged only to vulnerable Americans.”

But is this really the case of banks preying on “vulnerable Americans?” Klein acknowledges that according to the Consumer Financial Protection Bureau, “a small number of consumers account for the vast amount of overdrafts; 8 percent of bank customers account for almost 75 percent of all overdraft revenue.” Sounds like some Americans simply have chronic money management problems.

In his attempt to deflect blame from those who regularly have to

pay overdraft fees, Klein makes two misstatements in one sentence: “It is hard for people to keep track of just how much is in their bank account, particularly since deposits including direct deposits can take days to post to the account.” Everyone with a smart phone and a banking app can check his account balance every minute of the day. That is the only way that most younger people ever check their account balance. They never even look at their monthly statements. Those Americans who can’t afford a smart phone probably don’t even have a bank account. (According to the FDIC, about 5.4 percent of households, or approximately 7.1 million homes, did not have a bank account in 2019.) Every direct deposit I have ever received posts to my account overnight and shows available in the morning. One thing that every worker knows, even if he knows very little else, is the day that his direct deposit hits his bank account.

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**There is no right to access money that you don’t have and not have to pay for the privilege.**

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Klein also doesn’t bother to explain the whole truth about overdraft fees and debit cards anywhere in his article. Most banks offer op-

tional overdraft protection of some kind with their accounts. And when it comes to debit cards, as JPMorgan Chase says: “You tell us how you want to handle your everyday debit card transactions.” If you don’t have overdraft protection or enough funds in a linked Chase account, and you:

- Choose NO, the transaction will be declined and you won’t be charged a fee.
- Choose YES, we may pay the overdraft transaction at our discretion based on your account history, the deposits you make and the transaction amount.

Anyone can tell his bank to decline all debit card transactions when there are insufficient funds in his account. There is no right to access money that you don’t have and not have to pay for the privilege of doing so.

## Conclusion

There are six main problems with predatory pricing laws.

First, predatory pricing laws violate property rights, freedom of contract, free enterprise, free markets, and a free society.

Second, government bureaucrats and economists have an eco-

conomic calculation problem. At what level of price increase or decrease does it become predatory? For the government to try and calculate how much prices should be allowed to rise or fall is pure Soviet-style central planning.

Third, the ability of a business to raise or lower its prices on a particular good or on all the goods it sells is one of the essential things that distinguishes a free market from government central planning. The reason why a business raises or lowers its prices is absolutely irrelevant.

Fourth, once it is accepted that the government should establish price floors and ceilings for certain goods and services, then no logical or reasonable argument can be made against the government's establishing price floors and ceilings for all goods and services.

Fifth, predatory pricing laws are predicated on the false notion of a just price. But a just price for an item does not exist independently of a transaction between buyer and seller. In the absence of fraud — but not necessarily the absence of ignorance or greed — not only is any price agreed upon between a will-

ing buyer and a willing seller the just price, that alone is what makes it the just price.

Sixth, every commercial transaction must involve a willing seller and a willing buyer or the transaction will never take place. Free and unfettered interaction between buyers and sellers is always to be preferred to government intervention of any kind. It is simply none of the government's business what price any individual or business charges for any good or service.

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**NEXT MONTH:**  
“Contactless Government”  
by *Laurence M. Vance*

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# The Importance of Liberty and the Rhetorical Misuse of Freedom

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*by Richard M. Ebeling*



**T**he seemingly singular concern of modern political debate, dispute, and disagreement is the issue of how and in what forms government will command and control and restrict and regulate the actions and interactions of virtually everyone in society, as well as redistribute the income and wealth of some for the benefit of others.

Open the opinion pages of practically any mainstream newspaper or magazine, or peruse any of the mass media internet websites, and the message is almost always the same: the world is going to hell in a hand-basket, and it is all because those in political authority are not using their governmental powers to remake society in a more “fair” or

“socially just” way, and all because people are being left free from the direction and dictates of those who either should or do know how to make a “better world.”

It really does not matter which of the major political parties is either in power or out of power, or whether they go by what is mislabeled as “left” or “right,” or “progressive” or “conservative.” They all presume and take for granted the need and necessity for forms and degrees of political paternalism. What they are arguing over, most of the time, is not whether government should interfere with the peaceful, private, and socially voluntary interactions and associations of others, but for what purpose and through which methods shall the heavy hand of government manage people’s affairs.

**Regulatory arm of government is everywhere**

This is not an exaggeration. The federal government has over 450 departments, bureaus, and agencies whose duties are almost always defined as changing the actions of individuals or the outcomes of interpersonal activities of many in either the marketplace or the general societal setting. There can be no doubt about this when referring to the So-

cial Security Administration, or Medicare, or Medicaid, or the Food and Drug Administration, or the Labor Relations Board, or the Federal Trade Commission, or the Bureau of Alcohol and Tobacco, Firearms and Explosives, or the Centers for Disease Control and Prevention, as well as the Cabinet-level Departments of Labor, or Commerce, or Agriculture, or Education, or Health and Human Resources, or Housing and Urban Development, or Energy, or Transportation, just to name a few of those that many people may have at least heard of.

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**For what purpose and through which methods shall the heavy hand of government manage people's affairs?**

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But what about the Commission for Fine Arts, or the Coordinating Council on Juvenile Justice and Delinquency Prevention, or the Office of Disability Employment Policy, or the Elder Justice Initiative, or Farm Credit System Insurance Corporation, or the Federal Financing Bank, or the Federal Laboratory Consortium for Technology Transfer, or the Grain Inspection, Packers and Stockyards Administration, or the Hour and Wage Division, or the Indian Arts

and Crafts Board, or the Interagency Committee for the Management of Noxious and Exotic Weeds, or the Marine Mammal Commission, or Migratory Bird Conservation Commission, or the Millennium Challenge Corporation, or the Multifamily Housing Office, or the Northern Border Regional Commission, or the Office of Elementary and Secondary Education, or the Office of Investor Education and Advocacy, or the Office of Postsecondary Education, or the Office of Special Education and Rehabilitative Service, or the Open World Leadership Center, or the Parent Information and Resources Center, or the President's Council on Fitness, Sports, and Nutrition, or the Risk Management Agency, or the Rural Business and Cooperative Program, or the Substance Abuse and Mental Health Services, or the Taxpayer Advocacy Panel, or the U.S. Agency for Global Media.

I have mentioned a few that stood out to me when looking over a list of those 450 departments, bureaus, and agencies, only because they seemed to highlight the reach of the federal government in matters having little or nothing to do with the fundamental responsibility of a government to protect the life, liberty, and honestly acquired prop-

erty of the citizenry, while otherwise leaving all other matters to the personal and voluntary affairs of the people themselves.

Looking over that list of hundreds of branches of the federal government also makes clear the absurdity and total misinformation of those who daily insist that America is a wild land of unregulated “laissez-faire,” where anything goes, with government being some small, poor, and starved appendage to an “out-of-control” free market. If one adds to this list all the departments, bureaus, and agencies of the state and local governments that either extend or overlap with this network of federal intervention and planning of social affairs, a far easier question to answer might be to specify the corners of every American’s life into which one or more levels of government do *not* intrude and intervene.

### Twisting the meaning of “freedom”

The word that is especially missing from practically all discussions concerning the role of government in society is “liberty.” The word “freedom” is used frequently enough, but alas, that is because the meaning of freedom has been so twisted and distorted that it is now used to indicate and designate all those as-

pects of human life over which it is expected that government will “free” people from want or worry.

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A distinction was made between “negative” and “positive” freedom.

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Is that not what is meant by “free” healthcare, or “free” education, or “free” housing, or “freedom” from hunger, or “freedom” from “hurtful” words, or “freedom” from any of the other uncertainties or insecurities of everyday life? This is because in the late nineteenth and early twentieth centuries, the word “freedom” changed its meaning due to the efforts of a good number of socialists, welfare statists, and interventionists of various stripes.

A distinction was made between “negative” and “positive” freedom, with the former meaning the freedom “merely” from the aggressions of others against one’s life, liberty, and private property. But of what value is such “negative” freedom if one is unemployed, or starving, or without a place to live, or unable to acquire an education and the skills to earn a “decent living wage?”

What people needed and wanted was “positive” freedom, meaning (usually) the financial capacity to

purchase or acquire those things that “really” make you free from want and worry? That is, being guaranteed a job, and being able to obtain an education, and being assured a “decent” place to live, and having the income to have a fair and just standard of living.

But since the necessities and the amenities of life do not fall from the sky or grow on trees to merely reach up and pick off, “someone” has to first work, save, invest, and produce virtually all the goods and services that enable all those “good things” to be available. What happens if some have the financial and other means to have standards and qualities of life better and above others to which it is, then, claimed they all have a “right” if they are to be “really” free? Then those who have “more” must be taxed or regulated in ways that transfer and redistribute some of what they have or have access to, to those others in society who do not.

### “Positive” freedom to take what belongs to others

Thus, a society is not a truly “free society” unless all have access to and use of those same standards and qualities of life that some have while others do not. Income inequality beyond some usually undefined, but presumed relatively

narrow, range then “measures” the extent to which a society is not free.

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Those “better off”  
will be compelled to be their  
brother’s keeper.

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Freedom, therefore, does not mean absence of coercive actions by some against others. No, freedom means, instead, absence of physical (or even psychological) wants without which human life feels “hurtful” and “oppressive,” or “unfree.” But if those in the latter category are to have the necessary “freedom,” others must provide the means for them to have it; if those who have “more” will not voluntarily give to those who have “less,” well, then, that is what government compulsory redistribution of income and wealth is all about. Those “better off” will be compelled to be their brother’s keeper.

It is this notion of a “positive” freedom to have the means and capacity to have and do things that are considered “good” and “just” that has resulted in the proliferation of “rights.” If “freedom” means not only my “right” to be free from being mugged or raped or murdered by someone but also includes that broader definition of access to and use of wanted or desired things,

then I also have a “right” to health-care, to an education, to a decent place to live, to a fair and living wage, to a retirement pension, to a guaranteed job, and the “right” not to hear “hurtful” words or expressions said by others.

### Liberty as absence of political coercion

I would suggest this change in the meaning of the word “freedom” is an important reason behind the diminished use and reference to human “liberty.” Most people still understand what is meant if someone says, “I am at liberty to peacefully say what I want, write what I want, read what I want, live as I want, voluntarily associate with whom I want, try to earn a living the way I want, attempt to give meaning and happiness to my life as I want.”

It is generally understood that when someone says things like this, what is meant is that no one may use or threaten force to prevent or interfere with the individual’s own personal decisions and choices concerning such matters. The individual may not be coerced or compelled to act in any way that is not of his own voluntary and peaceful choosing.

Still today, it would sound and seem awkward to most of us if someone said, “I am at liberty to

pick your pocket, at liberty to force you into a contract that I want you to sign, at liberty to make you supply me with breakfast, lunch, and dinner, at liberty to threaten you if you do not pay my rent, cover my medical expenses, provide me with an education, at liberty to violently make you only use words that I like to hear or read.”

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**The individual may not be coerced or compelled to act in any way that is not of his own voluntary and peaceful choosing.**

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Such threatened or violent acts would be considered by almost all of us as the opposite of being free. How can you be free if a person can steal from you, or force you into associations and relationships and activities that you do not want to participate in of your own voluntary accord? The use of the word “liberty” in the way expressed in the previous paragraph would be understood as a misuse and mockery of what the idea of liberty generally still does and should mean.

### Collectivists misstate the meaning of liberty

This explains why “liberty” has increasingly fallen out of use in political discourse, discussion, and de-

bate. Once one introduces the question of liberty into the discussion, it implicitly raises the issue of whether there are areas of life into which neither private persons nor political paternalists should be considered to have the moral or legal authority to interfere with the choices and actions of peaceful individuals.

It is why those political paternalists and ideological collectivists express contempt for and disregard of any and all those who in some way call themselves friends or advocates of “liberty.” The paternalists and collectivists understand very clearly that nine times out of ten when someone holds up the banner of liberty in this way, they are insisting that there are aspects of individual and social life that government has no ethical and political right to tread upon.

That is why all such people, in their eyes, must be ridiculed, condemned, and delegitimized. Anyone who talks about liberty is an “extremist,” a “nut-job,” a “Nazi,” an anti-social “terrorist.” I want to be clear. There are kooks, nut-jobs, and “crazies” out there. But it is intellectually dishonest to tar and feather everyone who refers to “liberty” with such negative connotations.

Let me explain what I mean. Over the decades, especially during

the Cold War years, I met real, true-believing communists who bemoaned that Stalin was no longer with us, or who thought Chairman Mao had been the last great hope for mankind, or who had wanted to visit Cuba to have the opportunity to see and maybe shake hands with Fidel Castro.

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**Political paternalists and ideological collectivists express contempt for those who call themselves advocates of “liberty.”**

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I also met European-style “democratic socialists.” They also truly believed that a collectivist society would be a morally superior one and advocated degrees of central planning and redistribution of wealth. But they also sincerely valued democratic government and the preservation of civil liberties. And during those Cold War days, a good number of those European democratic socialists strongly opposed the Soviet Union and the tyranny behind the Iron Curtain of Eastern Europe.

I think that these democratic socialists were (and are) wrong in thinking that if a fairly comprehensive system of central planning and egalitarian redistribution is imposed on a society, that in the long

run, either democratic government or civil liberties will survive. In this, Friedrich A. Hayek, in my view, was absolutely right in the arguments he offered in *The Road to Serfdom* (1944).

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**Hayek, in my view, was absolutely right in the arguments he offered in *The Road to Serfdom*.**

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But it nonetheless remains the case that it was, particularly during the Cold War, a mistake and unfair to accuse and lump together every European democratic socialist as just another communist by a different name. Some of them were, as shown from the history of that time by the number of “socialists” who spied for or in other ways intentionally collaborated with Moscow’s “line” on international issues. But most European democratic socialists were not communists in the Soviet model, nor did most of them want to see the imposition of that model.

In like manner, it is an ideological and political subterfuge when the political paternalists, “democratic socialists,” and “progressives” in America today take the scandalously easy way out by classifying any and all friends of liberty as being the same as the nut-job with the

swastika tattooed on his forehead, or the person who lives in the “middle of nowhere” Idaho and declares his two-acre property to be the independent nation of Mr. Billy Ray Bob, and who has never met a neighbor he did not threaten to shoot.

**Misrepresenting liberty to avoid honest debate**

Anyone who knows anything about the history and ideas of those who advocate for liberty — that is, individual liberty, private property, voluntary association, non-violent freedom of trade and exchange, and constitutionally limited government with equal rights for all under impartial rule of law — is cognizant of the fact that to lump such people with the nut-jobs is merely a smear campaign to discredit the intellectual opponents of collectivism, socialism, the interventionist-welfare state, and the latest versions of these that go by the names of “identity politics,” “systemic race theory,” “cancel culture,” or, more generally, “political correctness.”

It is a way to avoid doing honest battle in the arena of ideas. To not have to debate and defend their rejection of the philosophical and political principles upon which the country was founded in such docu-

ments as the Declaration of Independence and the U.S. Constitution. To get away “on the cheap” by simply tarring and feathering their opponents as “racists” or “sexists” or “homophobes.” It also enables them their usual denial that any and all actual Nazis are their National Socialist ideological cousins and not any relation of the classical liberals and free marketeers who oppose all brands of collectivism.

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Jefferson said, “The policy of American government is to leave its citizens free.”

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The meaning of liberty was expressed concisely by Thomas Jefferson, when he said, “The policy of American government is to leave its citizens free, neither restraining them nor aiding them in their pursuits.” Thomas Paine clarified what this meant when in his “Plan for a Declaration of Rights” (1792), he said: “Liberty is the power to everything that does not interfere with the rights of others; thus, the exercise of the natural rights of every individual has no limits save those that assure to other members of society the enjoyment of the same rights.”

Liberty’s meaning and limits were stated by Jefferson, again,

when he said, “Rightful liberty is unobstructed action according to our will within limits drawn around us by the equal rights of others. I do not add ‘within the limits of the law’ because law is often the tyrant’s will, and always so when it violates the rights of the individual.”

Living your life as you peacefully choose

Liberty understood in this way not only is inconsistent with but is the polar opposite of any political system that professes or presumes in any way to interfere with the peaceful and honest individual’s decisions, choices, and actions to live his life as he considers best, most fulfilling, more likely to lead to his greatest happiness and contentment as he defines it.

He may live as hermit or as “social butterfly.” He may choose to find some niche in the social system of the division of labor to earn his living in voluntary exchange with others with the goal of maximizing his earned income so to have the financial wherewithal to purchase as many of the tradable items that he thinks will satisfy his desires, no matter of what type they may be. Or he may choose to find some line of work that will enable him to earn the minimum income he considers

needed to leave most of the rest of his time “free” for the quest of trying to become a great artist, or a world-renowned novelist, or just to be a beach bum watching life go by while sitting under a palm tree.

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**The individual has the liberty in a free society to do any of these things, as long as he does so peacefully and honestly.**

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He may spend every dollar he earns on his personal pursuit of the crassest carnal pleasures, or he may choose to live modestly and give away most of what he earns to various “good causes” as he defines and values them. He may exhibit the most refined and cultured view of things, or he may demonstrate the most vulgar of tastes. The individual has the liberty in a free society to do any of these things, as long as he does so peacefully and honestly.

In his famous 1819 lecture, “The Liberty of the Ancients Compared with that of the Moderns,” the French classical liberal, Benjamin Constant, expressed it in the following way:

Ask yourselves, Gentlemen, what an Englishman, a Frenchman or a citizen of the United States of America understand

today by the word “liberty.” For each of them it is the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose a profession and practice it, to dispose of property, and even to abuse it; to come and go without permission, and without having to account for their motives or undertakings. It is everyone’s right to associate with other individuals, either to discuss their interests, or to profess their religion which they and their associates prefer, or even simply to occupy their days or hours in a way which is most compatible with their inclinations and whims.

### **Liberty versus compulsory paternalism**

This is why our modern-day collectivists of any and all shades of intrusion and control ignore or denigrate all references to and calls for liberty. Appeals to liberty challenge and threaten all their rationales and demands for more and greater government control and

command over the social, economic, and political affairs of human beings, no matter who they may be, and where or how they live.

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**It obligates them to rationalize dictatorship, because that is what such intervention means.**

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To directly attack the idea of individual liberty in any and all its aspects requires them to justify and defend the notion that they or those they want in positions of political authority should be able to force honest and peaceful people to live, work, and act in ways not of their own choosing. It obligates them to rationalize dictatorship, because that is what such intervention means, that they or some selected others should have the power to command and control and plan people's lives, whether or not some or many of those people would rather continue to follow their own freely chosen paths for their time on Earth.

It cannot be denied that too many people either believe or can be swayed into believing that others need to be paternalistically watched over, directed, controlled, and indoctrinated to act and think in "better" ways. We would not be in the societal dilemma we are in, if not for too many of our fellow hu-

man beings being susceptible to such arguments and inclinations.

Classical liberal and free market "Austrian" economist Ludwig von Mises long ago warned us of these human temptations. As he said in his important work, *Liberalism* (1927):

The propensity of our contemporaries to demand authoritarian prohibition as soon as something does not please them, and their readiness to submit to such prohibitions even when what is prohibited is quite agreeable to them shows how deeply ingrained the spirit of servility still remains within them. It will require many long years of self-education until the subject can turn himself into the citizen. A free man must be able to endure it when his fellow men act and live otherwise than he considers proper. He must free himself from the habit, just as soon as something does not please him, of calling for the police.

We see this same willingness to call for the police as soon as something does not please some people, as I suggested earlier, regardless of

whether the interveners wear the often-confusing labels of “Democrat” or “Republican,” “progressive” or “conservative,” or “left” or “right.” The differences between them usually come down to the aspects of life they want the government to manage and control, and very rarely an argument for a general non-interventionist policy of liberty.

This is why the idea and the meaning of liberty is so very important to understand, and why everything possible needs to be done to remind people of its value, both in terms of the individual’s right of free action and its implications on the needed and necessary limits on government if a society is to be rightly understood as free. And why all must be done to see to it that the word “liberty” is not misused

and abused in the same manner that the word “freedom” has turned out to be.

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**NEXT MONTH:**  
**“Resisting the Market  
Process Undermines Freedom  
and Prosperity”**  
*by Richard M. Ebeling*

*The United States must not adopt the tactics of the enemy. Means are as important as ends.*

— *The Church Committee*

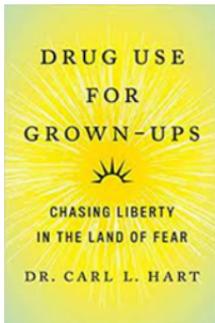
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# Deserting the Drug War

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by Matthew Harwood

*Drug Use for Grown-Ups: Chasing Liberty in the Land of Fear* by Dr. Carl L. Hart (Penguin Press, 2021)



As you leaf through the first few pages of Dr. Carl L. Hart's book *Drug Use for Grownups*, you come across a quote from the writer and social critic James Baldwin. It says: "If you want to get to the heart of the dope problem, legalize it.... [Prohibition is] a law, in operation, that can only be used against the poor."

Baldwin, of course, is right.

Middle class and wealthy communities would never for a second allow the level of policing that takes place in poor areas in pursuit of illicit substances. But that's besides the point: Police wouldn't find

much to crack down on. People in wealthier communities can snort, shoot, swallow, and smoke their drugs of choice in the comfort of their own homes without anyone noticing — unless it leads to some sort of disturbance or domestic abuse. If they're discreet, the Fourth Amendment will, most likely, protect them. They have little to worry about.

But what if Baldwin is wrong in another way. What if there isn't really a "dope problem"? Ever since I was a boy, I've been bombarded with the idea that drugs are bad — even evil. One puff of a joint could make my life go into a tailspin, as marijuana, I was told, would lead to harder drugs like cocaine or acid or heroin. Soon enough, I'd be in a grimy bathroom stall — like Leonardo DiCaprio in *The Basketball Diaries* — unbuckling a belt in return for a fix. (The drug war propagandists are not a subtle bunch.)

Dr. Hart, a professor of psychology at Columbia University and a research scientist, has a simple retort to all the fear-mongering around drugs that pervades our culture: bullshit. He should know. For a long time, Hart was a "drug abuse" scientist (his quotation marks). For two decades, Hart gave thousands of doses of drugs — in-

cluding hard drugs like crack cocaine — to many different kinds of people to study their effects and understand drug addiction.

Twenty years later, Hart has abandoned what he once believed was “God’s work.” Instead, he’s now riddled with “skepticism, cynicism, and disillusionment.” He admits that he “was too busy for too long being a soldier in the regime.” Now he’s not only a deserter of the drug war, he’s been a recreational user of heroin himself for five years. And he has a message for all responsible drug users: come out of the closet and acknowledge you use drugs responsibly to help lessen the stigma and stereotypes associated with it.

### Empowering the state ... one lie and stereotype at a time

Most Americans believe in fantasies about drug users. They’re lazy, poor, immoral, and irresponsible, surrounded by a haze of pot smoke, covered in Cheetos dust. But Hart’s research and lived experience present another picture about the typical drug user: “a responsible professional who happens to use drugs in his pursuit of happiness.”

Remember those three words — pursuit of happiness. They matter to Hart, which is why he follows

that belief to its logical political conclusion, reminding the reader that “no benevolent government should forbid autonomous adults from altering their consciousness, as long as it does not infringe on the rights of others.”

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**Savvier drug war proponents will no doubt bring up the violence that permeates the drug trade.**

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Instead, we have officials at all levels of government who believe they have the right to stop free individuals from putting certain substances voluntarily into their own bodies. They also have the audacity to claim they’re doing this for our own good, even as armed agents of the state kick down people’s doors; ransack their homes; kill their dogs; harass, intimidate, and beat them; and kidnap them and throw them in cages — all to bust someone for a little coke or weed or ecstasy. And they’re the lucky ones. People lose their lives to police violence because they buy, use, or sell drugs or, in the case of someone like Breonna Taylor, consort with those who do.

Savvier drug war proponents will no doubt bring up the violence that permeates the drug trade. But that’s drivel, too. Prohibition creates the violence for two primary rea-

sons. It attracts people who don't care about the law, and since the trade is illegal, there is no peaceful process of adjudicating disputes. The law of the streets reigns supreme instead.

The drug war also carries with it blatant racial and class discrimination. Back in the 1980s, there was the crack "epidemic." The problem was cast almost exclusively as a poor black problem. The crack-down was draconian. Congress passed legislation — including 16 of 20 members of the Congressional Black Caucus — making penalties regarding crack cocaine possession 100 times more severe than cocaine powder possession. Much of the moral panic surrounding crack cocaine had to do with the perception of the users and sellers of the drug, writes Hart: "black, young, and menacing," even though most crack users were white. The law decimated poor black communities. Ninety percent of the people convicted of crack charges were black.

These disparities persist today with a drug that has barely any deleterious effects on adults: weed. White, black, and Hispanic people all use marijuana at relatively the same rates. Yet when you drive down into the data of state arrests, writes Hart, "black people are four

times more likely to be arrested for marijuana than their white counterparts." At the federal level, Hispanic people make up three out of four marijuana arrests.

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**The drug war also carries with it blatant racial and class discrimination.**

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The final argument of the drug warriors is usually addiction. I encounter this all the time when I argue for complete and total legalization of all drugs. Too many Americans think addiction is inevitable. Just as people can drink alcohol (which is a drug) without becoming an alcoholic, people can use a wide variety of drugs without ever becoming an addict. According to Hart, 70 percent of drug users are not addicts, with addict defined as someone distressed by their drug use who experiences real bad life outcomes due to their substance use. And only 10 to 30 percent of people who use hard drugs like heroin and meth become addicted.

When it comes to drugs and drug addiction, the American people have fallen for false narratives — fairy tales that empower the bullies and busy-bodies and devastate lives through stigma, job loss, and incarceration.

## Don't call the drug war a failure

The U.S. government each year spends about \$35 billion on its drug war. That's up from \$1.5 billion in 1981. If you're like me, you'd conclude that the drug war is one big fiasco.

But Hart wants you to be more cynical, and I think he's right. The perverse incentives of the drug war keep it going year in and year out.

A vital but unstated aim of the drug war is to shore up the budgets of law-enforcement and prison authorities, as well as such parasitic organizations as drug-treatment centers and urine drug-testing outfits. Law enforcement entities receive the bulk of federal drug-war dollars.

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### Hart wants you to be more cynical.

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Then these same law enforcement agencies descend on poor and minority communities. Inevitably, the people in these communities — particularly the young — feel like they live in occupied territory (imagine being stopped and frisked regularly), and violence naturally erupts between police and the people they're supposedly sworn to serve and protect. The drug war isn't responsible for all the tension between police and certain com-

munities, but it definitely plays an outsized role.

As Hart nicely summarizes: "In essence, the war on drugs is not a war on drugs; it's a war on us." (Emphasis his.)

## Let people be free

Much of *Drug Use for Grown-ups*, however, isn't about the harms and hypocrisies of the drug war. Rather, it's Hart discussing the science of drugs and the pleasant effects of mind-altering substances when used responsibly. He also dispels ridiculous drug myths, like marijuana makes people violent — a howler if you've ever smoked weed or hung around people who do.

But all in all, Hart's book is a libertarian manifesto to let people consume the substances they want in pursuit of their own happiness — however fleeting it may be. But he also wants to be a whistleblower of sorts, communicating far and wide what his scientific research found despite the horror stories and propaganda and his own biases: drug use is overwhelmingly positive.

"It didn't matter whether the drug in question was cannabis, cocaine, heroin, methamphetamine, or psilocybin," Hart writes in the book's epilogue, "Overwhelmingly, consumers expressed feeling more

altruistic, empathetic, euphoric, focused, grateful, and tranquil. They also experienced enhanced social interactions, a greater sense of purpose and meaning, and increased sexual intimacy and performance.” In other words, hook me up.

But in all seriousness, Hart’s book is a necessary tonic in these strange hyperbolic times. It asks us to live up to the promise of the Declaration of Independence and its assertion that we all have unalienable rights, including “Life, Liberty, and the pursuit of happiness,” and that governments are instituted to “secure these rights.” Which immediately raises the question: If we Americans believe this, then why, asks Hart, “is our current government arresting one million Americans each year for possessing drugs?”

And the answer is because we let it, though that may be changing. Fifteen states have legalized recreational marijuana, while 35 states have legalized medical marijuana. Washington, D.C., just decriminalized psilocybin last November, and Oregon voters decriminalized the possession of even small amounts of hard drugs like heroin, cocaine, and meth.

The culture is changing, but not fast enough for far too many Americans.

One in five incarcerated people, according to the Prison Policy Initiative, are there because of nonviolent drug offenses. When they get out, they will face discrimination in employment and the stigma of having been inside. Poor and minority neighborhoods still face over-policing as law enforcement blankets their communities in search of people peacefully buying and selling substances that give them pleasure and relief from the stresses of life. And to ratchet up the insanity even more, prohibition will continue to empower the most violent and ruthless people in these communities, guaranteeing bloodshed.

But there are simple solutions to this mess we’ve gotten ourselves into: legalize all drugs and heed the advice, applicable in most situations, of American anarchist Benjamin Tucker and “mind your own business.” It’s a prescription Dr. Hart would emphatically endorse.

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*Matthew Harwood is a writer living in Bucks County, Pennsylvania. His work has appeared at The American Conservative, the Guardian, Reason, TomDispatch, and others. He is managing editor at the American Civil Liberties Union.*

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