

---

# FUTURE OF FREEDOM

---

VOLUME 35 | NUMBER 6

JUNE 2023

*Governments need armies to protect them from  
their enslaved and oppressed subjects.*

— Leo Tolstoy

# FUTURE OF FREEDOM

★★★

The Future of Freedom Foundation is a nonprofit educational foundation whose mission is to advance liberty and the libertarian philosophy by providing an uncompromising moral, philosophical, and economic case for individual liberty, free markets, private property, and limited government.

Believing in the power of ideas on liberty to shift the course of society toward freedom, our methodology is based on sharing sound principles of liberty with others.

- Our monthly journal, *Future of Freedom*, contains timeless and uncompromising essays on liberty. The price is \$25 for a one-year print subscription, \$15 for the email version.
- Our FFF Daily, which is free for the asking, provides hard-hitting commentary on current events.
- Our Libertarian Angle weekly Internet video show provides viewers with libertarian perspectives on the burning issues of the day.
- Our website, [fff.org](http://fff.org), contains all the articles and videos we have published since our inception in 1989.

The Foundation neither solicits nor accepts government grants. Our operations are funded primarily by donations from our supporters, which are invited in any amount.

★★★

© Copyright 2023. *The Future of Freedom Foundation. All rights reserved. Please send reprint requests to The Foundation.*

## The Future of Freedom Foundation

11350 Random Hills Road

Suite 800

Fairfax, VA 22030

...

[www.fff.org](http://www.fff.org) · [fff@fff.org](mailto:fff@fff.org)

...

703-934-6101

---

---

*The Real Lessons from the Iraq War,  
Part 1* 2

Jacob G. Hornberger

*The Iraq War Was a Systematic Atrocity* 9

James Bovard

*Jeremy Bentham,  
Usury Laws, and the CFPB* 16

Laurence M. Vance

*Celebrating  
Adam Smith on His 300th Birthday* 25

Richard M. Ebeling

*How Evil Are Politicians? Part 2* 38

George C. Leef

---

---

# The Real Lessons from the Iraq War, Part 1

---

by *Jacob G. Hornberger*



**T**wenty years ago — March 19, 2003 — the U.S. government launched its invasion and war of aggression against Iraq. It was a deadly intervention, one that resulted in the deaths and injuries of hundreds of thousands of Iraqi people and thousands of U.S. soldiers. The invasion and resulting occupation also succeeded in destroying the entire country. Today, there are still U.S. troops occupying the country, which can only be described as a hell-hole. Although the Pentagon termed its invasion of Iraq “Operation Iraqi Freedom,” no American citizen would dare to vacation in Iraq today.

Unfortunately, the real lessons to be learned from this horror story have still not been learned by foreign interventionists, meaning

Americans who believe that the U.S. government should intervene in the affairs of other nations. They hold that this particular intervention was simply a “mistake” or that it was “mismanaged.” They also continue to place their faith in America’s national-security-state form of governmental structure, which is primarily responsible for the Iraq horror story.

If we are to get our nation back on the right track — one that reembraces America’s founding foreign policy of noninterventionism in the affairs of other countries and reembraces our nation’s founding as a limited-government republic — it is essential that we review, ponder, and reflect upon the Iraq intervention in its full historical context.

## An illegal invasion

The first thing to keep in mind is that the U.S. invasion of Iraq was illegal under our form of government. That’s because it was undertaken without the congressional declaration of war that the Constitution requires.

Everyone has become so accustomed to U.S. presidents waging war without a congressional declaration of war that it is easy to conclude that it was not necessary for

President George W. Bush to secure such a declaration as a prelude to invading Iraq. Not so. The Constitution is the highest law of the land. It controls the actions of federal officials, including both the president and the military, and it prohibits the president and the military from waging war against a foreign nation without a congressional declaration of war.

That's the way the Framers wanted it. They understood that the presidency would attract people who like to use military force against other nations, especially weaker, more impoverished nations headed by rulers who don't kowtow to U.S. officials. Because war inevitably involves death and destruction, the Framers wanted the members of Congress to make the decision as to whether to go to war or not. If they voted yes, then — and only then — could the president wage war with his army. If they voted no, then the president could not legally wage war against another nation-state.

The only way the declaration-of-war requirement can be changed is through constitutional amendment. The Constitution has never been amended to eliminate the declaration-of-war requirement. It continues to be as operational as it

was when the Constitution was originally enacted.

The fact that some presidents have ignored the declaration-of-war requirement does not operate as a grant of power for succeeding presidents to do the same. The waging of war without a congressional declaration of war remains illegal no matter how many presidents have transgressed this constitutional provision.

---

**The waging of war without a congressional declaration of war remains illegal.**

---

It is important that we bear this point in mind, because it means that no U.S. soldier had any legal authority to kill, injure, maim, or torture even one single Iraqi. That's because U.S. soldiers are also bound by the Constitution. If the president lacks the legal authority to wage war against a particular nation-state, the soldiers that he has ordered to wage war are also operating illegally.

Moreover, the U.S. invasion of Iraq was illegal under international law. That's because of the principles against "aggressive war" that were set forth by the Nuremberg War Crimes Tribunal, which was established to try Nazi officials for war

crimes. The term “aggressive war” or a “war of aggression” doesn’t mean that an army is acting aggressively in waging a war. It means that one nation has undertaken an unprovoked attack on another country. The Nuremberg War Crimes Tribunal convicted German officials of doing precisely that — attacking and invading other countries.

---

**There has been an inordinately high suicide rate among veterans who “served” in Iraq.**

---

That is what the U.S. government did to Iraq. The U.S. government was the attacker and the invader. Iraq was the defending power. Under the principles set forth at Nuremberg, the United States had no legal authority to undertake its invasion of Iraq and its war of aggression against Iraq.

**Legalized murder under the guise of war**

Ever since the U.S. invasion of Iraq, there has been an inordinately high suicide rate among veterans who “served” in Iraq. U.S. officials ascribe those suicides to PTSD — posttraumatic stress disorder from the strains of combat. I don’t believe that. I have long held that those suicides are rooted in guilt — deeply

seated guilt arising from the fact that U.S. soldiers knew that they had no moral or legal right to kill the people they killed.

Even though the killings occurred in a wartime context, the consciences of U.S. soldiers could not be fooled. Deep down, every soldier knew that what he was doing was engaging in legalized murder under the guise of waging war against a nation that had never attacked the United States.

The psychological impact of those killings was aggravated by the fact that the American people were exhorted to “thank the troops for their service,” which inhibited veterans from directly confronting the horror of what they had done. Unable to deal with the deep emotional pain arising out of murdering people and rationalizing it as “war,” many of them have decided to check out of life by taking their own lives.

Immediately prior to the invasion of Iraq, I read an article about a Catholic soldier who was expressing misgivings about participating in an invasion of Iraq. He was deeply troubled over whether God would countenance his killing Iraqis in an unprovoked war of aggression. The article stated that a Catholic military chaplain assured him

that he could legitimately follow orders of the president and be in compliance with God's laws.

That military chaplain did a grave disservice to that soldier because the soldier was right to have such religious misgivings. The chaplain should have told him to follow his conscience. Following military orders to invade and wage a war of aggression against another nation does not nullify the laws of God.

Sometime during the Iraq occupation, I contacted a libertarian friend of mine who was a Catholic priest. I posed the following hypothetical to him: If the government forcibly seized me, conscripted me into the army, transported me to Iraq against my will, and set me down in a war zone where Iraqi soldiers were firing at me, would I have the authority under God's laws to defend myself by firing back?

His answer was direct and unequivocal: Absolutely not. You would be part of an aggressor force. You would have no authority under God's law to kill anyone, not even in "self-defense."

I asked him: Then what should I do when those Iraqi soldiers are trying to kill me? He responded: You must either try to get away or die. You cannot fire back and kill them.

What my priest friend was essentially saying is that when a soldier is part of a military force that is waging war illegally, he cannot consider himself firing in "self-defense" when the people of the invaded country are defending themselves against the aggressor.

---

**Following military orders to wage a war of aggression against another nation does not nullify the laws of God.**

---

Suppose, for example, a person illegally enters a home in the middle of the night. Let's assume that the father sees the intruder and begins firing at him. The intruder fires back and kills the father. The intruder cannot claim that he killed the father in "self-defense" because the intruder had no legal or moral authority to be inside the house in the first place. The same principle applies to U.S. soldiers who invaded Iraq.

### **The WMD scam**

Prior to the invasion, U.S. officials claimed that they had authority to invade Iraq to "disarm" Iraq of its supposed weapons of mass destruction. After the invasion, when no such WMDs were found, U.S. officials steadfastly maintained that

they had just made an honest mistake with respect to their WMD claim.

But their WMD justification for invading Iraq was always bogus. For one thing, even if Iraq had weapons of mass destruction, the United States had no legal authority to do anything about it. In other words, no one has ever appointed the United States to serve as an international policeman or WMD enforcer. Moreover, the Constitution does not vest that type of power in the federal government.

The United Nations had enacted resolutions prohibiting Iraq from maintaining WMDs, but the U.S. government had no authority to enforce UN resolutions. Only the UN had the authority to enforce its own resolutions, and it was opposed to an invasion of the country.

Moreover, if the WMD justification for invading Iraq had been genuine, once it became clear that there were no WMDs, U.S. officials would have immediately acknowledged their grave mistake, apologized for the death and destruction they had mistakenly wreaked, ordered the immediate withdrawal of U.S. forces, and begun paying reparations to the people of Iraq. U.S. officials didn't do that. Instead, they kept the troops in Iraq for years af-

terward, during which multitudes of more Iraqis were killed, maimed, injured, and tortured. Moreover, the massive destruction of the country continued during the many years of occupation that followed the nondiscovery of those WMDs.

---

**No one has ever appointed the United States to serve as an international policeman or WMD enforcer.**

---

In 2014, U.S. forces found a buried cache of old rusted-out canisters that had contained WMDs. Immediately, supporters of the Iraq invasion began crowing about how they had finally found those infamous WMDs. But U.S. officials were not among those who were crowing. Instead, it was clear that they didn't want to talk about the discovery of the very WMDs that they had used to justify their invasion some 11 years earlier.

One month after the invasion, The Future of Freedom Foundation published a compilation of articles from the mainstream press that I prepared. The compilation was entitled "Where Did Iraq Get Its Weapons of Mass Destruction?" The compilation listed several articles detailing the fact that Iraq had gotten WMDs from the United



States and other Western nations. Some of the links to the articles listed are no longer active, but it's still worth examining the list and the articles whose links are still active. The online link to the compilation is <https://www.fff.org/explore-freedom/article/iraq-weapons-mass-destruction>.

---

**U.S. officials didn't realize that Saddam had foiled their plans by destroying those WMDs many years before.**

---

In October 2014, FFF published another article authored by me entitled, "Where Did Iraq Get Its Weapons of Mass Destruction, Part 2." That article explained why U.S. officials were loathe to talk about those rusted-out WMD canisters that U.S. forces had discovered in Iraq, because it was the United States and other Western nations that had furnished Iraq with the very WMDs that had been used as the justification for the invasion. That article can be found here: <https://www.fff.org/2014/10/15/where-did-iraq-get-its-weapons-of-mass-destruction-part-2>.

Thus, in retrospect, I believe that when they invaded Iraq, U.S. officials really believed that they were going to find the WMDs that

the U.S. had previously delivered to Iraq and that would still be operational. They couldn't believe that Iraq's dictator, Saddam Hussein, really had destroyed them. Therefore, I believe that what U.S. officials planned to do was to invade the country, "find" those WMDs, and claim that they had saved the world from the very WMDs that the United States and other Western nations had previously delivered to Saddam. What U.S. officials didn't realize, however, was that Saddam had foiled their plans by destroying those WMDs many years before.

### The "New Hitler"

In one of the most successful propaganda campaigns in history, U.S. officials inculcated tremendous fear of Saddam Hussein and his supposed WMDs within the American people. For more than 10 years prior to the Iraq invasion, Americans were told, practically on a daily basis, that Saddam was a "new Hitler." He was determined, U.S. officials maintained, to conquer the world from the perch of his dictatorship of an impoverished Third World country. It's easy to forget those 11 years of propaganda today, but practically every day during the 1990s, the collective daily cry, especially within the mainstream me-

dia, was “Saddam! Saddam! Saddam!” Many Americans became absolutely convinced that Saddam was coming to get them.

Then, given the tremendous anger and fear arising from the 9/11 attacks in 2001, many Americans were ready for the announcement that the United States was going to invade Iraq. Even if the WMD claim was based on sketchy evidence, most Americans convinced themselves that U.S. officials had access to secret information that they could not share with the American people. Many Americans were fully on board with waging an

undeclared war of aggression against a nation that had never attacked the United States, knowing full well that it would wreak massive death and destruction upon the Iraqi people.

---

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

---

**NEXT MONTH:**  
“The Real Lessons from the  
Iraq War, Part 2”  
by *Jacob G. Hornberger*

*I strive for tolerance and gentlemanly conduct. All that is required in any of us is understanding, humility, honesty, sincerity, and tolerance.*

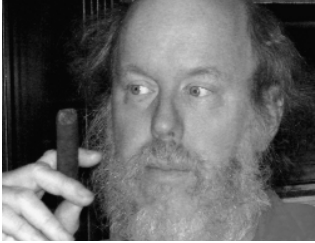
— *Robert G. Bearce*

---

---

# The Iraq War Was a Systematic Atrocity

by James Bovard



Media coverage of the twentieth anniversary of the start of the Iraq War mostly portrayed the war as a blunder. There were systematic war crimes that have largely vanished into the memory hole, but permitting government officials to vaporize their victims paves the way to new atrocities.

On the eve of the 2003 invasion of Iraq, former First Lady Barbara Bush announced: “Why should we hear about body bags and deaths and how many, what day it’s gonna happen? It’s not relevant, so why should I waste my beautiful mind on something like that?”

The Pentagon quickly institutionalized the Barbara Bush rule. Early in the Iraq war, Brig. Gen. Vince Brooks, asked about tracking civilian casualties, replied, “It just is

not worth trying to characterize by numbers. And, frankly, if we are going to be honorable about our warfare, we are not out there trying to count up bodies.”

Congress, in 2003 legislation funding the Iraq War, required the Pentagon to “seek to identify families of non-combatant Iraqis who were killed or injured or whose homes were damaged during recent military operations, and to provide appropriate assistance.” The Pentagon ignored the provision. The *Washington Post* reported: “One Air Force general, asked why the military has not done such postwar accounting in the past, said it has been more cost-effective to pour resources into increasingly sophisticated weaponry and intelligence-gathering equipment.” Acquiring more lethal weapons trumped tallying the victims.

## The media blackout on the death count begins

After the invasion progressed, Bush perennially proclaimed that the United States had given freedom to 25 million Iraqis. Thus, any Iraqi civilians killed by U.S. forces were both statistically and morally inconsequential. And the vast majority of the news coverage left out the asterisks.

A 2005 American University survey of hundreds of journalists who covered Iraq concluded:

Many media outlets have self-censored their reporting on the conflict in Iraq because of concern about public reaction to graphic images and details about the war.

Individual journalists commented:

- “In general, coverage downplayed civilian casualties and promoted a pro-U.S. viewpoint. No U.S. media show abuses by U.S. military carried out on regular basis.”
- “Friendly fire incidents were to show only injured Americans, and no reference made to possible mistakes involving civilians.”
- “The real damage of the war on the civilian population was uniformly omitted.”

The media almost always refused to publish photos incriminating the U.S. military. The *Washington Post* received a leak of thousands of pages of confidential records on the 2005 massacre by U.S. Marines at Haditha, including stunning photos taken immediately after the killings of 24 civilians (mostly

women and children). Though the *Post* headlined its exclusive story, “Marines’ Photos Provide Graphic Evidence in Haditha Probe,” the reporter noted halfway through the article that “*Post* editors decided that most of the images are too graphic to publish.” The *Post* suppressed the evidence at the same time it continued deferentially reporting official denials that U.S. troops committed atrocities.

---

**The media almost always refused to publish photos incriminating the U.S. military.**

---

In 2006, the U.S. military imposed new restrictions on the media, decreeing that “Names, video, identifiable written/oral descriptions or identifiable photographs of wounded service members will not be released without service member’s prior written consent.” This effectively guaranteed that Americans would never see photos or film footage of the vast majority of American casualties. (Dead men sign no consent forms.) The news media did not publicly disclose or challenge the restrictions.

In 2007, two Apache helicopters targeted a group of men in Baghdad with 30 mm. cannons and killed up to 18 people. Video from the heli-

copter revealed one helicopter crew “laughing at some of the casualties, all of whom were civilians, including two *Reuters* journalists.” “Light ‘em all up. Oh yeah, look at those dead bastards,” one guy on the recording declared. Army Corporal Chelsea Manning leaked the video to Wikileaks, which disclosed it in 2010.

Wikileaks declared on Twitter: “*Washington Post* had Collateral Murder video for over a year but DID NOT RELEASE IT to the public.” Wikileaks also disclosed thousands of official documents exposing U.S. war crimes and abuses, tacitly damning American media outlets that chose to ignore or shroud atrocities.

A mid-2008 *New York Times* article noted that “After five years and more than 4,000 U.S. combat deaths, searches and interviews turned up fewer than a half-dozen graphic photographs of dead U.S. soldiers.” Veteran photographers who posted shots of wounded or dead U.S. soldiers were quickly booted out of Iraq.

The *Times* noted that Iraqi “detainees were widely photographed in the early years of the war, but the U.S. Defense Department, citing prisoners’ rights, has recently stopped that practice as well.” Pri-

vacy was the only “right” the Pentagon pretended to respect — since the vast majority of detainees received little or no due process.

### The collateral damage of innocent dead civilians

As the number of Iraqi civilians killed by American forces rose, the U.S. military increasingly relied on boilerplate self-exonerations. In September 2007, after U.S. bombings killed enough women and children to produce a blip on the media radar, U.S. military spokesman Major Brad Leighton announced: “We regret when civilians are hurt or killed while coalition forces search to rid Iraq of terrorism.”

---

### Veteran photographers who posted shots of wounded or dead U.S. soldiers were quickly booted out of Iraq.

---

The vast majority of the American media recited whatever the Pentagon emitted in the first years of the Iraq war. This was exemplified in the coverage of the two U.S. assaults on Fallujah in 2004. The first attack was launched in April 2004 in retaliation for the killings of four contractors for Blackwater, a company that became renowned for killing innocent Iraqis.

Bush reportedly gave the order: “I want heads to roll.” He told Lt. Gen. Ricardo Sanchez during a video conference:

If somebody tries to stop the march to democracy, we will seek them out and kill them! We must be tougher than hell!... Stay strong! Stay the course! Kill them! Be confident! Prevail! We are going to wipe them out!

U.S. forces quickly placed the entire city under siege. The British *Guardian* reported:

The US soldiers were going around telling people to leave by dusk or they would be killed, but then when people fled with whatever they could carry, they were stopped at the U.S. military checkpoint on the edge of town and not let out, trapped, watching the sun go down.

The city was blasted by artillery barrages, F-16 jets, and AC-130 Spectre planes, which pumped 4,000 rounds a minute into selected targets. Adam Kokesh, who fought in Fallujah as a Marine Corps sergeant, later commented:

During the siege of Fallujah, we changed rules of engagement more often than we changed our underwear. At one point, we imposed a curfew on the city, and were told to fire at anything that moved in the dark.

---

**The Bush administration  
demonized media outlets that  
showed U.S. victims.**

---

Rather than change the rules of engagement to limit civilian carnage, the Bush administration demonized media outlets that showed U.S. victims. On April 16, a few days after Kimmitt’s comment, Bush met British Prime Minister Tony Blair and proposed bombing Al Jazeera’s headquarters in Doha, Qatar (a staunch U.S. ally). Blair talked Bush out of attacking the television network offices. A British government official leaked the minutes of a meeting, creating a brief hubbub that was largely ignored within the United States.

Bush had previously talked to Blair in 2003 about attacking the Al Jazeera television transmitter in Baghdad. A few days/weeks later, the U.S. military killed one Al Jazeera journalist when it attacked the network’s headquarters in

Baghdad, and several Al Jazeera employees were seized and detained for long periods of time.

The Bush administration decided to crush the city — but not until after Bush was safely reelected. Up to 50,000 civilians remained in Falluja at the time of the second U.S. assault. At a November 8, 2004, press conference, Defense Secretary Donald Rumsfeld declared that “Innocent civilians in that city have all the guidance they need as to how they can avoid getting into trouble.” Joint Chiefs of Staff Chairman Myers said three days later that Fallujah “looks like a ghost town [because] the Iraqi government gave instructions to the citizens of Fallujah to stay indoors.”

---

**“We let the population know that we were coming in on this date, and if you were left in the city, you were going to die.”**

---

Supposedly, Iraqi civilians would be safe even if when American troops went house to house “clearing” insurgents out. However, three years later, during the trials for the killings elsewhere in Iraq, Marines continually invoked the Fallujah Rules of Engagement to justify their actions. Marine Corporal Justin Sharratt, who was indicted

for murdering three civilians in Haditha (the charges were later dropped), explained in a 2007 interview with PBS:

For the push of Fallujah, there [were no civilians]. We were told before we went in that if it moved, it dies.... About a month before we went into the city of Fallujah, we sent out flyers.... We let the population know that we were coming in on this date, and if you were left in the city, you were going to die.

The interviewer asked: “Was the procedure for clearing a house in Fallujah different from other house clearing in Iraq?”

Sharratt replied: “Yes. The difference between clearing houses in Fallujah was that the entire city was deemed hostile. So every house we went into, we prepped with frags and we went in shooting.” Thus, the Marines were preemptively justified in killing everyone inside — no questions asked. Former congressman Duncan Hunter admitted in 2019, “I was an artillery officer, and we fired hundreds of rounds into Fallujah, killed probably hundreds of civilians ... probably killed women and children.”

The U.S. attack left much of Fal-lujah looking like a lunar landscape, with near-total destruction as far as the eye could see. Yet, regardless of how many rows of houses the United States flattened in the city, accusations that the United States killed noncombatants were false by definition. Because the U.S. government refused to count civilian casualties, they did not exist. And anyone who claimed to count them was slandering the United States and aiding the terrorists.

### Commas, not corpses

In September 2006, Bush was asked during a television interview about the ongoing strife in Iraq. He smiled and replied, “I like to tell people when the final history is written on Iraq, it will look like just a comma because there is — my point is, there’s a strong will for democracy.” To recognize the importance of civilian casualties would have marred his story about the conquest of Iraq as a historical triumph of democracy.

The Pentagon spent more money bribing Iraqi journalists than counting Iraqi victims. As long as there were enough cheerleaders in Iraq and on the home front, the bodies of U.S. victims did not exist — at least in the American media.

Pentagon contractors offered strategic advice on how to keep victims off the radar screen. In 2007, the RAND Corporation released “Misfortunes of War: Press and Public Reaction to Civilian Deaths in Wartime,” explaining how to best respond to bombing debacles. The study concluded that “the belief that the U.S. military is doing everything it can to minimize civilian casualties is the key to public support for U.S. military operations.”

The RAND report was more concerned about bad PR than dead children. RAND’s experts asserted that “Americans and the media are concerned about civilian casualties, and pay very close attention to the issue.” This is the charade that provides a democratic sanction for the U.S. government’s foreign killings.

---

### Most Americans are clueless about the foreign toll of their government’s policies.

---

In reality, most Americans are clueless about the foreign toll of their government’s policies. An early 2007 Associated Press poll found that Americans were well-informed about the number of U.S. soldiers killed in Iraq. But the same poll found that “the median estimate for Iraqi deaths was 9,890.” Actual fa-



talities were at least 15 times higher — and perhaps 60 times higher.

In December 2005, Bush said that 30,000 people “more or less” had been killed in Iraq since the 2003 U.S. invasion. In October 2006, a reporter asked him: “Do you stand by your figure, 30,000?” Bush replied, “You know, I stand by the figure.” The United Nations estimated that 34,000 civilians were killed in 2006 alone. Regardless, Bush “stood by” his estimate from the prior year. This was the Fallujah methodology on amphetamines: It was impermissible to recognize or admit the deaths of any Iraqis who perished in the 10 months after Bush publicly ordained the 30,000 number.

Iraq’s Health Minister estimated in November 2006 that “there had been 150,000 civilian deaths during the war so far.” The Iraqi Ministry of Health had kept track of morgue records but ceased its tabulation after arm-twisting from U.S. authorities.

It is folly to pay more attention to Pentagon denials than to piles of corpses and flattened villages. The greater the media’s dependency on government, the less credible press reports on official benevolent intentions become. When the official policy routinely results in killing innocent people, it will almost always

also be official policy to deceive the American public about the killings. It is naive to expect a government that recklessly slays masses of civilians to honestly investigate itself and announce its guilt to the world.

Killing foreigners is no substitute for protecting Americans. Permitting governments to make their victims vanish profoundly corrupts democracy. Self-government is a mirage if Americans are denied information to judge killings committed in their name.

---

*James Bovard is a policy advisor to The Future of Freedom Foundation and the author of the ebook Freedom Frauds: Hard Lessons in American Liberty, published by FFF, Public Policy Hooligan, Attention Deficit Democracy, and eight other books.*

---

**NEXT MONTH:**  
**“Biden’s Wrecking  
Ball Benevolence for  
Homebuyers”**  
*by James Bovard*

**“Too Far, or  
Not Far Enough?”**  
*by Laurence M. Vance*

---

# Jeremy Bentham, Usury Laws, and the CFPB

---

by Laurence M. Vance



**T**he U.S. Supreme Court has agreed to hear arguments in a case that challenges the constitutionality of the funding of the federal Consumer Financial Protection Bureau (CFPB), “a 21st century agency that implements and enforces Federal consumer financial law and ensures that markets for consumer financial products are fair, transparent, and competitive.” The agency was created by the Dodd-Frank Act after the 2008 financial crisis.

## The case

The case began in 2018 in the U.S. District Court for the Western district of Texas as the *Community Financial Services Association of America, Ltd. v. Consumer Finan-*

*cial Protection Bureau*. It was brought on behalf of certain payday lenders and credit-access businesses affected by the “Payday, Vehicle Title, and Certain High-Cost Installment Loans” Rule issued by the CFPB that limited certain practices by covered lenders that were deemed “unfair, deceptive, or abusive.” The court ruled in favor of the defendant. On appeal, the U.S. Court of Appeals for the Fifth Circuit in New Orleans in 2022 reversed the judgment of the district court and voided the CFPB rule, which prohibited payday lenders from debiting the accounts of customers behind on a payment without first getting their consent.

The court ruled that CFPB’s funding by the Federal Reserve instead of by congressional appropriation was unconstitutional. Wrote Judge Cory Wilson in the ruling:

Because the funding employed by the Bureau to promulgate the Payday Lending Rule was wholly drawn through the agency’s unconstitutional funding scheme, there is a linear nexus between the infirm provision (the Bureau’s funding mechanism) and the challenged action (promulgation of the rule).

The case of *Consumer Financial Protection Bureau v. Community Financial Services Association of America, Limited* will not be decided by the Supreme Court until its next term, which begins in October. Although the case was originally about just the Payday Lending Rule, it could possibly result in the upending of all of its rules. As explained by regulatory attorneys Anthony DiResta and Luis Garcia of Holland & Knight:

The Fifth Circuit's ruling potentially calls into question every single rule, guidance and order that the CFPB has issued — as they all trace their origins to the CFPB's unconstitutional self-funding structure.

Democrats, liberals, and progressives are in a panic that the Supreme Court could kill the CFPB, although, if it were abolished, authority under the 18 preexisting federal consumer-protection laws would revert to other federal agencies. The left-leaning Constitutional Accountability Center deemed the Fifth Circuit's decision “as wrong as it is dangerous.” The decision “is wrong because it is at odds with the plain text of the Constitution, not to

mention clear Supreme Court precedent.” The decision “is dangerous because it will impede the ability of the CFPB to do its critically important work of protecting America's consumers — and because its reasoning calls into question the actions of countless other federal financial regulators, including the Federal Reserve Board.”

We can only hope. Writing for *The American Prospect*, David Dayen expresses grave concern that “there are numerous other crucial programs and regulators that are funded in a similar manner to CFPB, and an enterprising conservative Supreme Court justice could potentially seek to nix the funding mechanisms of those programs too.”

Again, we can only hope. He fears that “a creative and determined conservative judge could easily state that the plain language of the Constitution rejects all mandatory spending, making Social Security, Medicare, food stamps, welfare benefits, and more illegal.”

Once more, we can only hope. Writing for *Truthout*, Sharon Zhang returns to the issue that prompted this case to begin with:

One outcome of the CFPB potentially being defunded is that it could be open season by

payday lenders on people in desperate need of cash.

She terms payday loans “a particularly predatory type of loan targeted toward the most vulnerable populations, often trapping the poorest borrowers into debt.”

### Payday loans

According to the CFPB, a payday loan “is usually a short-term, high cost loan, generally for \$500 or less, that is typically due on your next payday.” The agency then gives some common features of a payday loan:

- The loans are for small amounts, and many states set a limit on payday loan size.
- A payday loan is usually repaid in a single payment on the borrower’s next payday, or when income is received from another source such as a pension or Social Security.
- To repay the loan, you generally write a post-dated check for the full balance, including fees, or you provide the lender with authorization to electronically debit the funds from your bank, credit union, or prepaid card account.

- Your ability to repay the loan while meeting your other financial obligations is generally not considered by a payday lender.
- The loan proceeds may be provided to you by cash or check, electronically deposited into your account, or loaded on a prepaid debit card.

The real problem that the agency has with payday loans is their cost:

A typical two-week payday loan with a \$15 per \$100 fee equates to an annual percentage rate (APR) of almost 400 percent. By comparison, APRs on credit cards can range from about 12 percent to about 30 percent.

Because of the high interest rates on payday loans, “Many state laws set a maximum amount for payday loan fees ranging from \$10 to \$30 for every \$100 borrowed.” Payday loans don’t exist in some states because they are prohibited by state law or because payday lenders choose not to do business there because of the state regulations.

On the federal level, the Military Lending Act (MLA) for active-

duty service members and their dependents imposes a cap of 36 percent on the Military Annual Percentage Rate (MAPR) in addition to other limitations on what lenders can charge for payday and other types of loans.

### Usury laws

These state laws regarding payday lending are the result of state usury laws. The word usury originally referred to just interest. The term then came to be applied to interest on loans that was excessive, extreme, or exorbitant. Thus, usury laws are based on an artificial and arbitrary distinction between usury and interest. Usury laws limit how much interest can be charged to borrowers on loans and vary widely from state to state.

---

**Usury laws limit how much interest can be charged to borrowers on loans and vary widely from state to state.**

---

For example, in my state of Florida, in the Florida statutes, title XXXIX, chapter 687, states:

*687.03(1)* Except as provided herein, it shall be usury and unlawful for any person, or for any agent, officer, or other

representative of any person, to reserve, charge, or take for any loan, advance of money, line of credit, forbearance to enforce the collection of any sum of money, or other obligation a rate of interest greater than the equivalent of 18 percent per annum simple interest, either directly or indirectly, by way of commission for advances, discounts, or exchange, or by any contract, contrivance, or device whatever whereby the debtor is required or obligated to pay a sum of money greater than the actual principal sum received, together with interest at the rate of the equivalent of 18 percent per annum simple interest. However, if any loan, advance of money, line of credit, forbearance to enforce the collection of a debt, or obligation exceeds \$500,000 in amount or value, it shall not be usury or unlawful to reserve, charge, or take interest thereon unless the rate of interest exceeds the rate prescribed in s. 687.071.

*687.071(2)* Unless otherwise specifically allowed by law, any person making an exten-

sion of credit to any person, who shall willfully and knowingly charge, take, or receive interest thereon at a rate exceeding 25 percent per annum but not in excess of 45 percent per annum, or the equivalent rate for a longer or shorter period of time, whether directly or indirectly, or conspires so to do, commits a misdemeanor of the second degree.

687.071(3) Unless otherwise specifically allowed by law, any person making an extension of credit to any person, who shall willfully and knowingly charge, take, or receive interest thereon at a rate exceeding 45 percent per annum or the equivalent rate for a longer or shorter period of time, whether directly or indirectly or conspire so to do, commits a felony of the third degree.

But go across the border into Georgia (O.C.G.A. § 7-4-2) and you will find that “the legal rate of interest shall be 7 percent per annum simple interest where the rate percent is not established by written contract.” However, where the principal amount is more than \$3,000,

“the parties may establish by written contract any rate of interest.”

The only exception throughout the United States is the interest rate on credit cards, where there is generally no applicable interest rate cap.

### Jeremy Bentham

Where is Jeremy Bentham (1748–1832) when you need him? He is actually closer than you think. Bentham’s skeleton, clothed with one of his black suits padded with hay, and topped with a wax head, is on public display at University College London. Bentham was an English philosopher and tireless advocate of political, legal, and social reforms. He is best known as the father of utilitarianism — the concept that an action is right if it produces happiness or pleasure for the greatest number of people and wrong if it results in the opposite. The morality of the action thus depends on the consequences of the action.

Nevertheless, what concerns us here is Bentham’s first, and only, well-known work on economics, his *Defence of Usury* (1787). The book, which went through four editions in Bentham’s lifetime, was written as a series of letters, with the 13th letter to Adam Smith (1723–1790), who he admired, serving as a

“sequel.” Although he is often thought of as a laissez-faire purist, Smith supported government-imposed ceilings on the rate of interest. He thought an interest rate of 5 percent was sufficient for any borrower in England.

Bentham did not agree. In a letter written a year before the publication of *Defence of Usury*, Bentham stated: “You know it is an old maxim of mine, that interest, as love and religion, and so many other pretty things, should be free.” Bentham wastes no time in stating his thesis in his first letter:

In a word, the proposition I have been accustomed to lay down to myself on this subject is the following one, viz. that no man of ripe years and of sound mind, acting freely, and with his eyes open, ought to be hindered, with a view to his advantage, from making such bargain, in the way of obtaining money, as he thinks fit: nor, (what is a necessary consequence) any body hindered from supplying him, upon any terms he thinks proper to accede to.

He then posits five arguments in defense of government-imposed

interest ceilings: 1. Prevention of usury. 2. Prevention of prodigality. 3. Protection of indigence against extortion. 4. Repression of the temerity of projectors. 5. Protection of simplicity against imposition.

---

**The morality of the action  
thus depends on the consequences  
of the action.**

---

Bentham observed that widespread negative connotations of usury and usurers was unnatural and unreasonable:

Usury is a bad thing, and as such ought to be prevented: usurers are a bad sort of men, a very bad sort of men, and as such ought to be punished and suppressed. These are among the string of propositions which every man finds handed down to him from his progenitors: which most men are disposed to accede to without examination, and indeed not unnaturally nor even unreasonably disposed, for it is impossible the bulk of mankind should find leisure, had they the ability, to examine into the grounds of an hundredth part of the rules and maxims, which they find

themselves obliged to act upon.

He made the case for the arbitrary nature of usury:

One thing then is plain; that, antecedently to custom growing from convention, there can be no such thing as usury: for what rate of interest is there that can naturally be more proper than another? what natural fixed price can there be for the use of money more than for the use of any other thing? Were it not then for custom, usury, considered in a moral view, would not then so much as admit of a definition: so far from having existence, it would not so much as be conceivable: nor therefore could the law, in the definition it took upon itself to give of such offence, have so much as a guide to steer by. Custom therefore is the sole basis, which, either the moralist in his rules and precepts, or the legislator in his injunctions, can have to build upon. But what basis can be more weak or unwarrantable, as a ground for coercive measures, than custom resulting from

free choice? My neighbours, being at liberty, have happened to concur among themselves in dealing at a certain rate of interest. I, who have money to lend, and Titius, who wants to borrow it of me, would be glad, the one of us to accept, the other to give, an interest somewhat higher than theirs: why is the liberty they exercise to be made a pretence for depriving me and Titius of ours?

He questioned the inconsistency of regulating interest rates and not other prices:

Putting money out at interest, is exchanging present money for future: but why a policy, which, as applied to exchanges in general, would be generally deemed absurd and mischievous, should be deemed necessary in the instance of this particular kind of exchange, mankind are as yet to learn.

For him who takes as much as he can get for the use of any other sort of thing, an house for instance, there is no particular appellation, nor any mark of disrepute: nobody is ashamed of doing so, nor is it



usual so much as to profess to do otherwise. Why a man who takes as much as he can get, be it six, or seven, or eight, or ten per cent. for the use of a sum of money should be called usurer, should be loaded with an opprobrious name, any more than if he had bought an house with it, and made a proportionable profit by the house, is more than I can see.

He wonders why it is not illegal for a lender to offer a low interest rate:

Another thing I would also wish to learn, is, why the legislator should be more anxious to limit the rate of interest one way, than the other? why he should set his face against the owners of that species of property more than of any other? why he should make it his business to prevent their getting more than a certain price for the use of it, rather than to prevent their getting less? why, in short, he should not take means for making it penal to offer less, for example, than 5 per cent. as well as to accept more?

Bentham considers the whole idea of usury prevention to be begging the question: “You, my friend, by whom the true force of words is so well understood, have, I am sure, gone before me in perceiving, that to say usury is a thing to be prevented, is neither more nor less than begging the matter in question.”

Bentham’s book was well-received in the United States, where it was reprinted numerous times and frequently cited in debates over usury laws. America’s Bentham was the poet William Cullen Bryant (1794–1878), who wrote a powerful critique of usury laws that was published in the *New York Evening Post* back in 1836:

The fact that the usury laws, arbitrary, unjust, and oppressive as they are, and unsupported by a single substantial reason, should have been suffered to exist to the present time can only be accounted for on the ground of the general and singular ignorance which has prevailed as to the true nature and character of money.

There is an intrinsic and obvious difference between borrowers, which not only justifies but absolutely de-

mands, on the part of a prudent man disposed to relieve the wants of applicants, a very different rate of interest. Two persons can hardly present them selves in precisely equal circumstances to solicit a loan. One man is cautious; another is rash. One is a close calculator, sober in his views, and unexcitable in his temperament; another is visionary and enthusiastic. One has tangible security to offer; another nothing but airy one of a promise. Who shall say that to lend money to these several persons is worth in each case an equal premium?

### Conclusion

Usury laws are some of the most arbitrary, unjust, and unnecessary laws in existence. Maximum interest rates are set by politicians in legislatures based on nothing but their whims and imaginations. What is “usurious” in one state is perfectly fine in another state. Rather than taking advantage of vulnerable populations, loans at “usurious” interest rates help them obtain money that they would otherwise not be able to obtain. Government attempts to prevent excessive, unreasonable, or usurious levels of inter-

est shut riskier borrowers out of credit markets and increase the incidence of fraud, theft, and resorting to loan sharking. How can usury be a crime when it is a transaction by mutual consent of lender and borrower?

If usury laws are arbitrary, unjust, and unnecessary, what, then, should be done? On the federal level, the Consumer Financial Protection Bureau should be eliminated. It is neither authorized by the Constitution nor a feature of the proper role of government. The federal government should not be regulating payday lenders or any other type of lender. On the state level, all laws that differentiate between interest and usury or set a maximum interest rate should be repealed. Payday lenders shouldn’t be regulated any more than any other business should be regulated, which is to say, not at all.

---

*Laurence M. Vance is a columnist and policy advisor for The Future of Freedom Foundation, an associated scholar of the Ludwig von Mises Institute, and a columnist, blogger, and book reviewer at LewRockwell.com. Send him email at: [lmvance@laurencemvance.com](mailto:lmvance@laurencemvance.com). Visit his website at: [www.vancepublications.com](http://www.vancepublications.com).*

---

---

---

# Celebrating Adam Smith on His 300th Birthday

---

by Richard M. Ebeling



Three hundred years ago, on June 5, 1723, one of the most important and influential thinkers in modern history, Adam Smith, was born in the small Scottish village of Kirkcaldy. There are few individuals who it can be said have left as lasting and as positive a legacy on humankind as Adam Smith.

He authored only two books, *The Theory of Moral Sentiments* (1759) and *An Inquiry in the Nature and Causes of the Wealth of Nations* (1776). Both works, especially the latter, helped transform humanity from a state of almost universal poverty to one of amazing prosperity and human betterment. It might be thought that such lofty rhetoric about Adam Smith is merely an ex-

aggerated instance of poetic license, but if there is any instance of the role and the power of ideas in human events, it is exemplified by the impact of *The Wealth of Nations*. As economist Thomas Sowell once emphasized:

Adam Smith's *The Wealth of Nations* was a revolutionary event in 1776 — an intellectual shot heard around the world. It attacked an economic system prevalent throughout European civilization, both in Europe itself and in the Western Hemisphere colonies. The pervasive and minute economic regulations that encrusted the British economy in the eighteenth century were widely disliked and evaded, as were similar “mercantilist” schemes of economic control in other countries. But while many people chafed and complained it was Adam Smith who first convincingly demolished the whole conception behind these regulations and in the process established the new field of economics.

Not that this outcome was assured. There is the often-told story of how at the age of four, Adam

Smith was kidnapped by a band of gypsies while he and his mother were visiting relatives in a neighboring town. Good fortune had it that a posse was formed that successfully caught up with the “party of vagrant tinkers,” as they were called, and thus saved him from a life of reading tarot cards and picking pockets as a means of earning a living! On such strange events does the fate of humankind twist and turn.

---

**Smith attended the University of Glasgow and Oxford University, after which he taught at the University of Glasgow.**

---

Smith attended the University of Glasgow and Oxford University, after which he taught at the University of Edinburgh for a period of time, followed by 13 years at the University of Glasgow (1751–1763) as a professor of moral philosophy. It was during his time at the University of Glasgow that he wrote and published *The Theory of Moral Sentiments*.

For three years (1763–1766), he served as the private tutor of a young British nobleman, during which he traveled to various parts of Europe with his intellectual ward, including two years in France,

which enabled him to get to know many of the leading French Physiocrats in Paris.

One of the attractions in accepting this position as tutor was that it earned him a lifetime pension from the father of his young student. This enabled him to return to Scotland and devote his time to private study and the writing of *The Wealth of Nations*, which was published on March 9, 1776. In later years, Adam Smith was a commissioner of customs in Edinburgh and rector of the University of Glasgow. He died on July 17, 1790, at the age of 67.

**Adam Smith’s world-changing influence**

When Adam Smith died, Great Britain was beginning to be embroiled in what turned out to be a nearly 25-year war with first revolutionary France and then Napoleon’s France, which came to a final end only in 1815 with the French dictator’s defeat at the Battle of Waterloo and exile on the island of Elba. As part of Britain’s war effort, economic controls on domestic and foreign trade were intensified more than they already had been, and accompanying the controls were government budget deficits and paper-money expansion to cover the costs of the conflict.

Yet, even with all this, the ideas of one man in the remote Scottish corner of Europe changed the world. Said Hector Macpherson (1851–1924) in *Adam Smith* (1899):

When Adam Smith began to meditate upon economic problems the world was wedded to the great delusion of protection. What could a solitary thinker do singlehanded to overthrow a system which for centuries held the foremost intellects of the world in thrall? Only an intellectual Don Quixote could hope by philosophic tilting to destroy a world-wide delusion. And yet the modest, retiring philosopher of Kirkcaldy, from his obscure study, sent forth ideas which, by molding afresh the minds of statesmen, have changed the economic history of the world.

While the British and other governments were regulating, controlling, and restricting in the name of winning a war between 1790 and 1815, beneath the surface, an intellectual and ideological transformation was occurring, especially in Great Britain. While the winds of war blew over the European conti-

ment, others were reading *The Wealth of Nations*. By the time the war finally ended, a growing body of liberal thinkers had become increasingly influenced by Adam Smith's ideas. Not that actual government policies immediately reflected this growing interest and appreciation of the ideas of economic liberty. Indeed, protectionism became even more restrictive, particularly in the British agricultural sector in the form of the Corn Laws, which severely limited the importation of foreign wheat in the name of shielding the interests of the landed aristocracy.

---

**A growing body of liberal thinkers had become increasingly influenced by Adam Smith's ideas.**

---

But beginning in the 1820s and 1830s, a group of free-trade advocates formed what became known as the Anti-Corn Law League. With determination, drive, and direction greatly inspired by Adam Smith's ideas, they succeeded in 1846 in ending virtually all the protectionist restrictions on agriculture by an act of the British Parliament, and this was soon followed by reduction and removal of the remaining restrictions on industrial products and resources.

In the 1850s, 1860s, 1870s, and into the 1880s, the trend toward greater economic freedom at home and free trade abroad made amazing headway in other parts of Europe and in North America. Due to the global scope of the British Empire in the nineteenth century, the principles and fairly wide practice of freedom of trade, investment, and migration made much of the “civilized world” an open arena of commercial liberty and increasing economic prosperity. Indeed, toward the end of the nineteenth century, political economists were hallmarking the growing internationalization of commerce and culture due to the freeing of people to trade, associate, and travel for personal and peaceful purposes and mutual gain.

---

**“Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way.”**

---

Protectionist, interventionist, and militarist ideas and policies began to make their reactionary comeback in the late nineteenth and early twentieth centuries, particularly under the sway of increasing paternalist and welfare-statist programs introduced in Imperial Germany.

Nevertheless, the underlying insights and truth of Adam Smith’s ideas and his vision of what he called in *The Wealth of Nations* “a system of natural liberty” has time and again over the last 100 years inspired people and policies to retain or even restore policies of greater, if not perfect, economic liberty.

### Adam Smith’s system of natural liberty

What was this vision of freedom that Adam Smith offered in *The Wealth of Nations*?

All [government-created] systems either of preference or of restraint, therefore, being thus taken completely away the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men.

The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delu-

sions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient; the duty of superintending the industry of private people, and of directing it towards the employments most suitable to the interest of the society.

The role and responsibility of government in such a system of natural liberty, Smith went on, were national defense and domestic peace and justice through police and courts of law. He saw a variety of other tasks for the political authority that often today would go under the heading of “public goods” of various sorts. He also believed that it was the government’s responsibility to fund and provide basic education for purposes of a literate and informed citizenry.

---

**His was a vision of a free society in which each individual was to be left alone to guide and direct his own life.**

---

But certainly, by the standards of our own time, when governments intrude and interfere with virtually everything we do in our social and economic lives, Adam Smith’s list of governmental func-

tions was very limited in number and in scope. His was a vision of a fundamentally free society in which each individual was to be left alone to guide and direct his own life according to his own purposes and plans, in voluntary and peaceful association with others.

### Self-Interest and social institutions

If individuals are to be considered at “natural liberty” to live their lives as they choose, without government command or control, then what ensures coordinated harmony among multitudes of people who rely and are dependent upon each other for most of the necessities, amenities, and luxuries of everyday life? Adam Smith explained the process by which this is made possible on the basis of individual incentives and social institutions.

Individuals constantly need the assistance of their fellow man, Smith said:

He will be more likely to prevail if he can interest their self-love in his favor, and show them that it is for their own advantage to do for him what he requires of them. Whoever offers another a bargain of any kind, proposes to do this. Give me that which I want and you

shall have this which you want is the meaning of every such offer; and it is in this manner that we obtain from one another the far greater part of those good offices which we stand in need of. It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages.

---

**Each of them has given up what they value less highly, in the circumstances, for what they value more highly.**

---

It is in the nature of human beings that they have “interests.” Anyone who also reads Adam Smith’s *The Theory of Moral Sentiments* soon discovers that he understands and emphasizes the ethical senses and the empathic ties that bind people together, out of which arises the moral codes and benchmarks that come to guide one’s actions. There is nothing in Adam Smith to justify the misrepresentations that portray him as a preacher of “selfishness” or “greed,” taken to mean a

disregard for the existence or rights of others. Smith’s entire outlook was entirely the opposite.

### Individual freedom and voluntary exchange

What he did believe was that only individuals can really know their own circumstances, the value other people and things may have for them, and what actions they consider best to advance the betterment of themselves and those others they care about.

One man may want a pair of shoes for himself or his children. Another person may want to acquire a set of clothes for his own use or to assist a friend or relative who has fallen upon hard times and who could use something new to wear. A shoemaker sells a pair of shoes to the tailor who wants the shoes, while the tailor trades to the shoemaker the clothes desired by the shoemaker.

Each of them has given up what they value less highly, in the circumstances, for what they value more highly. Each has gained from the trade, and each has had an incentive to produce something that another wants as the means of acquiring what they desire from the other.

What makes this possible are a set of moral and legal institutions



that guide and direct the incentivized actions of each. First, the individual is taken to have a right to his own life, thus freely choosing his own ends and the decisions concerning the best means to attain them. Second, human relations are based on the principle and practice of voluntary association and exchange. That is, individuals are prohibited, both in the moral and legal sense, from killing, stealing, or defrauding each other in acquiring from others any and all things that may be desired.

This leaves only one avenue remaining to those unable to produce and supply for themselves all that they want. They must turn their abilities, skills, and knowledge to devoting themselves to finding some niche in the social system of division of labor in which they can specialize in the provision and sale of what their fellow human beings may value enough to purchase, so through this exchange the means may be acquired to buy all that is wanted and desired.

The fact that exchange is voluntary and requires the mutual agreement among the participants means that any other individual may attempt to compete in trying to obtain the business of others in society. This is what Smith meant when

he said, in his explanation of the system of natural liberty, that anyone is free to apply his industry and capital in competition with others.

---

**This means that the self-interest of each is also directed to always attempting to make the better product.**

---

This means that the self-interest of each is also directed to always attempting to make the better product, the new product, the less-expensive product as the means of the gaining customers in rivalry with one's competitors. Hence, that same motive of self-interest and the institutional setting of nonviolence act as the engines for general human betterment, in that one's own success and fortune is bound up with improving the lives of others.

### **Society as an evolving spontaneous order**

Adam Smith did not believe that society, with its ethics and institutions, was the product of government planning or design. He was part of a body of Scottish scholarship in the eighteenth century that focused on the evolutionary and "spontaneous" development of much of the social order. Few things were as profoundly important to

the material improvement of humankind than the system of division of labor, by which each tends to specialize in what he can do better than other members of the community, from which emerges an interdependent system of global trade.

Already in 1776, Smith was able to point to the international network of resource supplies and production when looking at how the simple and coarse woolen coat worn by a common day laborer is made. From the shepherd with his flock, to the spinners and dye makers, to the ship builders and seamen who bring from far flung corners of the world other materials and ingredients that go into manufacture of that coat, the interconnectedness of human care and comfort was already pronounced. Smith concluded:

The woolen coat, for example, which covers the day-laborer, as coarse and rough as it may appear, is the produce of the joint labor of a great multitude of workmen.... If we examine, I say, all these things and consider what a variety of labor is employed about each of them, we shall be sensible that without the assistance and cooperation of many thousands,

the very meanest person in a civilized country could not be provided, even according to, what we very falsely imagine, the easy and simple manner in which he is commonly accommodated.

---

**Few things were as profoundly important to the material improvement of humankind than the system of division of labor.**

---

A division of labor, and similar to language, custom, mores, rules of conduct, and a variety of other social institutions, had not been created by political decree or government imposition. It had started to emerge long ago in human history as people discovered and saw advantages in making things in greater number than they could use themselves, precisely because of a realization that others would take parts of this surplus production in trade for what they wanted and could not fully or effectively provide for themselves.

The generalized conclusion from this is found in one of the most famous passages in *The Wealth of Nations*, in which Adam Smith explains that it is in everyone's personal interest to try to apply his labor, resources, and capital

in those ways that he believes will bring forth the greatest possible return. But in doing so, he not only may further his own interest but also that of all those he is attempting to supply and serve in the marketplace, since he is directing his efforts into those avenues in which he thinks his fellow men find them of the greatest value in advancing their own purposes:

Every individual who employs his capital in the support of domestic industry necessarily endeavors so to direct that industry, that its produce may be of the greatest possible value.... He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it.... By directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention.... Nor is it always the worse for the society that it was no part of it. By pursuing his own interest, he frequently promotes that of the society more effectually than when he

really intends to promote it. I have never known much good done by those who affected to trade for the public good.

### Individuals know far better their own interests and circumstances

The last point — that Smith had never known much good from trade in which people intentionally try to promote the “public good” — highlights his insistence that individuals know far better their own circumstances and discovered opportunities than those in political power who always know little or nothing about the actual individual human beings over whom they rule:

What is the specie of domestic industry which his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, can, in his own situation, judge much better than any statesman or lawgiver can do for him. The statesman, who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most unnecessary attention, but assume an authority which can safely be

trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it.

---

**“The man of system, on the contrary, is apt to be very wise in his own conceit.”**

---

Smith was warning, in other words, of a most particular danger from the government having control and command over the economic affairs of the citizenry. Those who most frequently gravitate to positions of regulatory and planning authority are the very ones possessing the greatest hubris and arrogance in believing so highly in their own wisdom and ability that they will practice little hesitancy in imposing their designs on the rest of humanity; they give no thought that they may not know enough to presume to do so, and may be completely wrong in thinking that their “plan” for society would or could be superior to simply leaving people alone to design their own lives and associative relationships.

This point was emphasized even more forcefully in *The Theory of*

*Moral Sentiments* when he discussed the social engineer and the central planner, who Adam Smith called “the man of system”:

The man of system, on the contrary, is apt to be very wise in his own conceit, and is often so enamored with the supposed beauty of his own ideal plan of government that he cannot suffer the smallest deviation from any part of it. He goes on to establish it completely and in all its parts, without any regard either to the great interests or to the strong prejudices which may oppose it; he seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces upon a chess-board. He does not consider that the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might choose to impress upon it.

If these two principles co-

incide and act in the same direction, the game of human society will go on easily and harmoniously, and is very likely to be happy and successful. If they are opposite or different, the game will go on miserably, and the society must be at all times in the highest degree of disorder... To insist upon establishing, and upon establishing all at once, and in spite of all opposition, everything which that idea may require, must often be the highest degree of arrogance. It is to erect his own judgment into the supreme standard of right and wrong. It is to fancy himself the only wise and worthy man in the commonwealth, and that his fellow citizens should accommodate themselves to him, and not him to them.

### Greater prosperity through free trade

His warnings of the dangers from overbearing and intrusive government were, perhaps, most famous in his criticisms of government trade restrictions in the form of tariffs and import prohibitions. No one makes for himself, he said, what he can buy less expensively from another. He pays for it by spe-

cializing in some line of production in which he has a greater cost advantage than some trading partner. If this is true for any one of us, then it is no less true for all of us as the citizens of a country. Why make at home what will cost more than if purchased from some supplier in another country and pay for it with one of our products that we can make for a more attractive price than if our foreign trading partner made it for himself at home?

What is prudence in the conduct of every private family can scarce be folly in that of a great kingdom. If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better to buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage. It is certainly not employed to the greatest advantage when it is directed towards an object which it can buy cheaper than it can make it.... The industry of a country, therefore, is thus turned away from a more, to a less advantageous employment, and the exchangeable value of its annual produce, instead of being

increased, according to the intention of the lawgiver, must necessarily be diminished by every such regulation.

All that was necessary, Adam Smith argued, was to leave men free to follow their own self-interests: Production and prosperity will then be forthcoming in the directions and forms most advantageous to the members of the society as a whole, whether that trade is geared toward domestic or foreign demand and supply.

### Prejudices of the public and the power of the interests

In *The Wealth of Nations*, Adam Smith expresses little optimism that the case for economic liberty or his criticism of government intervention would succeed in bringing about the needed reforms for the establishment of a free society. He believed that two forces were at work to make it unlikely. He referred to them as “the prejudices of the public” and “the power of the interests.” By the prejudices of the public, Smith meant the difficulty of getting the ordinary citizen to follow the economist’s logic of how markets work without the directing hand of government, and why government restrictions and regula-

tions only succeed in standing in the way of the economic prosperity and general human betterment that freedom makes possible.

The power of the interests referred to the various special-interest groups in society that live off government favors and privileges of various and sundry sorts at the expense of the larger majority in society. They will do all in their ability to prevent their privileges and favors from being reduced or abolished, and they will attempt in any and all ways to have them increased at the expense of potential competitors and the general consuming public. The critic of government interventions who challenges their trade barriers, domestic monopolies, and financial subsidies are often subject to “infamous abuse” and “sometimes real danger” due to the furious outrage of those who would lose from the establishment of a freer and more open market society.

### Smith transformed the world

Yet, in spite of Adam Smith’s pessimism, within one lifetime after his death in 1790, his ideas of natural liberty widely existed in practice, especially in Great Britain and the United States, and other countries were moving in the same direction, even if not as thoroughly.

That is not to say that a world of laissez-faire freedom of trade triumphed completely anywhere. But it nonetheless transformed much of the Western world and beyond into the direction of personal and economic liberty, lifting humanity out of poverty. In his *History of Civilization in England* (1857), British historian Henry Thomas Buckle declared:

In the year 1776, Adam Smith published his *Wealth of Nations*; which, looking at its ultimate results, is probably the most important book that has ever been written, and is certainly the most valuable contribution ever made by a single man towards establishing the principles on which government should be based. In this great work, the old theory of protection applied to commerce, was destroyed in nearly all its parts ... and innumerable absurdities, which had been accumulating for ages, were suddenly swept away.... At the present day [1857], eighty years after the publication of Smith's *Wealth of Nations*, there is not to be found anyone of tolerable education

who is not ashamed of holding opinions which, before the time of Adam Smith, were universally received.

The insights and truth that Adam Smith dedicated his life to articulating and sharing with the rest of humankind stand out, as various commentators have stated, as one of the great contributions to human understanding and betterment. It is only appropriate, therefore, that we pay homage to Adam Smith on, this, his 300th birthday.

---

*Richard M. Ebeling is the BB&T Distinguished Professor of Ethics and Free Enterprise Leadership at The Citadel. He was professor of economics at Northwood University and Hillsdale College, president of the Foundation for Economic Education, and served as vice president of academic affairs for FFF.*

---

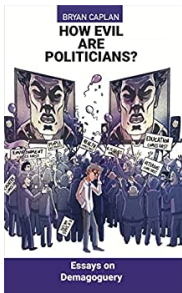
**NEXT MONTH:**  
“The Dangerous Pursuit of Empire: Russia, China, and the United States”  
by Richard M. Ebeling

---

# How Evil Are Politicians? Part 2

by George C. Leef

*How Evil Are Politicians? Essays on Demagoguery* by Bryan Caplan (Bet On It Books, 2022)



Caplan follows up on that observation with a devastating point about the calculating political mindset. Suppose that a politician had to choose between a populace of nothing but independent, self-supporting individuals or one with a large percentage of envious layabouts who look to government for their support? Obviously, he would choose the latter because it has so many people clamoring for the goodies that only politicians can dispense. That helps to explain why public education is so miserable. Hordes of angry, incompetent, and dependent people are more easily

manipulated than are well-educated, independent people.

Poor education also helps to explain why so many Americans (especially younger ones) say that they favor socialism. Caplan calls them “negligent romantics.” They know very little and care even less about the hideous historical record of socialism. They claim that they want to make the United States into a big version of socialist Sweden or Denmark. But is that as far as they want to go? (Both countries are, after all, ranked as being more free than the United States now is.) Caplan suspects that many Americans who say they want socialism would be willing to go much further down that road than those Scandinavian welfare states.

Socialism gets the traction it does mainly because of a great character flaw in many people — envy. They see that others have been more successful than they have and become envious. Along come politicians who promise to level out the “unfair distribution” of wealth to give them what they want. The gratifying of envy has disastrous effects on incentives. Caplan praises Helmut Schoeck’s book *Envy* and observes that envy retarded progress for thousands of years and could turn the clock back today.



How about immigration? Caplan is simply dazzling in his argumentation in favor of open immigration. His opening salvo is a chapter entitled “Tell Me the Difference Between Jim Crow and Immigration Restrictions.” In it, he makes the case that the mandatory governmental discrimination against illegal immigrants is much harsher than that suffered by blacks during the era of segregation. Blacks were permitted to live in most places, but illegal immigrants can’t legally live anywhere; blacks were permitted to work at most jobs, but illegal immigrants can’t legally work at any job.

In another chapter, Caplan celebrates Open Borders Day and observes that immigrants (legal and illegal) work hard to make better lives for themselves and contribute far more to improving the world here than they could possibly have done in their native lands. Moreover, most American citizens are perfectly content to hire them without concern over their legal status.

Nevertheless, we hear shrill critics railing against illegal immigrants all the time. Caplan writes, “the critics are angry when immigrants work, and angry when they’re on welfare. They are angry if immigrants are visible, and angry if immigrants keep to themselves.”

One might conclude that the critics are demagogues who are merely looking for an issue to help them obtain power.

---

**Immigrants contribute far more to improving the world here than they could possibly have done in their native lands.**

---

And in another chapter about immigration, Caplan challenges economist turned left propagandist Paul Krugman, who has written that the immigration restrictions of the 1930s, bad as they certainly were for the people who were kept out of the United States, were beneficial in that the welfare state probably couldn’t have gained its foothold here otherwise. Caplan’s rejoinder is sharp: “Why is [Krugman] so convinced that this marginal policy change outweighs the massive harm by making almost all immigration illegal?” That massive harm includes the fates of many who were turned away when they sought refuge from the Nazis in Europe. It shows a badly flawed moral compass to think that having a federal welfare system was worth that cost.

War is another topic that occupies our author. He describes his position as “pacifist” — one who

opposes war on principle. Those who are not pacifists usually respond that while wars do have lots of bad consequences, they must be waged when the long-run consequences will outweigh the harms. But that defense is highly problematic. Caplan points out that it is extremely difficult to predict the long-run consequences of a proposed war. It isn't morally justified unless there are very strong reasons to believe that the good will exceed the bad. That is why, he writes, "Pacifism is a sound guide to action."

Nations get into wars not because wise people have done precise cost/benefit calculations but because they're good for politicians and some of the powerful interest groups that support them.

But, nonpacifists reply, surely World War II had to be fought. Pacifism would not have worked. To that, Caplan replies that had pacifism prevailed earlier, the First

World War would not have occurred and therefore militarists wouldn't have come to power in the 1930s.

What about the atomic bombing of Hiroshima and Nagasaki? In a devastating chapter, Caplan argues that if you agree that the My Lai massacre in Vietnam was a war crime, then you must also conclude that the atomic bombings were war crimes. Both were avoidable and led to needless death and suffering.

What causes war? Quite simply, writes Caplan, bad ideas, such as the idea of nationalism, for which the antidote is libertarianism.

*How Evil are Politicians?* is an intellectual joy ride. Get a copy and savor its bristling arguments in favor of the free, truly liberal society.

---

*George C. Leef is the research director of the Martin Center for Academic Renewal in Raleigh, North Carolina.*

---

# SUPPORTING THE FUTURE OF FREEDOM FOUNDATION

\*\*\*

Our work advancing freedom depends on the financial support we receive from people who share our commitment to the moral, philosophical, and economic principles of a free society. Since The Future of Freedom Foundation is a 501(c)(3) educational foundation, donations are tax-deductible.

.....

**Donations can be made on our website**

— [www.fff.org/support](http://www.fff.org/support) —

or by calling us at 703-934-6101.

.....

*Here are ways that you can support our work:*

1. A donation, with check or credit card.
  2. A donation in any amount you choose by means of a recurring monthly charge to your credit card.
  3. A donation of stock, the full market value of the stock being tax-deductible.
  4. Naming The Future of Freedom Foundation as a beneficiary in your will or living trust, charitable gift annuity or trust, or life-insurance policy.
- .....

Over the years, planned giving has played an important role in sustaining our operations.

*Thank you for your support of our work  
and your commitment to a free society!*



THE FUTURE  
*of*  
FREEDOM FOUNDATION

11350 Random Hills Road  
Suite 800  
Fairfax, VA 22030

★★★

[www.fff.org](http://www.fff.org)

[fff@fff.org](mailto:fff@fff.org)

703-934-6101