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# FUTURE OF FREEDOM

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*Rest can only be found in everlasting principles.*

— Charles Sumner

# FUTURE OF FREEDOM

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## The Real Lessons from the Iraq War, Part 2

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by *Jacob G. Hornberger*



Our nation was founded as a limited-government republic. It was a type of government whose powers were few and limited. That's the way our ancestors wanted it. They believed that the greatest threat to their freedom and well-being lay not with some foreign threat but rather with their very own government.

Our ancestors were fiercely opposed to what they called a “standing army,” by which they meant a large, permanent military establishment. That's why the United States had only a small military force as part of its limited-government republic. Our ancestors understood that large, powerful military establishments were historically how tyrannical regimes imposed their will on their citizens.

America's founding foreign policy was one of nonintervention in the affairs of other nations. That policy was expressed in a speech that John Quincy Adams delivered to Congress on the Fourth of July, 1821, which was entitled “In Search of Monsters to Destroy.” Adams pointed out that lots of bad things happen around the world — tyranny, oppression, war, strife, famine, revolutions, and the like. However, pursuant to its policy of noninterventionism, the United States would not intervene to slay any of those “monsters.”

Instead, Americans implemented a policy of open immigration, a system that enabled people from around the world to come to the United States without fear of being forcibly deported to their homeland or elsewhere.

It's also worth mentioning some of the other characteristics of America's founding economic system: No income tax or IRS, Social Security, Medicare, Medicaid, farm subsidies, education grants, paper money, Federal Reserve, welfare, foreign aid, Pentagon, CIA, NSA, FBI, public (i.e., government) schooling, drug laws, minimum wage, or a government-regulated economy.

That was our system of government and our economic system for

more than 150 years. It wasn't perfect by any means — slavery being the premier example of imperfection — but it succeeded in bringing about the freest, most prosperous, and most charitable nation in history. It was not a coincidence that millions of people fled foreign lands to come and live in this highly unusual society.

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To win the Cold War, the United States would have to “temporarily” abandon its founding governmental system.

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In the late 1800s and early 1900s, however, increasing numbers of Americans began agitating for a new direction — one based on a much more powerful government, both in domestic affairs and in foreign affairs.

At the state level, for example, there was a growing number of economic regulations, such as minimum-wage laws, maximum-hours laws, and occupational licensure. At the national level, in 1913, statisticians succeeded in enacting the Sixteenth Amendment, which ushered in the federal income tax, and the Federal Reserve System. With the advent of the Great Depression in the 1930s, another monumental change occurred with the conversion of

America's economic system to a welfare state and America's monetary system to a paper-money standard.

### The conversion to a national-security state

But the biggest change occurred after World War II when the federal government was converted from a limited-government republic to a national-security state, a type of totalitarian-like structure in which government officials wield omnipotent powers, such as the powers of assassination, torture, and indefinite detention.

The justification for this massive change, which was accomplished without even the semblance of a constitutional amendment, was a supposed international communist conspiracy that emanated from Moscow and whose aim was to conquer the world, including the United States. Since the Soviets were not constrained by constitutional limitations, the argument went, they would be able to defeat the United States. Therefore, to win the Cold War, the United States would have to “temporarily” abandon its founding governmental system of a limited-government republic in favor of the totalitarian-like system entailing the Pentagon, the

vast military-industrial complex, the CIA, and the NSA.

The irony was that the Soviet Union had been a partner and ally of the United States during World War II. After the war, however, U.S. officials informed the American people that they now had a new official enemy, one that was arguably a bigger threat than Nazi Germany. That new enemy was the Soviet Union and, to a larger extent, “godless communism.”

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**The irony was that the Soviet Union had been a partner and ally of the United States during World War II.**

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To ensure that the American people went along with the change in our form of government, President Harry Truman was advised to scare the “hell out of the American people.” He did that with the threat that international communism and the Soviet Union supposedly posed to the American people.

Thus, the new official enemy of the American people became Russia and the rest of the Soviet Union, along with Red China and other communist regimes. For some 45 years, the fear of the Reds inculcated in the American people guaranteed not only the continued exis-

tence of the national-security establishment but also ever-increasing amounts of tax-funded largess for the Pentagon, the CIA, the NSA, and the ever-growing number of “defense” contractors who depended on feeding at the public trough.

### A new official enemy

Then in 1989, the Cold War suddenly and unexpectedly came to an end. With Russia’s decision to dismantle the Soviet Union, withdraw from East Germany and Eastern Europe, and declare an end to the Cold War, the U.S. national-security establishment had lost its official enemy, one that it thought would last forever.

That, of course, should have meant the end of the national-security state form of government. After all, it was the supposed threat of the Soviet Union that had been used to justify the conversion to a national-security state. With the end of the Soviet Union and the supposed international communist conspiracy, Americans were entitled to have their founding system of a limited-government republic restored to them.

Alas, it was not to be. Once a nation has been converted to a national-security state, it is extremely dif-

difficult to persuade an all-powerful military-intelligence establishment to disappear quietly into the night. There was no possibility that the Pentagon, the CIA, and the NSA were voluntarily going to do that.

Instead, they simply needed a new official enemy, one that would replace the Soviet Union and “godless communism.” Once that was accomplished, the national-security establishment would be off and running once again.

Enter Saddam Hussein, the dictator of Iraq. He was made America’s new official enemy. U.S. officials labeled him the “new Hitler.” Like Nazi Germany and then the Soviet Reds, this “new Hitler” was coming to get us. Throughout the 1990s, the daily lament among the American people became “Saddam! Saddam! Saddam!”

The irony was that, just like the Soviet Union, Saddam had previously been a partner and ally of the United States. That was during the 1980s, when U.S. officials were supporting Saddam in his war of aggression against Iran and furnishing him with those weapons of mass destruction that would later be used as the excuse for invading Iraq.

Why did U.S. officials want to help Saddam to kill Iranians? The reason was that the Iranian people

had revolted against the brutal tyranny of the Shah of Iran in 1979, angering U.S. officials. The CIA had instituted a coup in Iran in 1953 that ousted Iran’s democratically elected prime minister, Mohammad Mossadegh, from power and replaced him with the brutal unelected tyranny of the Shah. U.S. officials never forgave the Iranian people for doing that and, therefore, were eager to help Saddam to kill them.

However, once the U.S. national-security state needed a new official enemy, they turned on Saddam, just as they had turned on the Soviet Union.

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**An irony is that Saddam had previously been a partner and ally of the United States.**

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When Saddam expressed anger over Kuwait’s slant-drilling into Iraq, thereby stealing Iraq’s oil, U.S. officials expressed indifference to the conflict. However, once Iraq invaded Kuwait, everything changed. Suddenly, the world was faced with a “new Hitler” who, if not stopped, would supposedly conquer the world.

Never mind that Iraq was a poor, Third-World country with a third-rate military. What mattered was

that the U.S. national-security establishment had a new official enemy, at least temporarily, especially since President George H. W. Bush permitted the “new Hitler” to remain in power rather than forcibly removing him.

### The sanctions on Iraq

During the Persian Gulf War, U.S. officials massacred Iraqi forces and, not surprisingly, easily won the war. During the conflict, the Pentagon made a fateful decision: After deciding that bombing Iraq’s water-and-sewage treatment plants would help spread infectious illnesses among the Iraqi people, the Pentagon ordered the bombing.

After the war was over, the United States and the UN enforced one of the most brutal systems of economic sanctions in history, one that prevented Iraqi officials from repairing or replacing those bombed-out plants. The purpose of the sanctions was to target the Iraqi people with death and impoverishment as a way to induce Saddam to resign from power and be replaced with another pro-U.S. dictator.

The sanctions contributed to the deaths of hundreds of thousands of Iraqi children but failed in removing Saddam from power. In 1996, U.S. ambassador to the UN

Madeleine Albright declared that the deaths of half-a-million Iraqi children from the sanctions had been “worth it.” By “it,” she meant the U.S. effort to remove Saddam from power. The sanctions continued for another seven years after she made that statement.

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### Anger and rage were boiling in the Middle East over the continued killing of the Iraqi children.

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Throughout the 1990s, anger and rage were boiling in the Middle East over the continued killing of the Iraqi children. Commentators were warning the United States that if it persisted with these killings, there would inevitably be retaliatory terrorist strikes on American soil.

It didn’t take a rocket scientist to predict that that would ultimately happen, especially given the shootings of CIA officials in McLean, Virginia, the 1993 attack on the World Trade Center, the attack on the USS Cole, and the attacks on the U.S. embassies in East Africa. The terrorists cited the U.S. government’s killing machine in the Middle East as their motive.

### The war on terrorism

The U.S. government ignored those warnings. When the inevita-



ble attacks came on September 11, 2001, the national-security establishment now had another official enemy — terrorism (and, to a certain extent, Islam). The Pentagon, the CIA, and the NSA were off to the races again. Terrorism had supplanted “godless communism” and Saddam as America’s new official enemy.

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**The invasions and occupations of Afghanistan and Iraq became the greatest terrorist-producing machine in history.**

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In fact, it was believed that terrorism might prove to be an even better official enemy than “godless communism” and Saddam because it was likely to last longer, especially since the fear generated by the 9/11 attacks were used to justify the invasions and occupations of Afghanistan and Iraq. With the continuous killings that took place in those operations, the threat of terrorism became continuous as well, which is why the war on terrorism was considered to be a perpetual war. The invasions and occupations of Afghanistan and Iraq became the greatest terrorist-producing machine in history.

The 9/11 attacks enabled U.S. officials to do what their sanctions

had failed to do — remove Saddam from power, except that it was through an invasion and a war of aggression rather than through sanctions. In the process of achieving that end, U.S. forces killed, injured, maimed, or tortured countless Iraqis and destroyed the entire country. For their part, Americans were exhorted to thank the troops for their “service.”

### **A renewed Cold War**

Meanwhile, U.S. officials never gave up hope of reviving their old Cold War racket against Russia. Throughout the time they were using Saddam Hussein — the “new Hitler” — as their new official enemy, the Pentagon was using NATO to expand eastward by absorbing former members of the Warsaw Pact, which would enable the Pentagon to place its troops and missiles ever closer to Russia’s border.

Not surprisingly, Russia objected, just as the U.S. government objected when the Soviet Union installed its missiles in Cuba in 1962. Of course, the Pentagon ignored those objections, which ultimately resulted in the Russian invasion of Ukraine and a U.S. proxy war against Russia.

Thus, the national-security state now has the best of all worlds — a

renewal of its Cold War against Russia and the continuation of its war on terrorism. Taxpayer money continues to flood into the coffers of the Pentagon, the CIA, and the NSA, and their army of voracious “defense” contractors feeding at the public trough. And it’s all to keep us “safe” from the enemies that these rackets have produced.

Meanwhile, Iraq, which is still occupied by U.S. military forces, continues to be the hell-hole that the U.S. national-security establish-

ment made it, under the rubric of “Operation Iraqi Freedom.”

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

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**NEXT MONTH:**  
**“A Pox on Many Houses  
in Ukraine”**  
*by Jacob G. Hornberger*

*Political freedom and the whole gamut of civil rights were impossible until there existed the freedom of property which emerged as the burdens of feudal tenure were cast off.*

— Bertel M. Sparks

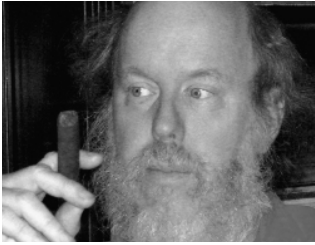
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# Biden's Wrecking Ball Benevolence for Homebuyers

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by James Bovard



When did being credit-worthy become a federal crime? The Biden administration is intentionally punishing homebuyers with good credit scores to subsidize people with shaky histories of paying their debts. But the latest salvation scheme ignores the sordid history of federal policymakers ravaging homeowners they promised to rescue.

As of May 1, a Biden administration decree requires adjusting mortgage calculations to penalize homebuyers with a FICO credit score of above 680 — almost two-thirds of the population. This levy will be used to reduce costs for people with low credit scores — that is, risky borrowers more likely to default on mortgages.

Congressman Michael Lawyer (R-NY) complained, “This new rule unfairly penalizes Americans for having good credit and rewards those who accrue debt and don’t pay their bills with cheaper loans.” Former Federal Housing Finance Agency director Mark Calabria emailed me that moving away from “risk-based credit ... will ultimately harm both borrowers and financial stability.”

Federal regulations require that all charges and credits to buyers and sellers be explicitly listed in mortgage settlement statements. The new federally mandated penalty for creditworthy borrowers should be explicitly listed on loan documents as a Social Justice Surtax. That surtax could amount to \$60 or more per month — equivalent to more than \$20,000 over a 30-year mortgage.

The new compulsory cross-subsidy is part of the Biden crusade to close the homeownership gap between black and white families. “The average credit score in white communities was 727 in 2021, compared with 667 in Hispanic communities and 627 in black communities,” *Newsweek* noted.

According to Federal Housing Finance Agency director Sandra Thompson, the new rules are de-

signed to “increase pricing support for purchase borrowers limited by income or by wealth.” She testified to Congress last year that the racial homeownership gap “is higher today than when the Fair Housing Act [of 1968] was passed.” But Thompson neglected to mention the long record of federal urban destruction after that law was passed. The Biden administration is pushing a “remedy” — mortgages for relatively uncreditworthy borrowers — that has twice sown widespread devastation across the nation.

### HUD's section 235 program

In 1968, the same year that Congress banned housing discrimination, it also created a new Housing and Urban Development (HUD) program known as Section 235 to provide heavily subsidized loans for low-income families and individuals to allow them to buy homes, with special assistance for mothers on welfare. Since most Section 235 recipients had almost no equity in their homes, it was cheaper for them to abandon their house than to repair or sell it. Tens of thousands of homes were left to rot in previously stable neighborhoods. *National Journal* said in 1971 that the Federal Housing Administration was “financing the

collapse of large residential areas of the center cities.”

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**The Biden administration is pushing a “remedy” — mortgages for relatively uncreditworthy borrowers.**

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Between 1970 and 1976, HUD took over 13 percent of the housing stock in Detroit — 25,000 homes — after owners abandoned the houses or defaulted. The *Detroit News* reported that Section 235 was turning Detroit neighborhoods into “ghost towns’ where a handful of families exist amid vandalized and fire-gutted homes.” Detroit City Council President Carl Levin (later a U.S. senator) castigated “Hurricane HUD.” In 1976, the Detroit Board of Assessors estimated that “HUD has cost every citizen in Detroit 20 percent on his house.”

The *Chicago Tribune* in 1975 denounced Section 235 for causing “the decay of hundreds of good neighborhoods.... No natural disaster on record has caused destruction on the scale of the government’s housing programs.” President Richard Nixon, surveying Section 235’s wreckage, complained in 1973: “All across America, the federal government has become the biggest slumlord in history.” Bipar-

tisan backlashes led to the down-scaling of Section 235.

But by the 1990s, the lessons of Section 235 were forgotten. Roughly 41% of black households owned their own homes in 1995, compared to over 70% of white households. The Clinton administration championed the idea that racism was to blame. HUD Secretary Andrew Cuomo declared in 1998, “We will not tolerate a continued home ownership gap as wide as the Grand Canyon that divides Americans into two societies, separate and unequal.” The Clinton administration exacted multibillion dollar penalties from mortgage companies it asserted had not made enough loans to minorities with subpar credit histories.

### **Bush’s compassionate conservatism**

President George W. Bush seized the issue to showcase his “compassionate conservatism.” Bush proclaimed in 2002 that he would “use the mighty muscle of the federal government” to boost homeownership. Bush was determined to end the bias against people who wanted to buy a home but had no money. A White House Fact Sheet on June 17, 2002, declared that Bush’s agenda “will help tear down the barriers to homeownership that stand in the way of our nation’s Af-

rican-American, Hispanic and other minority families.... The single biggest barrier to homeownership is accumulating funds for a down-payment.”

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**In Bush’s eyes,  
self-reliance was so wonderful  
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Congress passed Bush’s American Dream Downpayment Act in 2003, authorizing federal handouts to first-time homebuyers of up to \$10,000 or 6% of the home’s purchase price. Bush also swayed Congress to permit the Federal Housing Administration to make no-downpayment loans to low-income Americans. Bush proclaimed: “Core American values of individuality, thrift, responsibility, and self-reliance are embodied in homeownership.” In Bush’s eyes, self-reliance was so wonderful that the government should subsidize it. Bush’s “generosity” was lavishly rewarded. “In the 2004 election cycle, mortgage bankers and brokers poured nearly \$847,000 into Bush’s reelection campaign, more than triple their contributions in 2000,” the *New York Times* reported.

The Government Accountability Office reported in 2010, “Non-

prime mortgage originations increased dramatically from 2000 through 2006, rising from about 12 percent (\$125 billion) of all mortgage originations to about 34 percent (\$1 trillion).” Fannie Mae and Freddie Mac bought up bundles of subprime loans created by other companies, deadening the incentive for mortgage lenders to avoid reckless behavior. The tidal wave of subsidized lending helped send housing prices through the roof. Lawrence Lindsay, Bush’s first chief economic adviser, observed in 2008, “No one wanted to stop that bubble, It would have conflicted with the president’s own policies.”

### The housing collapse

When a recession began in 2007, home values skidded and laid-off workers ceased paying mortgages. In mid-2008, Fannie and Freddie declared bankruptcy. Bush absolved himself by blaming corporate greed, declaring, “Wall Street got drunk.”

Clinton-Bush policies boosted the percentage of Americans living in their own homes to 69.2% — the highest rate on record. However, after housing prices collapsed, the rate fell to 62.9% by 2016. This is the equivalent of almost 8 million families or individuals losing or other-

wise exiting their homes. This was the biggest loss of home ownership in American history, a much sharper fall than occurred during the Great Depression. Housing values have rebounded in many areas since the 2007 crash, but that is no consolation to people who lost their homes.

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**“Affordable housing turned out to be the path to perdition for the U.S. mortgage market.”**

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Because minority households had seen the fastest growth in homeownership over the prior decade, the housing collapse ravaged the net worth of black and Hispanic households. “The implosion of the subprime lending market has left a scar on the finances of black Americans — one that not only has wiped out a generation of economic progress but could leave them at a financial disadvantage for decades,” the *Washington Post* noted in 2012. The median net worth for Hispanic households declined by 66% between 2005 and 2009. That devastation was aptly described in a 2017 federal appeals court dissenting opinion as “wrecking ball benevolence” (quoting a 2004 *Barron’s* oped I wrote). “Affordable housing turned out to be the path to perdi-

tion for the U.S. mortgage market,” Federal Judge Janice Rogers Brown lamented in that court opinion. As *New York Times* business reporter Gretchen Morgenson and Joshua Rosner wrote in their book, *Reckless Endangerment*, “homeownership was no longer the route to a secure spot in middle-class America. For millions of families, especially those in the lower economic segments of the population, borrowing to buy a home had put them squarely on the road to personal and financial ruin.”

### Crony capitalism

Fannie and Freddie got away with grossly irresponsible practices for many years because they spent hundreds of millions of dollars for lobbying and campaign contributions before their collapse. The Congressional Hispanic Caucus championed low lending standards, resulting in a tidal wave of NINA “no income, no assets” and “no document” mortgages that relied solely on a borrower’s asserted income. As the *Wall Street Journal* reported in 2009, “At the height of the subprime lending boom, in 2005, banking and finance companies gave at least \$2.3 million in campaign contributions to members of the Hispanic Caucus.” This was cro-

ny capitalism at its worst — politicians making out like bandits while much of the economy was left in shambles.

But Biden policymakers learned nothing from the housing crash. Instead, the administration blames the homeownership gap in part on unjust denial of mortgages to black applicants. But if that was actually the case, then black borrowers would have a lower default rate on mortgages because they were financially sounder than other applicants.

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**“Banking and finance companies gave at least \$2.3 million in campaign contributions to members of the Hispanic Caucus.”**

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However, in recent years, black mortgage holders have been almost 50% more likely to default than white borrowers, according to the American Enterprise Institute. In 2021, the mortgages for black homeowners were more than twice as likely to be in forbearance than white homeowners. The same trend has prevailed for decades. A 1995 Federal Reserve Board study examined more than 200,000 mortgage loans and found that “blacks defaulted about twice as often as white borrowers.”

### Biden's housing catastrophe

The Biden push to put shaky borrowers into homes could not be happening at a worse time. Mark Calabria observed, “We are in a deflating housing market and should be careful about luring weak credit borrowers into the market at this point in the cycle.” Mortgages are especially dicey for buyers who make minimal or no down payments and who feel they have nothing to lose, especially if home values are declining.

“The ‘early-payment default’ rate which tracks mortgage delinquencies within six months of origination, has hit its highest level since 2009 [except for the pandemic] for FHA loans, which are government-backed loans typically issued to low-income Americans who would not otherwise be able to obtain a loan,” according to Black Knight, a mortgage analytics company. Inflation could also result in sharply increasing the number of defaults.

As a *Wall Street Journal* editorial noted, “Many high-risk borrowers brought in under the [Biden mortgage subsidy edict] will buy homes in low-income neighborhoods. The working-class families who already live in those neighborhoods worked hard and saved for their homes. If their new neighbors default and face

repossession, nearby homeowners may see their property values fall.”

The new Biden penalty on creditworthy homebuyers is on par with his national moratorium on evicting deadbeat renters, food stamps policies discouraging people from getting jobs, and perpetually absolving student borrowers from paying a cent on their federal loans. These policies are not spurred by generosity. Instead, they are steps toward politicians and their appointees seizing boundless sway to determine who gets what in American life.

Giving people mortgages they can't afford can ruin their lives. Unfortunately, politicians can reap votes and campaign contributions as long as subsidized borrowers don't go bankrupt until after the next election. American homeowners and homebuyers will not be safe as long as politicians and government officials can whipsaw housing markets as they please.

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# Too Far, or Not Far Enough?

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by *Laurence M. Vance*



In his October 22, 2020, column in the *New York Times*, titled “When Libertarianism Goes Bad,” establishment economist Paul Krugman bemoaned the “libertarian rhetoric” he was hearing from Republican politicians while they questioned the usefulness of wearing face masks during the “pandemic.” This rhetoric he described as “a lot of talk about ‘freedom’ and ‘personal responsibility.’”

But in addition to blaming “President Donald Trump and many of his Republican allies” for downplaying “the severity of the pandemic,” Krugman said: “But I also blame Ayn Rand — or, more generally, libertarianism gone bad, a misunderstanding of what freedom is all about. Many things should be matters of individual

choice. The government has no business dictating your cultural tastes, your faith or what you decide to do with other consenting adults. But refusing to wear a face covering during a pandemic, or insisting on mingling indoors with large groups, isn’t like following the church of your choice. It’s more like dumping raw sewage into a reservoir that supplies other people’s drinking water.”

## Libertarianism

Krugman’s reference to “libertarianism gone bad” is interesting, and for two reasons, the second one obvious, but the first one not so much. First of all, Krugman is a liberal, a supporter of the Green New Deal, and, by his own admission, “an unabashed defender of the welfare state,” which he regards “as the most decent social arrangement yet devised.” Accordingly, he is opposed to libertarianism whether gone bad or not. He is not implying in the least that he is amenable to libertarianism that has not “gone bad.” And second, is it possible for libertarianism to go bad? Can libertarianism be carried to extremes? Is it possible to take libertarianism over some threshold? Can libertarianism put too much emphasis on liberty? I think not.

Libertarianism holds that people should be free to live their lives any way they desire, pursue their own happiness, accumulate wealth for themselves and their descendants, assess their own risks, make their own choices, participate in any economic activity for their profit, engage in commerce with anyone who is willing to reciprocate, and spend the fruits of their labor as they see fit — as long as their conduct is peaceful, their interactions are consensual, and their actions don't violate the personal or property rights of others.

As H. L. Mencken (1880–1956) put it, “Let people do whatever they please, so long as they do not invade the right and freedom of other persons to do the same.” And as explained by political philosopher John Stuart Mill (1806–1873): “The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, or mental and spiritual.”

Libertarianism is libertarianism. There is no such thing as bad or extreme or excessive libertarianism. There are deviations from libertarianism, and there are incon-

sistent libertarians, but these digressions and inconsistencies usually result in less or softer libertarianism, not more or harsher libertarianism. There are also many misconceptions of libertarianism, even among libertarians.

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**There is no such thing as bad or extreme or excessive libertarianism.**

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People who are not libertarians (liberals, conservatives, progressives, moderates, centrists, democratic socialists, constitutionalists, culture warriors, MAGA populists, neoconservatives) hold many misconceptions about libertarianism.

Libertarians are thought to be naïve, utopian, eccentric, hedonistic, idealistic, selfish, greedy, materialistic, or nihilistic. Libertarians are said to be too idealistic and individualistic. Libertarians are accused of disdaining culture and tradition, and having no respect for authority. Libertarians are considered to be inimical to organized religion, traditional values, and the Judeo-Christian ethic, while being ignorant of human nature and having no ethical principles or moral absolutes. Libertarians are alleged to be contemptuous of the poor, indifferent to income inequality, and

uninterested in social justice.

Some confused libertarians give liberals and conservatives the false impression that libertarianism is a social attitude or lifestyle. These libertarians imply that libertarians should live an alternative lifestyle, support abortion, embrace feminism, be socially liberal, accept same-sex marriage, seek social justice, celebrate diversity, reject organized religion, and never discriminate.

By far, the main thing that people criticize libertarianism for is the issue of vice: gambling, prostitution, drug abuse, alcohol abuse, pornography, and other forms of morally questionable or potentially self-destructive behavior.

### Too far

Writing in a recent issue of *The Atlantic*, physician Matthew Loftus makes the case that “America has gone too far in legalizing vice.” Although “it’s not the government’s primary job to protect people from their own worst impulses, nor is the state the primary source of our virtue formation,” because people often inexplicably engage in self-destructive habits, the government “should make it as difficult as possible to access things that impair our ability to make good decisions.” So,

“just as highways have guardrails for the moments when a driver isn’t exercising perfect self-control, so we also need guardrails to help people from driving off cliffs of vice.”

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Physician Matthew Loftus makes the case that “America has gone too far in legalizing vice.”

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Loftus focuses specifically on gambling and marijuana use:

State laws tend to allow the gambling industry to regulate itself, which means that these companies are expected to identify and exclude their steadiest customers. This has been as unsuccessful as one might expect; as much as 50 percent of revenue comes from “problem gamblers,” while one study showed that in 1998, only 4 percent of gambling revenue from video lottery games came from “responsible” gamers. Just as tobacco companies would go out of business if people used their products responsibly, gambling wouldn’t be a multi-billion-dollar industry if it weren’t for addicts.

Marijuana has a more complicated legacy, especially

because it has real (but rather modest) benefits for medicinal use. However, careful analyses show that marijuana legalization has contributed to a rise in opioid-related deaths, especially when dispensaries can legally sell all sorts of cannabis products. Permitting dispensaries also increases referrals for addiction treatment, which is unsurprising considering that higher-potency products are more dangerous. The best evidence we have suggests that marijuana is harmful to teenage brains as they develop and that more teenagers use marijuana when it is legalized in their state.

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### Spooner makes the case that America has not gone far enough in legalizing vice.

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Loftus dismisses the argument that “responsible, independent adults” should be “able to make decisions for themselves about how they spend their money or use their body” as “idealistic.” It “seems appealing, and there certainly are well-informed adults who gamble and use marijuana judiciously,” but “focusing on these ideal cases and basing our laws on them disregards

millions of people who suffer because of their addictions — and it obscures the underhanded tactics of companies who make money off the misery of addicts.”

Regulations regarding gambling and marijuana should be designed “to protect the most vulnerable people — especially young people — while still allowing those who want to lose some money to do so with a little extra effort and permitting those who could benefit from marijuana to do so under the supervision of a physician.”

Loftus anticipates that his opponents will bring up the failed experiment of Prohibition. He maintains that “domestic violence and alcohol-related illnesses were at record highs prior to the passage of the Eighteenth Amendment, and Prohibition was effective at reducing both.”

This benefit is no doubt true, but at what cost? Prohibition eroded the Fourth Amendment’s protection against unreasonable searches and seizures, it increased injuries and death from tainted black-market alcohol, it fostered smuggling, stealing, and violence by organized crime, and it resulted in the corruption of not only politicians and law enforcement personnel but also physicians, who were authorized by

the U.S. Treasury Department to write prescriptions for “medicinal liquor” to stave off a variety of physical and mental ailments.

Loftus concludes: “Some judicious restrictions are better for everyone: Gambling should take place in casinos, not on smartphones, and marijuana should be used only under a health-care provider’s supervision. We will need a lot more than a few regulations to help one another grow in virtue — but right now vice and its lobbyists have an unfair advantage that needs to be taken away.”

### Not far enough

Writing in “Vices Are Not Crimes: A Vindication of Moral Liberty” (1875), the classical-liberal political philosopher and radical legal theorist Lysander Spooner (1808–1887) makes the case that America has not gone far enough in legalizing vice. This classic essay, which the great libertarian economist and theorist Murray Rothbard (1926–1995) termed “a great bulwark against the State’s eternal invasion of rights,” was first published anonymously in a collection of essays against the prohibition of alcohol called *Prohibition a Failure: or, The True Solution of the Temperance Question*, edited by physician Dio

Lewis (1823–1886), a believer in temperance by persuasion, not by government prohibition. Lewis introduced Spooner’s essay as follows:

In this argument, the distinction between vice and crime is fundamental. It is important that this distinction should be stated tersely, and in the technicalities and formulas of the lawyer.

I have, therefore, requested a legal friend to do it for me. And he has kindly contributed the following essay, which seems to me to cover the whole ground, and to show the correctness of the principle in all its applications. It seems to me to be not only a clearly legal statement of the question, but also a truly philosophical view of a man’s relations to government, and to his fellow-men; and to show that on no other principle can there be any such thing as personal liberty, or rights of property, except such as mere arbitrary power may see fit to concede.

The most well-known and oft-quoted part of Spooner’s essay is the first of its 22 sections:

Vices are those acts by which a man harms himself or his property.

*Crimes* are those acts by which one man harms the person or property of another.

*Vices* are simply the errors which a man makes in his search after his own happiness. Unlike crimes, they imply no malice toward others, and no interference with their persons or property.

In vices, the very essence of crime — that is, the design to injure the person or property of another — is wanting.

It is a maxim of the law that there can be no crime without a criminal intent; that is, without the intent to invade the person or property of another. But no one ever practises a vice with any such criminal intent. He practices his vice for his own happiness solely, and not from any malice toward others.

Unless this clear distinction between vices and crimes be made and recognized by the laws, there can be on earth no such thing as individual right, liberty, or property, and the corresponding and co-equal rights of another man to

the control of his own person and property.

For a government to declare a vice to be a crime, and to punish it as such, is an attempt to falsify the very nature of things. It is as absurd as it would be to declare truth to be falsehood, or falsehood truth.

But Spooner had many more profound things to say about the topic:

It is not often possible to say of those acts that are called vices, that they really are vices, except in degree. That is, it is difficult to say of any actions, or courses of action, that are called vices, that they really would have been vices, if they had stopped short of a certain point. The question of virtue or vice, therefore, in all such cases, is a question of quantity and degree, and not of the intrinsic character of any single act, by itself. This fact adds to the difficulty, not to say the impossibility, of any one's — except each individual for himself — drawing any accurate line, or anything like any accurate line, between virtue and vice; that is, of telling

where virtue ends, and vice begins. And this is another reason why this whole question of virtue and vice should be left for each person to settle for himself.

*Crimes* are few, and easily distinguished from all other acts; and mankind are generally agreed as to what acts are crimes. Whereas vices are innumerable; and no two persons are agreed, except in comparatively few cases, as to what are vices. Furthermore, everybody wishes to be protected, in his person and property, against the aggressions of other men. But nobody wishes to be protected, either in his person or property, against himself; because it is contrary to the fundamental laws of human nature itself, that any one should wish to harm himself. He only wishes to promote his own happiness, and to be his own judge as to what will promote, and does promote, his own happiness.

The object aimed at in the punishment of *crimes* is to secure, to each and every man alike, the fullest liberty he possibly can have — consistently with the equal rights of others

— to pursue his own happiness, under the guidance of his own judgment, and by the use of his own property. On the other hand, the object aimed at in the punishment of vices, is to *deprive* every man of his natural right and liberty to pursue his own happiness, under the guidance of his own judgment, and by the use of his own property.

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**“The vices of other men we will  
punish; but our own vices nobody  
shall punish?”**

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It comes as no surprise, then, to see what Spooner said about the folly of government attempts to criminalize vice:

It is now obvious, from the reasons already given, that government would be utterly impracticable, if it were to take cognizance of vices, and punish them as crimes. Every human being has his or her vices. Nearly all men have a great many. And they are of all kinds; physiological, mental, emotional; religious, social, commercial, industrial, economical, etc., etc. If government is to take cognizance of

any of these vices, and punish them as crimes, then, to be consistent, it must take cognizance of all, and punish all impartially. The consequence would be, that everybody would be in prison for his of her vices. There would be no one left outside to lock the doors upon those within.

A government that shall punish all vices impartially is so obviously an impossibility, that nobody was ever found, or ever will be found, foolish enough to propose it. The most that any one proposes is, that government shall punish some one, or at most a few, of what he esteems the grossest of them. But this discrimination is an utterly absurd, illogical, and tyrannical one. What right has any body of men to say, “The vices of other men we will punish; but our own vices nobody shall punish? We will restrain other men from seeking their own happiness, according to their own notions of it; but nobody shall restrain us from seeking our own happiness, according to our own notions of it? We will restrain other men from acquiring any experimental

knowledge of what is conducive or necessary to their own happiness; but nobody shall restrain us from acquiring an experimental knowledge of what is conducive or necessary to our own happiness?”

### Conclusion

So, is Loftus correct that America has gone too far in legalizing vice, or is Spooner correct that America has not gone far enough in legalizing vice? Is it *too far*, or *not far enough*?

Should gambling only take place in casinos? Should marijuana only be used under a health-care provider’s supervision? Should the government enact laws to help people grow in virtue? Should the government prevent people from engaging in self-destructive habits? Should the government make it difficult for people to access things that impair their ability to make good decisions? Should companies be prohibited from making money off people’s addictions? Should the government regulate gambling and marijuana to protect vulnerable people? Should the government impose restrictions on a majority because of the failings of a minority? Should the government punish the many for the “good” of the few?



Those who believe in paternalism and a nanny state would answer in the affirmative.

Should the government never penalize or punish individuals for engaging in private, consensual, voluntary, harmless, peaceful activity that does not aggress against the person or property of others? Should vices, bad habits, immoral actions, poor judgment, risky behavior, unhealthy living, dangerous activities, sin, self harm, addictive conduct, and financial irresponsibility never be considered crimes? Should responsible, independent adults be able to make decisions for themselves about how they spend their money or use their body? Should every crime have to have a tangible and identifiable victim who has suffered measurable harm to his person or measurable damages to his property? Should the government just leave people alone whose actions are peaceful, associations are voluntary, and interactions are consensual as long as they

don't violate the personal or property rights of others? Those who believe in liberty and a free society would answer in the affirmative.

Too far, or not far enough? I think the conclusion is obvious.

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**NEXT MONTH:**  
**“Macaulay and  
My 75-Cent Epiphanies”  
by James Bovard**  
**“Tax Expenditures’ Is a  
Misnomer”  
by Laurence M. Vance**

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# The Dangerous Pursuit of Empire: Russia, China, and the United States

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by *Richard M. Ebeling*



**G**iving up the reality, the nostalgia, or the dream of empire is very difficult for those in political power, and even for those citizens who have bought into their government's indoctrination and propaganda.

Historically, empire-builders and political leaders often seem to hold certain attitudes and ideas in common. First, they believe that they and their group or nation are on a "mission," based on a religion or superiority of their nation or culture, for which history or destiny has chosen them to bring salvation, or justice, or "civilization," to the rest of humanity.

Second, there is almost always some other nation or group or peo-

ple that is their nemesis, a force opposing and hindering the achievement of the destiny or special role in history of the chosen group or nation. The opponent not only wishes to stop the virtuous nation or people and its leaders but for its own nefarious global purposes must attempt to destroy the virtuous nation and its leadership. Thus, the virtuous nation or people and their leaders are in a life-and-death struggle between good and evil.

Third, in warding off the "enemy" religion or nation or people or ideology, no sacrifice is too great to expect and demand from those who belong to the virtuous group or nation. A holy and just cause is at stake, which requires everything the chosen group or nation have to give, both to prevent their own nation's or group's destruction and so that the virtuous cause may triumph both for that nation or group and for the whole world.

## Putin's vision of making Russia great again

This is a useful way, I would suggest, to look at Russia, China, and the United States today. Let us start with Russia. A number of years ago, Russian president Vladimir Putin declared that in his view the greatest geopolitical tragedy of the twentieth

century was the collapse of the Soviet Union. This might not seem too surprising in Putin's case. After all, before the end of the Soviet Union in 1991, he had served as a KGB officer in East Germany, enjoying the perks and privileges of being a representative of the Soviet imperial power that conquered and controlled the "captive nations" of Eastern Europe as part of Stalin's victory over Hitler in the Second World War.

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**Putin stated that the United States is the "existential threat" to the survival of Russia as a nation-state.**

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Besides, as the authoritarian leader of post-Soviet Russia, and like many Russian czars of the past, he considers "mother Russia" a unique and special nation in terms of religion, culture, and politics. He stands against the decadence, materialism, and immorality of a corrupt and inferior "West." His task, as symbol and political instrument of "the Russian people," is to preserve the country from the decay and destruction that will result from the influences of all things "Western."

Matching this mindset, which goes back centuries among many in the Russian intelligentsia, is the

paranoia that precisely because Russia represents the purist and best among all civilizations, "the West," in particular, wishes to dismember and destroy the Russian nation as the only means of preserving its own decadent control and exploitation of many parts of the world. Seen through this psychological prism, everything that the United States and NATO do — real or imagined — in the formerly Soviet-dominated parts of Eastern Europe is "proof" that America and the rest of "the West" continue to pursue their long-term strategy of bringing Russia down. And why? In Putin's mind, it is for no other reason than "who we are" as that unique and special Russian people.

In fact, Putin stated this explicitly in a new foreign-policy doctrine issued in March 2023 that the United States is the "existential threat" to the survival of Russia as a nation-state; politically and militarily, Russia has to resist this, not only for the country's survival but because Russia is a "distinctive state-civilization," possessing a "unique historical mission" against the West.

Unless and until "the West" accepts Russia and its "rightly deserved great power" status in the world and its "legitimate" sphere of influence in Eastern Europe, then

Putin as the representative of Russia has every right to use even military force to protect it from its “enemies” knocking on its political door. If that means invading neighboring Ukraine — a place on the map that Putin does not even consider to be a separate nation regardless of how many, if not most, of the people living in that geographical area view themselves — then it will be done, regardless of how many Russian and Ukrainian lives it may take to make Russia “great again.”

### Xi Jinping’s dream of China as a new middle kingdom

Let’s now turn to China. Xi Jinping has recently crowned himself president of China for a third term with, clearly, the intention of ruling for life, following in the footsteps of Chinese emperors of the past and Chairman Mao after the establishment of the communist regime on mainland China in 1949.

The Communist Party’s “socialism with Chinese characteristics” is a blend of authoritarian national socialism and economic fascism (private enterprises with government control and direction). Like in Putin’s Russia, President Xi brooks no criticism or challenges and is willing to use any needed force to maintain the Communist Party and

himself in monopoly control of the country. If there is any Orwellian-like surveillance state in the world, the Chinese government does its best to epitomize it.

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**President Xi brooks no criticism or challenges and is willing to use any needed force.**

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Xi Jinping sees himself as carrying the “shame” of China’s humiliation at the hands of the Western Powers in the nineteenth century. For centuries, the Chinese emperors viewed themselves as the absolute rulers of “the Middle Kingdom,” the center of the world around which all the lesser nations along China’s periphery revolved. China’s wars with, especially, Great Britain and France in the middle decades of the nineteenth century broke the myth of it being the center of the world when it was forced to open its ports to freedom of trade and concede coastal areas as colonies to Britain, France, and then Germany, Russia, and Japan. This included Western military gunboats, including American ones, patrolling the main rivers of China up to the Second World War.

The economic reforms introduced after Mao’s death in 1976 demonstrated that even limited pri-

vate enterprise and individual initiative go a long way in bringing about prosperity after the collectivist disasters of the Great Leap Forward and the Cultural Revolution. Now, on the basis of those impressive improvements in the standard of living of hundreds of millions of ordinary Chinese, Xi Jinping dreams of himself as the great emperor who restores China to its rightful and deserving place as the political and economic Great Power of the world.

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**If Britain, France, and America could play gunboat diplomacy in the past, why not China?**

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Like Western imperialist powers in the nineteenth and early twentieth centuries, China proceeds to gain economic concession areas in foreign lands, open military bases in other countries, and “colonize” artificial islands that it creates in the South China Sea. China’s Belt and Road Initiative is meant to tie more countries to China’s global sphere of influence through subsidized infrastructure projects in Asia, Africa, and Latin America, and cheap loans to the governments in developing countries with explicit or tacit political strings attached are meant to fur-

ther China’s new place under the global sun. If Britain, France, and America could play gunboat diplomacy in the past, why not China as she asserts her place as the reborn “Middle Kingdom” of the twenty-first century?

**Making subject peoples loyal Chinese**

The Chinese people are a “great people,” Xi tells the world, one mighty nation. Those who are not ethnically Chinese within the borders of China must be made Chinese in thought, action, and culture. Thus, people of the “autonomous” regions of Tibet and Xinjiang, for instance, must be absorbed into the greater Chinese nation. Their languages, religions, and senses of distinct ethnic or cultural identity must be indoctrinated away by “re-education,” if possible, but by cultural and ethnic genocide, if necessary. The power of the state will see to it.

Any area once part of or claimed by China must be kept part of China or reabsorbed by force, if required. This belief is behind Xi’s insistence that Taiwan is “irrevocably” part of China. That in opinion polls 70 to 80 percent of the people living in Taiwan view themselves as Taiwanese and not Chinese — and that similar majorities in those surveys

make it clear that they do not want to be “reunited” with mainland China under its communist government — count for nothing with Xi and the government in Beijing.

The vision of collective national identity takes precedence over all the wishes and desires and self-identification of actual individual human beings. If those living on Taiwan refuse voluntarily to be re-absorbed within the Chinese motherland, then they will be compelled to by conquest and forced reeducation, for the greater good and destiny of the collective Chinese people as defined and dictated by Xi Jinping.

### The beginning of America’s empire mindset

And, finally, what of America today? Most Americans do not think of their country as a global empire. Many consider the United States to be an innocent babe on the international scene who, for some inexplicable reason, is hated or disliked or even violently attacked just because of “who we are.” Many others view their country as a benevolent force around the globe fighting for freedom and democracy against international and regional enemies and threats to a good and peaceful world.

It takes an effort to step out of the mindset of one’s own country and to look at it instead with the same dispassionate and detached eyes with which one tries to understand other countries and governments around the globe. The fact is that since the end of the Second World War, the United States has taken on and pursued the role of political and military master of the world.

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**The United States has taken on and pursued the role of political and military master of the world.**

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America’s first call to overseas empire came out of the Spanish-American war of 1898, the result of which was the annexation of Puerto Rico and the Virgin Islands in the Caribbean, along with Cuba as a semiprotectorate. The Philippine Islands were also seized and made an American territory in East Asia.

America’s first real leading role on the international stage was with Woodrow Wilson’s call for the United States to “make the world safe for democracy” through participation in the First World War, but it was Franklin Roosevelt’s determination to lead America into the Second World War through the attack on Pearl Harbor that made

America an empire in the postwar era up to the present.

### America as global policeman after World War II

Free from invasion and unscathed by the destruction of land warfare in the way so much of Europe and Asia had suffered, the United States came out of the conflict with its manufacturing and industrial base untouched by combat. America's army, navy, and air force were present in nearly every corner of the world where fighting had been going on. While the finances of many other major nations were in shambles, America seemed awash with wealth to invest, lend, or simply give away via the government.

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**Bureaucracies, whether concerned with domestic or foreign affairs, take on self-interested lives of their own.**

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A military-industrial complex that America had never had before emerged out of the war. The symbol of the military arm of America's "imperial" presence was the Pentagon building in Washington, D.C., constructed between 1941 and 1943. Such a fortress of military command and control implied that the United States was not returning

to a traditional small peacetime defense force. No, the Pentagon represented a giant headquarters for all the new permanent military garrisons around the globe.

Just as domestic interventionist and welfare statist programs created a huge financial trough from which special interests fed, along with a never-ending incentive to lobby for more, so, too, America's accepted and growing role as the policeman of the world created networks of special-interest groups hungry to live off the large military contracts required to supply all the materials needed for the country's global armed forces presence.

As the world was becoming the beat for which America's global policemen were responsible, there needed to be a matching intelligence arm to be sniffing out and surveilling threats and potential enemies. Thus were born the National Security Agency and the CIA. But bureaucracies, whether concerned with domestic or foreign affairs, take on self-interested lives of their own. They jockey for budgets, power, and influence within the network of government departments and agencies. They pursue rationales and justifications for more money, greater authority, and enlarged staffs.

### Empire central planners and special-interest groups

In the arena of foreign affairs, there is always the search for new or greater threats and new or more powerful enemies. The foreign-policy bureaucratic rice bowls lose their reason for existing if the world is safer, less threatening, and more benignly peaceful.

For over half a century following the end of the Second World War in 1945, the Cold War communist threat was the “hook” upon which the national-security state and the political and military empire associated with it justified its existence. For five decades, the masterminds and managers of this American empire spent hundreds of billions of U.S. taxpayer dollars overthrowing foreign governments either directly or, more frequently, through proxies financed by those intelligence agencies; they bribed and bought off foreign rulers, including Third-World dictators to be on the side of “the free world.” They also trained and armed the military and secret police forces of these dictatorships, often with the tools used to oppress and brutalize their own citizens in the name of fighting for freedom against totalitarianism.

Those social engineering masterminds and central-planning

managers of foreign policy threw America into two “hot wars” in Korea and Vietnam, which cost the lives of well over 100,000 Americans in just those two conflicts, not to mention the far greater number of those killed among the local populations. The first ended in a draw that still leaves an American military presence in Korea 70 years after a cease-fire ended the fighting. The second ended in a humiliating defeat for the United States and the overthrow of its client government in South Vietnam.

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**In the arena of foreign affairs, there is always the search for new or greater threats and new or more powerful enemies.**

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With the demise of the Soviet Union in 1991, the Cold War was viewed as having ended. America had won, the communists had lost, and Americans could experience a “peace dividend” of less defense spending on the military. “The boys” could come home, and Americans could once again mind their own business in a less hostile world.

### Preserving and pursuing empire after the Cold War

But the foreign-policy establishment in Washington, D.C., made



up of both Republicans and Democrats, could not imagine a world without their leadership and guidance. How would they then justify their government and think tank positions and salaries? What role would there be for them in a world not needing their management of global affairs? To keep their power, the foreign policy establishment went abroad once again looking for new (and some old) monsters to slay. The end of the Cold War did not mean an end to the NATO alliance. A post-Soviet Russia that would not fully conform to America's wishes justified expanding NATO east to the Russian border, they said.

Containing Iran required a continued and heightened American diplomatic and military presence in the Middle East. When this led to Saudi Islamic fundamentalists carrying out the 9-11 attacks in New York City and Washington, D.C., this, in turn, resulted in the U.S. invasion of Afghanistan, where the suspected perpetrators were taking refuge. Twenty years later, after untold destruction and deaths in that faraway land, America experienced another humiliating military retreat and diplomatic disaster. Those the United States overthrew in 2001 were back in power in 2021 as the

last American planes left Kabul airport.

The invasion of Afghanistan was soon followed in 2003, with America's second war on Iraq. One of the Iraqi war rationales was the existence of claimed weapons of mass destruction (WMDs), of either the nuclear or chemical type. The other justification was to overthrow a tyrant (who the United States had supported not many years earlier as a friend in the "just cause" of containing Iran) and the establishment of American-style democracy as the stepping stone of transforming all of the Arab and Islamic Middle East into the Western notion of free societies.

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**The foreign-policy establishment could not imagine a world without their leadership and guidance.**

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Intense searches through the desert sands of Iraq revealed no WMDs after the conquest of the country and showed the fallacy and fantasy of America's rationale for occupying a country that posed no threat in any way to the United States.

As for the second justification, the toppling of the government in Baghdad resulted in sectarian war-

fare, economic breakdown, and the rise of other Islamic fanatics that brought even more death and destruction. From around every corner and among almost all of the conflicting factions in Iraq, Americans were the common targets. The Washington foreign-policy elite's vision of a new democratic Iraq in America's image ended up as illusory as a desert mirage.

### Doing it better next time

In the post-Afghanistan and post-Iraq eras, what lessons have the American political elite and empire managers learned? That trying to centrally plan the global order is as impossible as trying to centrally plan a country's economy? That while many around the world may want American movies, fast food, and streaming music, most people do not want a foreign government thousands of miles away telling them how to live, or arrange their political affairs, or kowtow to that foreign government's whims and wishes, often at the expense of their own betterment and desires.

No, reading the postmortems 20 years after Afghanistan and Iraq, the Washington global social engineers and foreign policy central planners conclude only that they will learn the lessons of their mis-

takes and then do it better and get it right "next time." They still fundamentally believe that they know what's better for everyone in the world than the other eight billion people on the planet. Remember that their own financial and power position rice bowls depend on keeping up the charade that they paternalistically know best.

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**Most people do not want a foreign government thousands of miles away telling them how to live or arrange their political affairs.**

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The ancient Greeks believed that those who the gods would destroy, they first made crazy with madness. With an almost fanatical hysteria, the empire masters in Washington have rushed head long into the conflict between Russia and Ukraine under the certainty that the fate of the entire American world order depends on stopping Russia, even if it takes the last Ukrainian to do so. This is matched only by Putin's ruthless willingness to sacrifice many more thousands of Russians' lives in the meat grinder of war in the name of Russia's own geopolitical power greatness.

On the other side of the world, the American empire masters see the United States in the midst of a

growing and inescapable political and military confront with Xi Jinping's China. The problem is that a number of computer simulations of a war between the United States and China over Taiwan show American naval and air forces in East Asia being devastated in the opening phase of the conflict, with no certainty that America would prevail when the smoke of battle has cleared.

What is the response of the Washington foreign-policy planners? All they seem to see is the need to increase defense spending to a new high at taxpayer's expense, with even larger budget deficits to make up the difference. There must be a reinforcement of alliances with existing and new allies along the periphery of Asia to "contain" China's own dream of empire. The American defense contractors will have to bear the burden of even more taxpayer money to fund the increased weaponry for the Pentagon and our "friends" in the fight to hold back the Chinese threat to America's world order in Asia.

### **America's empire also will finally fall**

If history teaches anything, it is that all empires eventually come to an end. Sometimes it is through defeat and collapse following a war,

such as happened to the Russian, German, Austrian, and Turkish empires in the wake of World War I. In other cases, they wither and withdraw from their far-flung foreign domains under the pressures of changing political and financial circumstances, as happened to the British and French empires after World War II.

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**If history teaches anything,  
it is that all empires eventually  
come to an end.**

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And so, too, will America's empire finally pass away. It will happen at some point, but not due to any imaginary "laws of history." Its primary causes will be a paternalistic ideology and perverse institutional incentives. All collectivism is based on some form of group identity and presumed conflicts between groups. The classification may be based on "race," or religion, or "social class," or nationality, or a big idea, for instance. .

In America's case, it revolves around the idea of "American exceptionalism." In the years following the Declaration of Independence and the new U.S. Constitution, the notion of exceptionalism was taken to mean that America was a new and different country,

one not founded on monarchical absolutism or regulatory economic oppression. Here was a land that was exceptional because it was based on the freedom and dignity of the individual; people guided and planned their own lives; government recognized and secured every person's right to their individual life, liberty and honestly acquired property. The individual human being was large, and the government was to be small.

However, there also emerged an idea of continental imperialism, referred to as Manifest Destiny, mostly referring to the nationalistic notion of a great American "empire" from the Atlantic to the Pacific. But however bombastic and misplaced this idea may have been, most Americans agreed with president John Quincy Adams's famous speech that the United States did not go abroad in search of monsters to destroy.

But out of a Manifest Destiny to conquer and settle a continent, there emerged in the late nineteenth century, and certainly by Woodrow Wilson's time, the vision that this "special" America had a duty, a "destiny," to set the world right. America would go forth and slay the tyrannies and corruptions of the "old world." The world needed to be made over in the American

image. Just as Wilson believed in domestic government paternalism, he called for extending that benevolent American paternalism to the entire world.

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Wilson called for extending that benevolent American paternalism to the entire world.

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Franklin Roosevelt, who served as an undersecretary of the Navy in World War I, took on Wilson's mantle into making that America's purpose during World War II and in the planning of the postwar era. This dream and implemented vision of America as protector and planner of the world order — for the good of the world — has been behind and guided a century of U.S. foreign policy.

Pursuing the goal of foreign policy paternalism has created and embedded within the entire institutional structure of the government a spider's web of bureaucratic and private-sector interests whose very reason for existing and having the positions and privileges they have depends on the continuation of the welfare-warfare state. They cannot imagine a world without them. Besides, how would they earn a living, if not for the government trough from which they all eat?

The sheer cost of the U.S. welfare-warfare state — the annual budgetary expenditures and the accompanying growing national debt — is threatening the financial stability of the country. Plus, the more the U. S. government intrudes itself in this competition for empire with Russia and China, plus its periodic military adventures in lesser parts of the world, the more the danger grows for not only financial disaster but also a calamity of possible horrific war with another nuclear weapons power.

There is only one way out of the cul-de-sac of disaster into which the pursuit of empire is leading the United States. That is a return to the ideas and ideals on which America was founded. Not dreams of empire or collective global destinies for which all Americans are to pay and sacrifice but rather to the vision of a country in which government's purpose is to leave the citizens secure in their individual liberty to pursue their personal and private affairs in peaceful and voluntary association with all others. Maybe it

will take a great financial or military cataclysm for Americans to re-think what their country should and could be all about. Regardless of what may lie ahead, the friend of freedom has one task, and that is to try to make his fellow citizens see and understand the wrong turn that the United State has made in foreign affairs. And, hopefully, before it is too late.

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**NEXT MONTH:**  
**“George Goschen on  
Laissez-Faire and the Dangers  
of Government Interference”  
by Richard M. Ebeling**

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# Everyone Should Have the Same Freedom to Contract — or Not

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by George C. Leef



The Supreme Court recently heard oral arguments in a case, *303 Creative v. Elenis*, that seems to turn on the meaning of the First Amendment. In my view, this is indeed an important case, but casting it as a free speech dispute is mistaken. The real issue is whether all Americans enjoy freedom of contract, or if, instead, some of us have less freedom than others.

First, I'd like to discuss freedom of contract in general terms. The freedom to enter into a contract with another person is a key element of individual autonomy. If you imagine that you would be better off by collaborating with me in some way, you have the right to propose a deal, setting forth the terms you'd like. I am equally free to accept your

offer, thereby creating a contract, or to reject it if I don't think it is satisfactory. Or I might propose different terms, leading perhaps to bargaining until we're both happy. Our rights are perfectly symmetrical, and neither is entitled to employ threats or coercion against the other.

It's important to note that our reasons for our actions don't matter — except to us. Why you want to contract with me and why I do or do not want to contract with you has no bearing on our respective rights.

Where the law enters into this is that if we agree to a contract, the terms become legally enforceable. But if we don't agree, then the law has no role to play. We're both free to go about our lives.

## The courts and freedom of contract

American courts used to be fastidious defenders of contractual liberty. Chief Justice John Marshall understood that the reliability of contracts was a pillar of freedom and economic progress, and he never wavered in upholding their inviolability. It was important to him that state governments not interfere with contracts people had made. The Constitution, in Article I, Section 10, forbids states from making laws that “impair the obligations of contracts.”

But as the country grew and special-interest groups gained political power, freedom of contract began to waver. In 1877, the Supreme Court upheld state regulation of the rates that grain elevator owners could charge (*Munn v. Illinois*, 94 U.S. 113). Such regulation “impaired” existing contracts and all future ones by declaring what the price must be, but a majority of the court declared that the “public interest” was more important than upholding freedom of contract.

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**The freedom to offer to enter into a contract is a key element of individual autonomy.**

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Early in the twentieth century, however, the court turned away from such “progressive” legal theory and once again defended freedom of contract against governmental incursions. The most famous case was *Lochner v. New York* (198 U.S. 45, 1905), a decision that struck down the state’s “Bakeshop Act,” which put a maximum number on hours that a baker could work during a week. The court’s opinion stated, “The general right to make a contract in relation to his business is a part of the liberty protected by the 14th Amendment and this includes the right to purchase and sell

labor.... Liberty of contract relating to labor includes both parties to it, the one has as much right to purchase as the other to sell labor.”

Placing a limit on the number of hours a baker could contract to work, the court held, was an “unreasonable, unnecessary and arbitrary interference with the right and liberty of the individual.” Exactly right.

The Supreme Court also defended liberty of contract against a state incursion in *Coppage v. Kansas* (236 U.S. 1, 1915). Kansas had enacted a statute making it illegal for an employer to decline to hire workers who would not sign a “nonunion” pledge. The court ruled against the Kansas statute, stating, “A state cannot, by designating as ‘coercion’ conduct which is not such in truth, render criminal any normal and essentially innocent exercise of personal liberty, for to permit this would deprive the Fourteenth Amendment of its effective force in this respect.”

In short, if an employer doesn’t want to offer employment to a pro-union worker, he is entitled to do so, just as a worker who doesn’t want to work for a certain employer is free to make that decision. The court reiterated the symmetry of contractual freedom: “There may not be one

rule for the labor organization or its members and a different and more restrictive one for employers.”

Similarly, in *Adkins v. Children's Hospital* (261 U.S.525, 1923), the court ruled against a federal minimum wage law for women in the District of Columbia. The majority opinion declared, “That the right to contract about one’s affairs is part of the liberty of the individual protected by the Fifth Amendment is settled by repeated decisions of this Court.” Again affirming the symmetry of contractual freedom, the opinion stated that contracting parties “have equal right to seek the best terms by private bargaining.”

### The decline of freedom of contract

Unfortunately, during the Great Depression, the court buckled under statist pressure to allow governmental interference with the freedom of contract. It approved of minimum wage laws, rent moratoria, legislation forbidding companies from choosing not to employ prounion workers, and other affronts to contractual liberty. Freedom of contract was no longer important to a court obsessed with the notion that government power could solve all manner of problems.

Moving ahead to the twenty-first century, the opponents of con-

tractual liberty have opened up a new front, using “nondiscrimination” statutes to punish business owners who don’t want to contract with some customers for philosophical reasons. In 2018, the Supreme Court decided one such case, *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (138 S.Ct. 1719). The case arose when a gay couple sought to purchase a custom wedding cake and the business owner, Jack Phillips, declined to do so on the grounds that under his religious beliefs, marriage was only between a man and a woman. He simply declined the contractual offer, but under the Colorado Anti-Discrimination Act, those who hold themselves out as offering services to the public may not engage in “discrimination.”

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The state officials charged with enforcing the law pounced on Phillips, fining him for his violation of the statute. He fought back in the courts, arguing that his rights had been violated — his First Amendment rights. He said that the state was interfering with his sincerely held religious beliefs and thus burdening his right to free exercise of



religion; he also said that in seeking to compel him to express support for gay marriage in a cake, the state was interfering with his freedom of speech.

Notice that the violation of Phillips' rights, namely his right to decline to enter into a contract, was not raised. The Fourteenth Amendment liberty of contract line of argument that would have prevailed early in the twentieth century was ignored in favor of trying to shoehorn the case into the First Amendment.

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### The former symmetry of contractual freedom is gone.

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The Supreme Court reversed the lower court's decision in favor of Colorado but did so on the narrow grounds that its officials had exhibited clear animosity toward Phillips. It did not reach the First Amendment arguments.

In 2022, a similar case reached the court: *303 Creative v. Elenis* mentioned above. The facts are quite similar to Masterpiece Cake-shop. A company that creates websites to celebrate events, including weddings, was targeted by Colorado officials for failing to state that it does not discriminate against any potential customers. The owner of the business, Lorie Smith, holds

traditional Christian beliefs that marriage is between a man and a woman. She brought suit against the state's demand that she say that she would create websites for all customers even though she would decline to create them for events that conflicted with her beliefs.

There was an actual element of speech involved, because the arguments again centered around the First Amendment. The real issue, however, is freedom of contract. Colorado argues that those who go into business in the state don't have that freedom when it comes to certain groups that supposedly must be protected against discrimination. Business owners may not say "no, thanks" to offers from customers in certain groups, but must serve all. The former symmetry of contractual freedom is gone. Consumers are free to decline to do business with firms they don't like — not to make contractual offers — but business owners may not decline offers from customers who want them to do things they'd rather not do.

Under the Colorado law, whether or not a business is guilty of "discrimination" and therefore subject to fines is up to the bureaucrats in the state's Civil Rights Commission. The freedom to decide to accept or reject offers depends on the whims

of those individuals — individuals who have been chosen for their dislike of people with religious or political views at odds with “progressive” thinking.

Suppose that someone approached a Colorado website business with a request for a site celebrating a young man’s first deer kill, and the owner, who abhors needless violence against animals, declined to create the site. Would the state go after that business owner? Probably not, and rightly so. The proper response to the rejection of a business offer is to find another business that wants to provide the service, not to run to state officials with a complaint.

Colorado defends its law, saying that it fills a compelling state interest in the fight to “eradicate discrimination.” But that isn’t a governmental interest at all. Government has no business trying to dictate what ideas people will hold. If someone disapproves of same-sex marriage, that is no more a reason for state coercion than if someone disapproves of deer-hunting. The purpose of government is to protect the liberty and property of the citizens, not to force them to accept any particular beliefs.

Colorado also argues that its law is needed to prevent “dignitary harm,” which is to say, hurt feelings.

If a gay couple were to approach businesses like 303 Creative or Masterpiece Cakeshop and be told, “no, we don’t do that kind of work,” they might find that deeply hurtful. But again, protecting people against the possibility of hurt feelings is not a justification for state coercion. Hurt feelings happen all the time when humans interact with each other. As long as one party has done nothing aggressive or violent against the other, the law has no role to play.

We will find out how the Supreme Court rules in the *303 Creative* case in a few months, but even if it decides in favor of Lorie Smith on First Amendment grounds, that won’t do anything to stop the assault on contractual freedom. Unfortunately, the court will not dispose of the case by saying, “The Colorado law is an unconstitutional interference with the freedom of contract enjoyed by citizens under the Fourteenth Amendment. If a customer is unhappy at being turned down, the right thing to do is to go to another business that’s eager to provide the service, not to go crying to bureaucrats.”

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