
FUTURE OF FREEDOM

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Let us labor to think clearly. This is the source of moral conduct.

— *Blaise Pascal*

FUTURE OF FREEDOM

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Right-Wing Obtuseness on Immigration

by Jacob G. Hornberger



A columnist for the *Washington Post* named Jim Geraghty recently chided me in his column for wanting to “abolish the Border Patrol and ICE and all controls on the free movements of people across borders.” With sarcasm dripping from his keyboard, Geraghty concluded, “I suppose that by declaring it to be legal for everyone to cross the border, you have technically solved the problem of illegal immigration. Yeah, that’s the way to handle the 2 million or so illegal border crossings each year over the past three years.”

While one might be tempted to think that Geraghty is a left-winger given that he writes for the *Washington Post*, such is actually not the case. He is actually a right-winger.

In fact, in addition to his position at the *Post*, which apparently is trying to appear “fair and balanced,” Geraghty serves as a “senior political correspondent” for *National Review*, one of the nation’s oldest right-wing publications.

Given the fact that he is an ardent and devoted right-winger, it is, therefore, not surprising that Geraghty would oppose the concept of open borders. Like all other right-wingers, he is an ardent champion for America’s century-old system of immigration controls.

Geraghty’s criticism gives us an opportunity to examine the concept of open borders and the immigration-control system that right-wingers have helped foist upon our nation and have long supported.

Before proceeding, it is worth mentioning that left-wingers are also ardent supporters of America’s system of immigration controls. That’s an important point because right-wingers often criticize left-wingers for their supposed support of “open borders,” a critique that is seriously misguided. For the past 100 years, both right-wingers and left-wingers have supported the concept of government-controlled borders. They might differ on the manner in which their system is enforced, but they are on the same

page with respect to the system itself.

Let's begin with Geraghty's observation that open borders would "technically solve the problem of illegal immigration." While he's being sarcastic, he actually is correct. With open borders, there is no such concept as an illegal human being, as there is with a system of government-controlled borders. Under open borders, everyone is free to cross borders without being stopped or detained. That's because under the law, no one would be entering the country illegally. Thus, no more illegal immigrants.

**With open borders,
there is no such concept as an
illegal human being.**

Consider the domestic United States, which has open borders between the states. Suppose it had been otherwise. Suppose that the Constitution had authorized each state to impose its own immigration controls. No one from outside the state could enter the state without official permission.

In that case, you would have an illegal immigration problem domestically because there would be people entering states without official permission. Such being the

case, if I proposed the system of open borders we have today inside the United States, people like Geraghty would be sarcastically saying, "I guess Jacob is saying that the solution to our domestic illegal immigration crisis is simply to legalize them all by opening all state borders." And he would be right — that is precisely what I would be saying.

Free enterprise and socialism

Right-wingers have long been ostensible proponents of free markets and free enterprise. In fact, one of the favorite mantras of right-wingers has long been "free enterprise, private property, and limited government." Stretching all the way back to at least the 1950s, when *National Review* was founded by long-time right-winger and former CIA operative William F. Buckley, Jr., the mantra has been regularly employed in right-wing speeches, articles, books, magazines, and websites. I wouldn't at all be surprised if it appears today on the masthead or the biographical sketch of *National Review*.

At the same time, right-wingers have long decried socialism. In fact, their screeds against socialism, in which they would quote free-market economists like Milton Friedman and Friedrich Hayek, formed a

central part of what became known as the “anti-communist crusade” that right-wingers waged throughout the Cold War. That was the period of time when right-wingers were convinced that the Russians, Chinese, Cubans, North Vietnamese, North Koreans, and other Reds were coming to get us. It was also the time when right-wingers, led by Senator Joseph McCarthy, were ferreting out communists in all parts of American society, including the military, and exhorting Americans to even look under their beds for commies who might be hiding there.

The central planners do not give priority to the poor, tired, huddled masses yearning to breathe free.

An irony, however, of this pro-free-enterprise, anti-socialism mentality is that America’s system of immigration controls is based on the core socialist system of central planning. Government officials plan, in a top-down, command-and-control manner, the movements of millions of people in one of the most complex labor markets in history. This central planning involves determining the overall number of immigrants who will be permitted to enter the United

States, the number allocated to each country, and the credentials necessary for entry. One thing is for sure — the central planners do not give priority to the poor, tired, huddled masses yearning to breathe free or to the wretched refuse of other nations’ teeming shores.

Why is this ironic? Recall that favorite right-wing mantra — “free enterprise, private property, and limited government.” And recall the antisocialist sentiments that right-wingers love to express. And yet here they are — ardent proponents of a system based on the core socialist principle of central planning that violates the principles of free enterprise, private property, and limited government.

Planned chaos versus a free market

The libertarian economist Ludwig von Mises observed that the result of central planning is “planned chaos.” And that’s precisely what we have had on the border for around 100 years, along with perpetual crisis, death, suffering, kidnappings, rapes, detention centers, criminal prosecutions, penitentiaries, deportations, raids, a Berlin Wall that was built using the eminent domain stealing of people’s property, concertina wire to cut people up, and a massive immigra-

tion police state that includes highway checkpoints, warrantless searches of property within 100 miles of America's borders, and the criminalization of hiring, transporting, harboring, or caring for anyone who is here illegally.

All that is what right-wingers call America's system of "free enterprise, private property, and limited government." That's why one often finds right-wingers singing to themselves, "Well, I'm proud to be an American, where at least I know I'm free." As an aside, it's worth pointing out that immigration controls are not the only socialist program that right-wingers have come to support. There are also such programs as Social Security, Medicare, and public schooling. In fact, just last February, Geraghty wrote an article in *National Review* lamenting increases in Social Security payments but of course not questioning the existence of this socialist program itself. In fact, in the previous month, *National Review* published an article detailing a new right-wing plan to save both Social Security and Medicare.

Compare central planning with the virtues of a free market. In a free market, economic activity is free of government control, regulation, and direction. The free market is

what Hayek called "the spontaneous order." It is a system in which everyone plans his own economic activities and coordinates his efforts with others. The means of communication in a free market is a sophisticated phenomenon called the "price system."

Immigration controls are not the only socialist program that right-wingers have come to support.

For example, let's assume that a farmer in Oregon desperately needs workers to harvest his crops. If he doesn't get them right away, his crops will rot in the fields. Under a system of central planning, government officials would have already planned for the number of immigrants needed during that particular year. The plan would not have taken into consideration that farmer's immediate needs. The farmer would lose his crop, just as many farmers have actually lost their crops owing to a shortage of farm workers.

Under a free-market, spontaneous-order system, all that the farmer has to do is announce that he is offering to pay, say, \$50 an hour, plus transportation, room, and board. Immediately, a Mexican working on the farm calls his cous-

ins in Mexico, who spreads the word. The next day, dozens of Mexicans are on the plane headed to Oregon. They make some good, quick money, and the farmer's crop is saved. That's how a genuine free-enterprise system works.

Immigration and citizenship

There is something else important to note. Under an open-border system, no one has to change his citizenship. The Mexican workers who head to Oregon to harvest that farmer's crops remain Mexican citizens. They are simply foreign citizens living and working in the United States, much like American citizens who work in, say, France. I have a friend who is Japanese. She has lived here in the United States for some 40 years. She is still a Japanese citizen. Who cares?

And that's one of the things to remember about open borders. Everyone is now dealing with everyone else as simply a human being. That is, there is no distinction between a legal person and an illegal person. Think about the situation today. There are an estimated 10-12 million people here illegally. Yet, how many Americans ask someone who speaks with an accent to produce his citizenship or immigration papers? I don't know of anyone who

does that. I'm willing to bet that right-wing immigration-control advocate Jim Geraghty doesn't even do that. Instead, everyone, except ICE and the Border Patrol, treats everyone else as just regular human beings, not legal ones and illegal ones.

The welfare state and liberty

What about the old right-wing canard that you can't have open borders with a welfare state? It's wrongheaded. Of course, you can have both. Sure, it might mean the payment of higher taxes, but is that any reason to abandon one's principles and, in the process, inflict harm on all the people who are not coming to get on welfare? Moreover, keep in mind that both right-wingers and left-wingers favor a welfare state. So they're saying that advocates of liberty should join them in their support of immigration socialism until the right-wing, left-wing welfare state is dismantled, which might be never.

Instead of destroying the freedom that comes with open borders, how about devoting our efforts to dismantling the right-wing, left-wing welfare state? In the meantime, if right-wingers and left-wingers choose to give welfare to foreigners, let's not be duped into joining them in their wrongdoing.

Let's just continue trying to end their wrongdoing.

And make no mistake about it: open borders is not just about bringing an end to death, suffering, rapes, kidnappings, deportations, a Berlin Wall, and a massive police state. Most important, open borders is about liberty. As Thomas Jefferson pointed out in the Declaration of Independence, everyone — not just Americans — has been endowed by nature and God with such fundamental rights as life, liberty, and the pursuit of happiness. That's precisely what most people are doing when they cross political borders — they are trying to sustain their life with labor, entering into mutually agreeable arrangements with others, and pursuing happiness in their own way.

How about devoting our efforts to dismantling the right-wing, left-wing welfare state?

There is another factor to consider: People who are welfare-oriented are not the type of people who are going to pick up stakes and leave home, family, friends, language, and culture to go to a country where they are going to get insulted, abused, and humiliated, especially if welfare payments are not immedi-

ately available. And even if some of the welfare-oriented types do decide to come, the economic prosperity produced by the 99 percent who are trying to get rich will undoubtedly produce the tax revenues to sustain the 1 percent who are coming to get on welfare.

What if everyone comes?

What if the whole world were to come here? Jackson Hole, Wyoming, is one of the most beautiful places in the United States. Why doesn't every American move to Jackson Hole? Should we enact a law prohibiting every American from moving to Jackson Hole? What about New York City. There are millions of Americans who consider it a wonderful place to live. What if every American decided tomorrow to suddenly move to New York City? Surely, we should have a law that prevents that possibility, right? For many years, people have been fleeing California and flooding into Austin, Texas. And then suddenly the flow has receded. The same for people moving from the Northeast to Florida — many of them stopped and settled in states along the way.

Why don't we worry about all this? Because of the economic principle of subjective value and the

economic law of supply and demand. The fact is that many people like living wherever they are. For people who wish to move, they have to factor in expense — that is, the cost of moving and living in a particular area. The fact is that Jackson Hole is a very expensive place to live. Same for New York City. As people flooded into Austin and Florida, prices started soaring, causing others to look elsewhere. The market system and the price system work for everyone, including foreigners looking to move to the United States. If it gets too expensive, people look elsewhere.

Forfeiting rights

There is another aspect of immigration controls that deserves mention. When Americans travel outside the country, they forfeit their rights to privacy when returning to their own country. When they land back in the United States, they are subject to full searches of their persons and their belongings. In fact, if immigration officials demand that they disrobe and order them to bend over for a body-cavity search, Americans must comply. Immigration officials also wield the power to search laptops and cell-phones and to order Americans to turn over their passwords on pain

of being incarcerated and fined if they refuse to do so. Why should anyone — American or otherwise — forfeit his natural, God-given rights simply because he has peacefully crossed a political line?

A national home versus private property

Right-wingers often claim that America is a national home and that the federal government can legitimately control who comes into the front door. They compare the situation to a private homeowner, who has the authority to discriminate with respect to who enters his house. The problem with this mindset is that it's thinking of North Korea, where the state owns everything. In a totally socialist society, it's easy for people to think of their country as a “national home,” one in which the government owns and controls the front door.

America, however, is founded on the principle of private property. In a private-property society, you have the right to decide who enters your home. If you don't like foreigners, you can keep them out. But what you can't do is prevent me from inviting into my home whoever I want. If I want to invite foreigners into my home (or my business), neither you nor anyone else,

including the government, has the legitimate authority to interfere with my decisions.

Hope and responsibility

One of the things about right-wingers like Geraghty —and, for that matter, left-wingers like Alexandria Ocasio Cortez and Bernie Sanders — is that they never lose hope that someone will finally — finally! — come up with a reform that will make socialism work. That’s undoubtedly Geraghty’s mindset with respect to immigration, just as it undoubtedly is with Social Security, Medicare, public schooling, and other socialist programs. Notwithstanding the fact that socialist central planning has clearly failed to prevent illegal entry into the United States for almost 100 years, Geraghty still thinks that it’s possible to make his immigration-control system succeed. When it comes to socialism and the right-wing, hope springs eternal.

Meanwhile, if one were to ask Geraghty and other right-wingers whether they accept personal responsibility for the death, suffering, mayhem, and destruction of liberty

and privacy that their socialist immigration-control system has produced, they would answer in the same way that left-wingers answer when asked the same question regarding the consequences of the welfare state: “Oh, no! Please judge us not by the consequences of our socialist programs but rather by our good intentions.”

Only one solution

I’ve said it for more than 30 years, but it bears repeating: There is one — and only one — solution to America’s century-old right-wing, left-wing immigration morass: Abolish the Border Patrol and ICE and all controls on the free movements of people across borders.

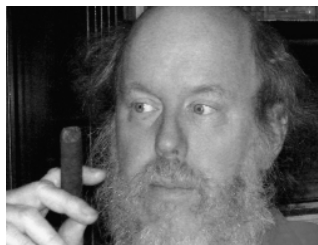
Jacob G. Hornberger is founder and president of The Future of Freedom Foundation.

NEXT MONTH:

“JFK: A Fraudulent Autopsy and a Fraudulent Film”
by Jacob G. Hornberger

Police Have the Right to Lie and Slander

.....
by James Bovard



To serve and protect, police are allowed to slander and destroy. Cops in many states and localities have acquired the right to lie about their shootings, searches, and practically anything else. Police have routinely planted drugs, guns, and other evidence to incriminate innocent people, while police labs have engaged in wholesale fraud blighting tens of thousands of lives.

From a trickle to a torrent

Supreme Court rulings turned a trickle of police perjury into a torrent. In 1967, the Supreme Court, in the case of *McCray v. Illinois*, gave policemen the right to keep secret the name of their “reliable informant” they used to get search warrants or target people for arrest.

Law professor Irving Younger observed at the time: “The McCray case almost guarantees wholesale police perjury. When his conduct is challenged as constituting an unreasonable search and seizure ... every policeman will have a genie-like informer to legalize his master’s arrests.” The Supreme Court created a judicial playing field on which police were the only witnesses who can safely lie.

In 1983, the Supreme Court ruled that government officials are immune from lawsuits even when their brazen lies in court testimony resulted in the conviction of innocent people. The court fretted that “the alternative of limiting the official’s immunity would disserve the broader public interest.” Honest government was not one of the “broader public interests” the court recognized that day.

In 1992, Myron Orfield, a Minnesota state representative and University of Minnesota law professor, conducted a confidential survey of Chicago judges, prosecutors, narcotics agents, and public defenders on Fourth Amendment issues. One Chicago prosecuting attorney observed that “in fifty percent of small drug cases [police] don’t accurately state what happens.” Twenty-two percent of Chicago judges surveyed

reported that they believed that police are lying in court more than half of the time they testify in relation to Fourth Amendment issues; 92 percent of the judges said they believed that police lie at least “some of the time.” Thirty-eight percent of the Chicago judges said they believed that police superiors encourage policemen to lie in court. One judge did not even know how perjury was defined under the Illinois Criminal Code. After Orfield read him the technical definition, the judge replied: “Then there is sure a hell of a lot of perjury going on in this courtroom.”

Ninety-two percent of the judges said they believed that police lie at least “some of the time.”

In 1994, the Mollen Commission reported that “the practice of [NYPD] police falsification in connection with such arrests is so common in certain precincts that it has spawned its own word: ‘testilying.’” Federal appeals court chief judge Alex Kozinski observed in 1995: “It is an open secret long shared by prosecutors, defense lawyers and judges that perjury is widespread among law enforcement officers.” Former San Jose, California, police chief Joseph McNamara observed

that “hundreds of thousands of law-enforcement officers commit felony perjury every year testifying about drug arrests.”

The consequences of pervasive lying

In Tulia, Texas, Tom Coleman, an undercover cop on the federally funded Panhandle Drug Task Force, carried out drug stings in 1999 that resulted in the arrests of 46 people — equal to 10 percent of the black population of the town. There were no independent witnesses to back up Coleman’s accusations of pervasive drug dealing in the low-rent farming community. As United Press International noted, Coleman “made no video or audio recordings during his 18-month investigation. No drugs were found during the drug sweep and later he said his only notes were scribbled on his leg.”

But his leg and his word sufficed for mass arrests, including 12 people sentenced to prison who had no prior criminal record. “Dozens of children became virtual orphans as their parents were hauled to jail. In the coming months, 19 people would be shipped to state prison, some with sentences of 20, 60, or even 99 years,” the *Village Voice* reported. The NAACP of Texas denounced the crackdown as “the eth-

nic cleansing of young male blacks of Tulia.” For his exploits, Coleman received the Texas Lawman of the Year award, presented by Texas Attorney General (and future U.S. senator) John Cornyn. Defense lawyers and civil-rights activists eventually exposed Coleman’s vast frauds. Gov. Rick Perry pardoned 35 convicts who had been wrongfully tarred by his accusations, but only after some of them had spent four years in prison. Coleman was later convicted of perjury but was sentenced only to probation.

Almost a thousand people have seen their convictions overturned in recent decades in cases that involved perjury or false reports by police or prosecutors. A 2018 *New York Times* investigation of police lying revealed “an entrenched perjury problem several decades in the making that shows little sign of fading.” More than 100 NYPD “employees accused of ‘lying on official reports, under oath, or during an internal affairs investigation’ were punished with as little as a few days of lost vacation,” the New York Civil Liberties Union reported in 2018.

The common practice of planting evidence

It’s a small step from fabricating guilt on the witness stand to creat-

ing guilt by planting evidence. Many police shootings have been exonerated by “throwdown” guns carried for emergency frame-ups. In 2001, a federal investigation resulted in the arrest of 13 Miami police connected to fabricating evidence or planting guns at the scene of three people who the police unjustifiably killed. In 2018, eight members of the Baltimore Gun Trace Task Force were convicted for planting guns on police shooting victims and other abuses. Police carried toy guns in their glove compartments or kept BB guns in their trunks to place at the scene of police shootings that might otherwise look like murder. More than 800 court cases were dismissed or overturned because of the Gun Trace Task Force’s crime spree.

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That scandal percolated for years because Maryland treats planting evidence as the equivalent of jaywalking. A Baltimore policeman was convicted in 2018 of “fabricating evidence in a case in which his own body camera footage showed him placing drugs in a va-

cant lot and then acting as if he had just discovered them.” A man was jailed for six months for those drugs before the charge was dropped. The policeman kept his job because, as the *Baltimore Sun* explained: “Under Maryland law, officers are only removed automatically if convicted of a felony. Fabricating evidence and misconduct in office are both misdemeanors.” An ACLU lawyer groused that he “cannot imagine a more screwed-up, idiotic way of trying to manage a police department or any other public office” than continuing to employ a cop convicted for fabricating evidence.

Bogus drugs produce more scandals than police throwdown guns. In 2019, Jackson County, Florida, sheriff’s deputy Zach Wester was charged with 50 counts of racketeering, false imprisonment, fabricating evidence, and drug possession for framing more than a hundred motorists he stopped. Wester would pull cars over for crossing the center line and then plant baggies of narcotics in their vehicles. As *Reason* reported: “Wester kept unmarked bags of marijuana and methamphetamines in the trunk of his patrol car, manipulated his body cam footage, planted drugs in people’s cars, and falsified arrest reports to railroad

innocent people under the color of law. His victims, many of whom had prior records or were working to stay sober, had their lives upended. One man lost custody of his daughter.” Wester’s perfidy exceeded his mastery of his body cam, and his videos undid him. He was sentenced to 12 years in prison for planting drugs.

Police drug lab chemist Annie Dookhan was arrested for falsifying tens of thousands of drug tests.

While planting drugs usually involves a smattering of victims, Massachusetts shattered all records. In 2012, Massachusetts State Police drug lab chemist Annie Dookhan was arrested for falsifying tens of thousands of drug tests, “always in favor of the prosecution,” as *Rolling Stone* reported. Dookhan would add narcotics to tests which came back negative or would boost the weight so that a person could be convicted of drug dealing instead of mere possession. Her zealotry knew no bounds, such as the day “she testified under oath that a chunk of cashew was crack cocaine.” Dookhan’s brazen lab frauds went unnoticed even though she routinely certified samples as illicit nar-

cotics without ever testing them. Supervisors marveled at her productivity, and colleagues called her “Superwoman.”

Five months after the Dookhan scandal broke, another Massachusetts state lab chemist, Sonja Farak, was arrested at home and charged with tampering with evidence as well as heroin and cocaine possession. The state Attorney General’s office quickly announced that it “did not believe Farak’s alleged tampering would undermine any cases.” Governor Deval Patrick assured the media: “The most important take-home, I think, is that no individual’s due process rights were compromised” by Farak’s misconduct.

Police unions have finagled legislation that routinely enables cops to trample the truth after they shoot civilians.

No such luck. Farak had personally abused narcotics from her first day on the job in 2004 — sometimes even cooking crack cocaine on a burner in the lab and snorting meth and cocaine in courthouse bathrooms when she was called to testify. She detailed her abuses in hundreds of pages of diaries. But the state attorney general’s office insisted that she had only started con-

suming narcotics on the job a few months before her arrest, and they blocked all efforts to expose the full extent of Farak’s abuses. Massachusetts government officials could not be bothered to rectify the unjust convictions. *Slate* reported in 2015 that “district attorneys take the position that ... prosecutors have no special duty to notify defendants that their convictions might have been obtained with evidence that was falsified by government employees.” Most of the victims could not afford lawyers to challenge their convictions.

More than 50,000 convictions were overturned, and the ACLU hailed “the largest dismissal of criminal cases as a result of one case in the history of the United States of America.” Hundreds of convicts were released from prison. But as Anthony Benedetti of the Committee for Public Counsel Services observed, “the damage has been done. Jobs have been lost, people have been unable to get jobs, housing has been lost, some people have been deported.” More than 20 states have had crime lab scandals since the turn of the century.

The union to the rescue

Police unions have finagled legislation that routinely enables cops

to trample the truth after they shoot civilians. Maryland police were protected by a “Law Enforcement Officers Bill of Rights” that prohibited questioning a police officer for 10 days after any incident in which he used deadly force. In Prince George’s County, Maryland, “a lawyer or a police union official is always summoned to the scene of a shooting to make sure no one speaks to the officer who pulled the trigger,” the *Washington Post* reported. Union lawyers were kept busy because that police department had the highest rate of shooting civilians in the nation. A 2001 *Washington Post* investigation revealed: “Between 1990 and 2001 Prince George’s police shot 122 people.... Almost half of those shot were unarmed, and many had committed no crime.” All the shootings, including those that killed 47 people, were ruled “justified.” The Maryland legislature purportedly repealed the Law Enforcement Officers Bill of Rights law in 2021, but the replacement law was quickly exploited to cover up police abuses. Yanet Amanuel of the ACLU of Maryland groused: “Every time there is an opportunity to give the community control of the police, Maryland Democrats at every level who say they support police ac-

countability squander it by backing amendments pushed by the Fraternal Order of Police (FOP).”

Thirteen other states have similar “law enforcement bills of rights” that give sweeping privileges to police accused of crimes, including automatic delays before they have to answer any questions about their shootings. The Florida Law Enforcement Officer Bill of Rights entitles police to receive “all witness statements ... and all other existing evidence ... before the beginning of any investigative interview of that officer.” In a 2019 *George Washington Law Review* article on delays in interviewing police who shoot citizens, one police chief commented that “showing evidence in advance allows [police] to tailor their lies to fit the evidence.” Another police chief observed that that process simply gives police suspects “time to fabricate a better lie.”

One police chief commented that “showing evidence in advance allows [police] to tailor their lies to fit the evidence.”

In July 2023, the NYPD Civilian Complaint Review Board agreed to permit police to “watch surveillance footage, bystander videos and other video recordings [in-

cluding body cam] that investigators plan to ask them about before giving their versions of what happened,” Gothamist reported. Police received that special treatment even though they had made almost 150 false or misleading official statements to the review board since 2020.

Many of the procedures discussed in this article exemplify how truth doesn’t have a snowball’s chance in hell against police unions. Regardless of how many brazen coverups occur, politicians will continue providing favored treatment in return for the cash and votes that unions deliver. Regardless of how many thousands of innocent citizens are slandered or worse, any re-

sulting testimony or accusations will continue to be “close enough for government work.”

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, his new book, Last Rights: The Death of American Liberty, and nine other books.

NEXT MONTH:
**“Supreme Court
Unleashes Censors and
Betrays Democracy”
by James Bovard**

Whenever the offense inspires less horror than the punishment, the rigor of penal law is obliged to give way to the common feelings of mankind.

— Edward Gibbon

Libertarianism vs. Microlibertarianism

by *Laurence M. Vance*



Libertarianism is a consistent and principled philosophy that is absolute in scope and universal in application.

We can begin with this classic description of libertarianism by libertarianism's greatest theorist, Murray Rothbard (1926–1995):

Libertarianism is not and does not pretend to be a complete moral, or aesthetic theory; it is only a political theory, that is, the important subset of moral theory that deals with the proper role of violence in social life. Political theory deals with what is proper or improper for government to do, and government is distinguished from every other group in society as being the institution of orga-

nized violence. Libertarianism holds that the only proper role of violence is to defend person and property against violence, that any use of violence that goes beyond such just defense is itself aggressive, unjust, and criminal. Libertarianism, therefore, is a theory which states that everyone should be free of violent invasion, should be free to do as he sees fit except invade the person or property of another. What a person does with his or her life is vital and important, but is simply irrelevant to libertarianism.

Libertarianism is therefore not about one's lifestyle, tastes, sexual proclivities, religion (or lack of religion), school of aesthetics, cultural norms, tolerances, morals, vices, or personal preferences. And it certainly cannot be reduced to the simplistic "economically conservative and socially liberal."

The nonaggression principle

The guiding principle undergirding the libertarian philosophy is what is known as the nonaggression principle. As explained by Rothbard:

The fundamental axiom of libertarian theory is that no one may threaten or commit violence (“aggress”) against another man’s person or property. Violence may be employed only against the man who commits such violence; that is, only defensively against the aggressive violence of another. In short, no violence may be employed against a non-aggressor. Here is the fundamental rule from which can be deduced the entire corpus of libertarian theory.

The nonaggression principle is designed to prohibit one man from infringing upon the liberty of another. Aggression is the initiation of nonconsensual violence, the threat of nonconsensual violence, or fraud. The initiation of aggression against the person or property of others is always wrong. Force is justified only in defense or retaliation, but must be proportional, and is neither essential nor required.

Most Americans would no doubt subscribe to the nonaggression principle on a personal and individual level. Homeowners should be allowed to forcibly repel burglars and trespassers. Store owners should be permitted to stop armed

robbers with deadly force. Assault and battery should be resisted by whatever reasonable means necessary. Convicted murderers, kidnapers, and rapists should forfeit their liberty and be locked up. Shoplifting, arson, mugging, burglary, theft, and writing bad checks are crimes against property, but are crimes nevertheless. But on the other hand, violence committed by one individual against another in a wrestling, boxing, or MMA event, or during voluntary sex acts containing bondage, sadism, or masochism, because the violence is consensual, does not violate the nonaggression principle.

The problem is when the non-aggression principle is applied to the state. Many Americans who hold to the nonaggression principle on a personal and individual level have no problem supporting government aggression against those who are not aggressing against the person or property of others, or are engaging in certain peaceful activities, in order to effect changes in behavior, compel virtue, or achieve some desired end. But as Rothbard explains: “Libertarians simply apply a universal human ethic to government in the same way as almost everyone would apply such an ethic to every other person or institution in

society. In particular, as I have noted earlier, libertarianism as a political philosophy dealing with the proper role of violence takes the universal ethic that most of us hold toward violence and applies it fearlessly to government.”

Libertarians believe that the actions of government should be strictly limited to the protection of life, liberty, and property.

Libertarians “make no exceptions to the golden rule and provide no moral loophole, no double standard, for government.” For as former Foundation for Economic Education president Richard Ebeling has noted, “There has been no greater threat to life, liberty, and property throughout the ages than government. Even the most violent and brutal private individuals have been able to inflict only a mere fraction of the harm and destruction that have been caused by the use of power by political authorities.” The nonconsensual initiation of aggression against the person or property of others is always wrong, even when done by government.

Libertarianism

Because of the nature of government, libertarians believe that the

actions of government should be strictly limited to the protection of life, liberty, and property. As libertarian theorist Doug Casey elaborates, “Since government is institutionalized coercion — a very dangerous thing — it should do nothing but protect people in its bailiwick from physical coercion. What does that imply? It implies a police force to protect you from coercion within its boundaries, an army to protect you from coercion from outsiders, and a court system to allow you to adjudicate disputes without resorting to coercion.” This means that all government actions — at any level of government — beyond reasonable defense, judicial, and policing activities are illegitimate. The “sum of good government,” said Thomas Jefferson in his first inaugural address, is “a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned.”

All of this means that the government should not monitor our activities, transfer our wealth, force us to be charitable, or punish us for doing things that are not aggression, force, coercion, threat, or vio-

lence. Virtuous action should never be compelled; it should be left up to the free choice of the individual. Charity, relief, and philanthropy should be entirely voluntary activities. Markets should be completely free of government regulation, licensing, restriction, and interference. Libertarians believe that individual consumers, consumer protection groups, and the free market can regulate business better than government agencies and bureaucrats. All services can and should be provided by competing firms on the free market. Laissez faire should be the rule and not the exception. The government should not interfere with exchanges between willing buyers and willing sellers. No industry or sector of the economy — or individual business — should ever receive government subsidies, loans, or bailouts. Property rights are supreme: He who owns the property or the business makes the rules for entry, commerce, interaction, tenancy, duration, or tenure.

Microlibertarianism

The term microlibertarianism was recently coined by Ryan McMaken, executive editor at the Ludwig von Mises Institute, to describe “libertarians who will act on principle on the small, easy topics, but

will then abandon all principle on the big stuff.” Microlibertarians believe that “limits on state power work for the small stuff, but not for the big stuff.” Consequently, “the powers and prerogatives most central to state power — and which offer the greatest threats to the lives and freedoms of ordinary people — get a free pass.”

The term microlibertarianism was recently coined by Ryan McMaken.

Microlibertarians rightly point out the evils of marijuana prohibition, how rent control leads to shortages in housing, how minimum-wage laws increase unemployment, the advantages of price gouging during a national disaster, the absurdity of laws against prostitution and other victimless crimes, the heroism of ticket scalpers, how occupational licensing reduces the supply of labor and increases its cost, and the benefits of privatizing government services like garbage collection. Although these issues are not unimportant, they “are generally rather peripheral to state power,” says McMaken. “To remove state action from these areas does little to endanger the state or its core powers.”

Microlibertarians defer to the government when it comes to “national emergencies” or “the national interest” or to “existential threats” to “national security” or “public health.” Thus, after 9/11, there could be found libertarians who vociferously defended individual liberty, small government, and the free market while they just as enthusiastically embraced war, militarism, and the surveillance state. McMaken reminds us of the common refrain heard during Ron Paul’s presidential campaigns of 2008 and 2012: “I agree with Ron Paul except on foreign policy,” which in reality meant: “I think the state is bad on some things, but I’m not really interested in confronting the major issues at the core of state power.” Microlibertarians have showed their true colors again since the beginning of the Russia-Ukraine war, with some of them supporting U.S. foreign aid to Ukraine. During the COVID-19 “pandemic,” some libertarians supported lockdowns, mask and vaccine mandates, and other draconian government responses in the name of “public health” even though the result should have been a foregone conclusion: The permanent increase and expansion of government power and interventions into the economy and society.

The issues

It is not just on national security and public-health issues where microlibertarians go astray. What follows are some other big issues where microlibertarianism is at odds with libertarianism.

Microlibertarians defer to the government when it comes to “national emergencies.”

Education. The libertarian asserts that education should be completely separated from the state in the same manner in which religion should be completely separated from the state. Just as there should be no government churches, there should be no government schools — elementary, secondary, trade, college, or university — or funding of schools or students. There is nothing special about providing educational services that necessitates that the government be involved in it.

The microlibertarian is adamant that religion should be separated from the state but maintains that government funding of education via vouchers is legitimate because it gives parents “school choice.” But giving one group of Americans the choice of where to spend other Americans’ money to educate their

children is immoral and unjust. Libertarian voucher proponents long ago quit saying that educational vouchers were an intermediate step toward a free market in education. Microlibertarians believe that some Americans should pay for the education of other Americans and their children, even though if government vouchers were issued for things besides education, microlibertarians would rightly denounce them as an income-transfer program.

Social Security. The libertarian asserts that the Social Security program is maintained by government coercion via funding by a 12.4 percent payroll tax (split evenly between employers and employees) on the first \$168,600 of one's income. "Contributions" to Social Security are anything but voluntary, and businesses that fail to withhold payroll taxes are subject to prosecution and heavy penalties. Social Security takes money from the young and transfers it to the old. Libertarians view it as immoral for the government to force people to have a retirement plan, force people to have a disability plan, or force people to have a safety net. They also believe that care and compassion of the elderly, widows, orphans, and the disabled comes from the willing hearts of individuals rather than

from government coercion. In short, Social Security is an intergenerational income-transfer scheme and wealth-redistribution program that should be abolished.

The microlibertarian maintains that Social Security can and should be reformed.

The microlibertarian maintains that Social Security can and should be reformed by updating the eligibility age, gradually raising the retirement age, reducing annual cost-of-living increases, means-testing of benefits, raising the wage base, shifting to a flat benefit, allowing Americans to invest some of their Social Security taxes in the stock market, and/or privatizing the program. (It should be pointed out that Social Security privatization plans merely privatize coercion since the government still forces people to save for retirement.) Microlibertarians believe that Social Security should be fixed and saved for future generations because it is an entrenched federal program that cannot be eliminated.

Tax reform. The libertarian asserts that taxation is theft. The libertarian view of taxes is not that taxes should be constitutional, fair, uniform, flat, apportioned equally,

or even low. And the libertarian view of the tax code is not that it should be short, simple, or efficient. The libertarian view of taxes and the tax code is simply that they should not exist because acquiring someone's property by force is wrong, whether done by individuals or by governments. All Americans should be entitled to keep the fruits of their labor and spend their money as they see fit. They should be free to accumulate as much wealth as they can as long as they do it peaceably and without committing fraud.

The microlibertarian maintains that the tax code can and should be reformed, that taxes should be made fairer and flatter, and that the tax code should be made shorter and simpler. They are intensely devoted — in the name of efficiency and simplicity — to the elimination of tax deductions, tax credits, and loopholes, that is, things that allow Americans to keep more of their money in their pockets and out of the hands of Uncle Sam. Although microlibertarians may call for lower taxes, they still believe that the government is entitled to a portion of every American's income.

Entitlement reform. The libertarian asserts that no American is entitled to receive food, money,

housing, or medical care from the government or from a private entity that is receiving government funds. The government has no resources of its own. Every dime that the government gives a welfare recipient, it must first take from a taxpayer. It is immoral to take resources from those who work and give it to those who don't — even if the government does the taking. Libertarians therefore believe that all welfare programs should be abolished — from food stamps to job training to unemployment compensation — not reformed. All charity should be private and voluntary.

The microlibertarian maintains that the tax code can and should be reformed.

The microlibertarian believes that welfare should be reformed to eliminate fraud and make government provision of welfare more efficient. When they do call for the elimination of a welfare program, it is usually because they are advocating federal block grants to the states so that the states can operate the program while the federal government picks up most of the cost. Even worse, in the name of combating "income equality," some microlibertarians have even called for a

universal basic income to be given to all Americans who make under a certain amount, courtesy of U.S. taxpayers.

The drug war. Even some libertarians are hesitant about the full legalization of drugs that are stronger than marijuana — like heroin, cocaine, and fentanyl. The libertarian position on the drug war is straightforward: There should be no laws at any level of government for any reason regarding the buying, selling, growing, processing, transporting, manufacturing, advertising, using, possessing, or “trafficking” of any drug. All drug laws should be repealed, all government agencies devoted to fighting the war on drugs should be abolished, and the war on drugs should be ended completely and immediately. There should be a free market in drugs without any government interference in the form of regulation, oversight, restrictions, taxing, rules, or licensing.

The microlibertarian is certainly in favor of decriminalizing or legalizing marijuana on the state level for both medical and recreational use and is in opposition to federal laws that regulate or prohibit marijuana possession or use. However, how many of them would publicly call for the legalization of cocaine,

LSD, heroin, crystal meth, and the dreaded fentanyl just like they would argue for the legalization of marijuana? It doesn't take much courage nowadays to say that marijuana should be legal. Many liberals and some conservatives would even say so.

Conclusion

Pure, unvarnished, plumb-line libertarianism is the antidote to government aggressions against person or property, even when it comes to the “big stuff” of national security, public health, and entrenched federal programs. The libertarian goal is a free society where the nonaggression principle is the foundational principle and individual liberty, laissez-faire, and property rights reign supreme. The reform-oriented mindset of microlibertarians will never get us there.

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The Liberal Ideal for Peace and Against War

.....
by Richard M. Ebeling



Wars, conquest, mass killings, occupation, and plunder have plagued the world for all of recorded history. Primitive tribes fighting over waterholes and hunting grounds. Kings and princes claiming divine right to rule over all those they conquer and impose their violent will upon. Nation-states asserting rights and claims to lands and peoples based on racial, ethnic, linguistic, or cultural assertions of historical or mythical roots over various geographical areas. This is the history of mankind.

Over most of human history, periods of peace have been brief respites between renewed warfare between those possessing political power and the military capacities to

initiate and fight them. Wars, conquests, death, and destruction have affected every part of the globe. Economist and historian Thomas Sowell explained in *Conquests and Cultures* (1999):

At one period of history or another, conquest has encompassed virtually all peoples, either as conquerors or as victims, and the consequences have been far-ranging as well.... Some conquests have been followed by systematic exterminations of the vanquished, as in Rome's conquest of Carthage. Nor have such draconian policies been limited to major conquerors of historic dimension. The massacres of the Tutsi by the Hutu, and vice versa, in late twentieth century Africa and "ethnic cleansing" in the Balkan wars of the same era clearly show that it does not take a great power to create great human tragedies....

Spontaneous atrocities and deliberate systematic terror have long marked the path of the conqueror. The Mongol hordes who swept across vast reaches of Central Asia, Eastern Europe, and the Middle

East cultivated an image of ruthless barbarities, as calculated strategy to demoralize future victims.... Emperor Basil II of the Byzantine Empire in the eleventh century ordered the blinding of 99 of every 100 Bulgarian captives, leaving each 100th man with only one eye to lead the others back home, so to provide graphic evidence of the emperor's treatment of his enemies....

Twentieth-century conquests have been equally hideous. The Japanese conquest of the Chinese capital of Nan-king in 1937 was followed by an orgy of rapes of thousands of women living there, the use of Chinese soldiers and civilians for bayonet practice, and a general wanton slaughter of civilians.... Their allies, the Nazis in Germany, set new lows for brutality and dehumanization, of which the Holocaust against the Jews was only the worst example.

Successes and failures in trying to restrain war

Mankind's escape from war and violent conflict has been a difficult, discontinuous, and disheartening

process. Over the ages, there have been attempts to reduce the frequency or the effects of war. For example, in the eleventh century, the ruin and destruction in parts of France were so severe due to wars between members of the nobility and their paid armies that a group of Catholic bishops declared the Truce of God in 1041, which attempted to forbid armed conflicts from Thursday to Monday. While it remained in force, it raised the cost of conflict, since the nobility had to pay a week of wages to soldiers who could only fight on their behalf two days out of the week.

Twentieth-century conquests have been equally hideous.

In the fifteenth century, it became more common for kings and princes to employ professional soldiers, the advantage of which was that their costs of hire only lasted as long as the particular campaigns for which they were being paid. The incentives of both officers and ordinary soldiers hired was to minimize the likelihood of death or injury. As the British historian Thomas Babington Macaulay (1800–1859) argued, “It became left to the conduct of men who neither loved whom they defended nor hated

those whom they opposed. Every man came into the field impressed with the knowledge that, in a few days, he might be taking the pay of the power against which he was then employed.” Thus, wars became games of maneuver: advances and retreats, with almost bloodless victories and capitulations, in which the generals of opposing sides sometimes dined together before the next day’s combat. The residents of towns and villages would watch from surrounding hills the war games in the fields below them.

The return to increased brutality and the new notion of “total war” emerged out of the French Revolution.

However, for a variety of reasons, greater savagery returned to war in Europe in the sixteenth and seventeenth centuries, with such “rules of war” set aside. Towns were destroyed to the ground, populations were exterminated, and starvation was frequent in combat and surrounding areas. This was especially the case during the Thirty Years War (1618–1648), which combined monarchical political ambitions with the religious fanaticism of the conflict between Catholics and Protestants.

But with the Age of Reason and the Enlightenment in the eighteenth century, the idea of rules of war once again returned. As F. J. P. Veale explained in *Advance to Barbarism* (1948), it was increasingly frowned upon to act without reason and forethought based on emotion and thoughtlessness. Irrational destruction or thoughtless taking of life seemed inconsistent with the modern “enlightened” understanding of the time. One of the reasons the British officers often so despised the American revolutionaries was that rather than come out in military formation and face their British counterparts like honorable men by the rules of set battles, the colonists would retreat into the forests and shoot the marching British Redcoats from hidden positions. For the British, the Americans were cowards who fought like savages.

The French Revolution and total war

The return to increased brutality and the new notion of “total war” emerged out of the French Revolution. Under the monarchies of Europe, wars were the personal affairs of kings and princes; anyone fighting out of either loyalty or for pay was doing so in the service of one man — he who wore the crown and claimed ownership and personal

possession of all lands, livestock, and subjects under his royal authority. This changed with the French Revolution of July 1789 and then with the beheading of Louis XVI, the king of France, in January 1793. When a messenger arrived at the eastern frontier of France to inform the French military forces facing the armies of European monarchs opposing the Revolution that the king was dead, an officer asked, “Then who are we fighting for?” The reply was, “You are fighting for the nation, for the people.”

When the collective nation replaced the single figure of the king, every citizen was seen as obligated to serve and sacrifice for “the common interest of the people as a whole.” It was reflected in the imposition of universal conscription of all the people of France in defense of the Revolution. Said the French revolutionary, Bertrand Barère (1755–1841), in 1794:

Some owe [France] their industry, others their fortune, some their advice, others their arms, all owe her their blood.... The young men will fight; the married men will forge arms, transport baggage and artillery, and provide subsistence; the women will work at the

soldiers’ clothing, making tents, and become nurses in the hospitals for the wounded; the children will make lint out of linen; and the old men, again performing the mission they had among the ancients, will be carried to the public squares, there to enflame the courage of the young warriors and propagate the hatred of kings and the unity of the Republic.

Barère added that such forced coercion of all for the national interest included the nationalization of the children of the country: “The principles that ought to guide parents are that children belong to the general family, to the Republic, before they belong to particular families. The spirit of private families must disappear when the great family calls. You are born for the Republic and not for the pride or despotism of families.”

Europe endured 25 years of war from 1792 to 1815, until the final defeat of Napoleon. It represented what was, in fact, the real First World War, given its reach and destruction. British historian Robert Mackenzie (1823–1881) explained in *The 19th Century: A History* (1882):

At the opening of the Nineteenth Century all Europe was occupied with war. The European people ... were withdrawn from the occupations of peace, and maintained at enormous cost, expressly to harm their fellow men. The interests of people withered in the storm; the energies of all nations, the fruits of all industries were poured forth in the effort to destroy. From the utmost North to the shores of the Mediterranean, from the confines of Asia to the Atlantic, men toiled to burn each other's cities, to waste each other's fields, to destroy each other's lives. In some lands there was heard the shout of victory, in some the wail of defeat. In all the lands the ruinous waste of war had produced bitter poverty; grief and fear were in every home.... [The war was] so prolonged that before the close men were fighting in the quarrel who had been unborn when it broke out.

Classical liberalism and individual rights and freedom

With the end to this First World War of 1792 to 1815, new ideas

gained hold of people's minds, ideas that had been germinating beneath the surface of war and destruction. These ideas were those of what we now call classical liberalism and economic liberty. New ideals and appeals for reform and change emerged. First among them, originating in both the American Declaration of Independence in 1776 and the original spirit of the French Revolution in its Declaration of Rights of 1789, was the idea of the natural rights of each and every individual to their life, liberty, and honestly acquired property. Government was to protect and not violate or oppress the rights of the individual under systems of limiting constitutions and unbiased and impartial rule of law.

New ideals and appeals for reform and change emerged.

Resulting from this founding philosophical and political principle came the call for the end to human slavery. All human beings were equal in their universal rights as individuals, regardless of where or who they were. Slavery was the most blatant instance of a violation of the rights and the dignity of the individual human being. Complementary to this was an end to any

other inequalities before the law in the form of legal discrimination or bias against anyone due to his religion or ethnicity. One instance of this was the liberation over several decades of European Jews who had long suffered under legal restrictions and economic interventions that prevented Jews from open and impartial participation in social life. All individuals, in other words, should be recognized and protected in their civil liberties of freedom speech and religion and peaceful association, including giving testimony in courts of law even if they were not Christians giving oath on the Bible.

All individuals should be recognized and protected in their civil liberties.

Fundamental to these campaigns for liberty was the case made by classical liberals and the classical economists for freedom of enterprise, commerce, and trade. It was exemplified in Adam Smith's call for a "system of natural liberty" under which everyone would have the personal freedom to enter into any trade or occupation and peacefully compete for consumer business by offering new, better, and less expensive goods and services in free

exchange with their neighbors across the street or around the world. The primary role of government, through domestic police, courts of law, and national defense, was to secure every citizen in their individual rights from the violence and fraud of others.

Restraining conflict and Francis Lieber's rules of war

One other nineteenth-century classical-liberal campaign was for the end to wars and, when they did occur, to limit their destruction and harm to noncombatants. For instance, British economist James Mill (1773–1836), the father of John Stuart Mill, vehemently argued in his *Commerce Defended* (1808):

To what baneful quarter, then, are we to look for the cause of the stagnation and misery which appear so general in human affairs? War! is the answer. There is no other cause. This is the pestilential wind which blasts the prosperity of nations. This is the devouring fiend which eats up the precious treasure of national economy, the foundation of national improvement, and national happiness.... In every

country, therefore, where industry is free, and where men are secure in the enjoyment of what they acquire, the greatest improvement which the government can possibly receive is a steady and enlightened aversion to war.

One especially notable contribution to this campaign against the cruelty of war was made by the German-American Francis Lieber (1798–1872). Born in Berlin and barely 17, he fought in the Prussian Army against Napoleon in the Battle of Waterloo and was severely wounded on the field of battle. Immigrating to Boston in 1827, he became the first editor of the *Encyclopedia Americana* in 1829. He taught at the University of South Carolina in Columbia from 1836 to 1856, during which time he wrote several important works on individual liberty and civil government, in particular *Manuel of Political Ethics* (1838) and *Civil Liberty and Self-Government* (1853). He taught at Columbia University in New York City from 1856 to 1865, with the title of the first professor of political science in the United States. (See my article “Francis Lieber’s America and the Politics of Today,” *Future of Freedom*, November 2020.)

During the American Civil War, Lieber was asked by the Lincoln administration to prepare the first modern guidebook for the rules of war, *Instructions for the Government of Armies of the United States in the Field* (1863). War was a cruel and harsh business in which death and destruction was inescapable for the combating armies and for civilians in the arenas of conflict. But Lieber insisted that in modern civilization, even wars needed to be tamed by rules toward the enemy and civilians caught in the cross-fires. Said Lieber:

Military necessity does not admit of cruelty, that is, the infliction of suffering for the sake of suffering or for revenge, nor of maiming or wounding except in fight, nor of torture to extort confessions. It does not admit of poison in any way, nor the wanton devastation of a district ... and in general, military necessity does not include any act of hostility which makes the return to peace unnecessarily difficult....

Commanders, whenever admissible, inform the enemy of their intention to bombard a place, so the non-combat-

ants, especially the women and children, may be removed before the bombardment commences....

Public war is a state of armed hostility between sovereign nations or governments.... Nevertheless, as civilization has advanced during the last centuries, so has likewise steadily advanced, especially in war on land, the distinction between the private individual belonging to a hostile country and the hostile country itself, with its men in arms. The principle has been more and more acknowledged that the unarmed citizen is to be spared in person, property, and honor as much as the exigencies of war will permit. Private citizens are no longer murdered, enslaved, or carried off to distant parts, and the inoffensive individual is as little disturbed in his private relations as the commander of the hostile troops can afford to grant in the overruling demands of a vigorous war....

In modern regular wars of the Europeans and their descendants in other portions of the globe, protection of the inoffensive citizen of the hostile

country is the rule; privation and disturbance of private relations is the exception.... The law of war imposes many limitations and restrictions on principles of justice, faith, and honor....

Humane treatment even in the midst of war

In his *Instructions* for the rules of war, Lieber went on to state the ethics and rightfulness of respect for and nonviolation of schools, hospitals, churches, museums, universities, and other institutions of scientific pursuit. He also argued that if a free state was at war with a slave state, then the capture of any slaves should bring about their immediate entitlement “to the rights and privileges of a freeman.” In addition, “all destruction of property not commanded by an authorized officer, all robbery, all pillage or sacking, even after taking a place by main force, all rape, wounding, maiming, or killing of such inhabitants, are prohibited under the penalty of death, or such other severe punishment as may seem adequate for the gravity of the offence.”

After defining the meaning of a belligerent nation and its armed and uniformed military forces in terms of lawful combat and use of

force in battle, Lieber also defined the rights of prisoners of war to be protected from cruelty, physical harm, torture, or theft of personal property of most sorts. They are to be fed and clothed and housed in a manner consistent with the circumstances but are not to be deprived of such as an act of revenge or cruelty.

Lieber also defined the rights of prisoners of war to be protected from cruelty.

Lieber also designated the meaning and the treatment for escapees, spies, abuses of flags of truce, and a wide variety of other circumstances and actions related to the conditions of war. This included not viewing as belligerent agents all medical doctors, pharmacists, nurses, and those doing charitable work in the fields of combat as long as they were not clearly serving the war ends of the opposing army in their conduct. What stands out is the attempt, guided by the liberal ideas and ideal of the individual separate from the state, and therefore the distinction between soldier and civilian, to minimize the hardships and tragedies of combat, given the inevitabilities of death and destruction once governments go to war with each other.

Underlying Lieber's rules of war was, again, the liberal idea that the normal and desired condition of man is peace and mutually beneficial intercourse among those who for a time were at war with each other. As he expressed it, "Peace is [the] normal condition; war is the exception. The ultimate object of all modern war is the renewed state of peace." Hence, the rules of war are seen as having two objectives: to diminish as much as possible the destructiveness and inhumanity of violent conflict and to limit the bitterness and anger in the wake of wars so men may return to the normal state of peaceful association and the mutual benefits of production and trade.

It is not surprising that Lieber was also the author of *Essays on Property and Labor* (1847) and *Notes on the Fallacies of American Protectionism* (1870), or that he wrote an introduction for an American translation of Frederic Bastiat's *Sophisms of the Protective Policy* (1848). A liberal campaign for humanity even in war was a complement to a case for private enterprise, free competition, freedom of trade, and respect for honestly acquired and applied property and the liberty of human labor.

Francis Lieber's *Instructions for*

the Government of Armies of the United States in the Field became the inspiration for and the outlines of what later in the nineteenth century became the Hague Conventions on the rules of war, the treatment of prisoners, and the respect for the rights and property of non-combatants, along with restrictions on the means and methods of war on the battlefield. This included his argument for international arbitration of governmental disputes in place of war: “International arbitration, freely resorted to by powerful governments, conscious of their complete independence and self-sustaining sovereignty, is one of the foremost characteristics of advancing civilization — of the substitution of reason, fairness, and submission to justice, for defying power or revengeful irritation,” said Lieber.

The failure of the liberal campaign to end war

The classical-liberal campaign for peace through the ending and mitigating of the effects of war were, unfortunately, not fulfilled in the second half of the nineteenth century. Wars in Europe still occurred, though, admittedly, they were usually short in duration and minimally destructive. What was a danger-

ous harbinger of things to come were the growing armaments races among the “great powers” of Europe, with every new technological innovation requiring new military expenditures on more and improved instruments of death and destruction. Classical liberals in the latter part of the nineteenth century lamented the costs and warlike spirit behind the expansion of the tools of war. They also criticized their use in the rush for imperialist conquests, especially in Africa.

The illiberal ideologies of the interwar period of the 1920s and 1930s resulted in totalitarian systems of planning.

Tragically, the twentieth century saw the end of the classical-liberal dream and hope of a peaceful world. The First World War (1914–1918) cost the lives of at least 20 million combatants and civilians and the use of poison gases on the Western front by both sides in the conflict. The illiberal ideologies of the interwar period of the 1920s and 1930s resulted in totalitarian systems of planning, the drive for national self-sufficiency through protectionism, and the belief that national prosperity was winnable through war. This culminated, of course, in the Second

World War (1939–1945), with an estimated loss of 50 million lives around the globe.

The humane treatment of prisoners of war and non-combatants disappeared in the blackhole of America's Guantanamo detention camps.

If the horrors of war were not already enough, the American dropping of the atomic bombs on Japan in August 1945 demonstrated the potential of destroying entire national populations in a matter of minutes, with those not immediately killed facing the agonies of radiation poisoning. The world almost crossed this threshold during the Cuban Missile Crisis of 1962, which, fortunately, the United States and the Soviet Union stepped back from.

Now in the twenty-first century, the breakdown of the liberal ideas and partial practices of the rules of war continues. In the new era of drone wars, killing becomes a reality video game, whether practiced by the United States in various corners of the world under the name of “unfortunate collateral damage,” in defense of the American empire, or in the targeting of civilian homes, schools, hospitals and infrastructure to undermine and weaken

whole populations, as used by Russia in its war against Ukraine. The humane treatment of prisoners of war and noncombatants disappeared in the blackhole of America's Guantanamo detention camps during the Afghan war and in the humiliation and torture of captured soldiers inside the prison walls of Abu Ghraib in Iraq. (See my article, “The Dangerous Pursuit of Empire: Russia, China, and the United States,” *Future of Freedom*, July 2023.)

The liberal ideal of a free and peaceful world without war

Peace, prosperity, and freedom can only be maintained and restored with a return to those ideas and ideals of nineteenth-century classical liberalism — ideas and ideals of individual rights and liberty, respect for private property, and unhampered voluntary and peaceful association of people within countries and across borders around the world. As Austrian economist Ludwig von Mises (1881–1973) explained 70 years ago in *Omnipotent Government: The Rise of the Total State and Total War* (1944):

Within a world of free trade and [limited] democracy there

are no incentives for war and conquest. In such a world it is of no concern whether a nation's sovereignty stretches over a larger or a smaller territory. Its citizens cannot derive any advantage from the annexation of a province....

In this liberal world, or liberal part of the world, there is private property in the means of production. The working of the market is not hampered by government interference. There are no trade barriers; men can live and work where they want. Frontiers are drawn on the maps, but they do not hinder the migration of men and the shipping of commodities. Natives do not have rights that are denied to aliens. Governments and their servants restrict their activities to the protection of life, health, and property against fraudulent or violent aggression. They do not discriminate against foreigners. The courts are independent and effectively protect everybody against the encroachments of officialdom. Everyone is permitted to say, to write, and to print what he likes. Education is not subject to government interference.

Governments are like night-watchmen who the citizens have entrusted with the task of handling the police power....

In such a world it makes no difference where the frontiers of a country are drawn. Nobody has a material interest in enlarging the territory of the state in which he lives; nobody suffers loss if a part of this area is separated from the state. It is also immaterial whether all parts of the state's territory are in direct geographical connection, or whether they are separated by a piece of land belonging to another state. It is of no economic consequence whether the country has a frontage on the ocean or not. In such a world the people of every village or district could decide by plebiscite to which they wanted to belong. There would be no more wars because there would be no incentive for aggression. War would not pay. Armies and navies would be superfluous. Policemen would suffice for the fight against crime. In such a world the state is not a metaphysical entity but simply the producer of security and peace.... The

citizen's sleep is not disturbed, bombs do not destroy his home, and if somebody knocks at his door late at night it is certainly neither the Gestapo nor the [KGB].

This is the world that all friends of freedom, peace, and prosperity should view as their ideal and their goal, toward which all their efforts should be ultimately directed.

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:

“Can Huey Long Save America?”

by Laurence M. Vance

“Ludwig von Mises on Human Action and the Free Society”

by Richard M. Ebeling

It's time to admit that public education operates like a planned economy, a bureaucratic system in which everybody's role is spelled out in advance and there are few incentives for innovation and productivity. It's no surprise that our school system doesn't improve: It more resembles the communist economy than our own market economy.

— Albert Shanker

“Who Will Build the Roads?” Part 3

by Wendy McElroy



In short, a free-market approach is more practical because it is based on human nature and on demonstrated preferences. By contrast, imposed measures go against human nature: Otherwise, they would not need to be imposed.

Rothbard expresses a more practical reason — one among many — why government intervention into the economy reduces utility. In his book *Power and Market: Government and the Economy*, he debunks the common pro-government view that the average person is unable to make “expert” decisions about his own life. Rothbard writes:

It might be objected that, while the average voter may not be competent to decide on policies ... he is competent to

pick the experts — the politicians and bureaucrats — who will decide on the issues, just as the individual may select his own private expert adviser in any one of numerous fields. But the point is precisely that, in government, the individual does not have the direct, personal test of success or failure for his hired expert that he does on the market. On the market, individuals tend to patronize those experts whose advice proves most successful. Good doctors or lawyers reap rewards on the free market, while the poor ones fail; the privately hired expert tends to flourish in proportion to his demonstrated ability. In government, on the other hand, there is no concrete test of the expert’s success.

In practical terms, it is the free market that empowers the average person, not government.

Moral superiority

In his essay “Who Should Decide What Goes Into a Can of Tomatoes,” Carl Watner quotes Ayn Rand: “Governments require taxes; taxes require coercion; coercion necessitates the violation of persons

and properties, hardly moral or practical alternatives.” Perhaps worst of all, government usurps the right of an individual to decide by imposing laws and standards on those who should decide what to do with their own property, which amounts to deciding what people can do with their own lives. Watner explains his seemingly whimsical title:

So, to return to the question posed in our title: Who should decide what goes into a can of tomatoes? The answer is relatively simple: the owner of the can, the owner of the tomatoes, the insurance company that insures them, and the person who acquires the appropriate knowledge as to what is safe and is not safe, and is willing to take the responsibility for that decision.

Proof of principle

This concept was explored earlier in some depth. In this context, it means a demonstration of a theory’s feasibility. To the question “Can the free market replace government in performing *this* function?” a proof of principle answers, “not only can the private sector do so, it already does.” The answer is a re-

sounding and verifiable “Yes!” In a free market, roads will be built; shoes are ubiquitous; pharmaceutical standards were and are exquisitely established.

Giving government control over the economy is an act of aggression against peaceful individuals.

Finally, when confronted with the question “Who will build the roads?” it is important to remember a lesson from Rothbard’s “Fable of the Shoes.” The burden of proof is on the person making an assertion, namely, the bottom-line statement implicit in the question; certain goods and services can’t exist — at least, not adequately — without government involvement. The free-market advocate should shift the burden of proof by asking, “I don’t understand why free-market roads would be a problem. Why do you think they would be?”

The bar for proof should be very high. Giving government control over the economy is an act of aggression against peaceful individuals; it is an act of violence. Government agents will confiscate money in the form of taxes and financially destroy or arrest those who don’t comply. Private-sector competitors

will be banned or hobbled by regulations that make them less profitable. Those who sidestep the government grip on the economy will be criminalized as smugglers, black marketeers, money launderers, or tax evaders when they are actually traders on the free market who want to use their own money in their own manner. These are only a few of the acts of violence involved in allowing government to control any aspect of economic exchange.

“Who will build the roads?” is not usually the benign question it

may seem to be. It forms one of the frontlines of intellectual battle between freedom and government control.

Wendy McElroy is an author for The Future of Freedom Foundation, a fellow of the Independent Institute, and the author of The Reasonable Woman: A Guide to Intellectual Survival (Prometheus Books, 1998).

A general State education is a mere contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in the government, whether this be a monarch, a priesthood, an aristocracy, or the majority of the existing generation, in proportion as it is efficient and successful, it establishes a despotism over the mind, leading by natural tendency to one over the body.

— John Stuart Mill

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