POLICY FORUM

Getting Hayek right in the 21st century

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CATO ON CAPITOL HILL

Scholars bring facts, expertise to legislators

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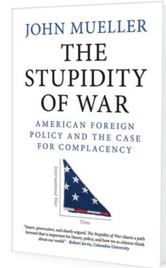

STUPIDITY OF WAR

Why bumbling belligerence doesn't work

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Cato Policy Report

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Industrial Policy: A Bad Idea Is Back

BY SCOTT LINCICOME

In the wake of the COVID-19 pandemic and rising U.S.-Chinese tensions, American policymakers on both sides of the aisle have once again embraced "industrial policy" to fix perceived market failures and counter China's growing economic clout. Perhaps the idea's biggest fan is President Biden, who—much like his predecessor—has proposed a wide range of federal support for American manufacturers of "essential goods" and "critical technologies." In the first half of 2021, Biden has pushed massive new subsidies (tax credits, grants, preferential contracts, etc.) for domestic producers of renewable energy technologies, electric vehicles, semiconductors, and "critical minerals," as well as "Buy American" requirements for the construction materials and other goods needed to implement trillions of dollars in proposed infrastructure spending. Congress is eager to play along: both chambers are considering major legislation to subsidize American industrial research and development (R&D).

One could hardly blame the politicians if industrial policy advocates are to be believed. By their account, almost every major modern marvel, including basically everything involving computers and technology, all types of energy sources, the civil aviation industry, the pharmaceutical and biotech industries, as well as hybrid corn and lactose-free milk, is an "industrial policy success."

However, few such innovations are the result of real U.S. industrial policy, which both advocates and critics historically understand to mean *targeted and directed government interventions intended to achieve specific, market-beating industrial and commercial outcomes within national borders.* The specificity of these targeted interventions is what makes them different from other kinds of broader, more general interventions.

Contra the cheerleaders, this excludes "horizontal" economic policies (patents, tax or trade liberalization, etc.) that apply to all sectors but might have indirect and disproportionate effects on certain industries, government funding for basic academic research or governmental goods (e.g., fighter jets) that unintentionally results in an innovation, and government contracts to purchase certain goods (e.g., the BioNTech-Pfizer vaccine) regardless of where or how it is made. That a random university researcher on a small federal grant stumbled on a new technology in an unrelated field does not "industrial policy" make.

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SCOTT LINCICOME is a senior fellow in economic studies at the Cato Institute.

New from Libertarianism.org, ***The Most Common Arguments Against Immigration and Why They're Wrong*** is a stylishly illustrated booklet summarizing the work of Alex Nowrasteh, Cato's director of immigration studies. See page 3.

BY DAVID BOAZ

> "'Without freedom of thought, there can be no such thing as wisdom.'"

EDITORIAL

Our Deep Roots in Defending Free Speech

Freedom of speech is a fundamental principle of a free society—and of the United States in particular. It's also deeply embedded in the founding of the Cato Institute.

When it was founded in 1977, Cato was named for Cato's Letters, a series of newspaper essays written in the 1720s. Why that name? Because John Trenchard and Thomas Gordon, who wrote under the pen name Cato after the defender of the Roman republic who refused to submit to Julius Caesar, took the ideas of great thinkers such as John Locke and Algernon Sidney and applied them to the controversies of the day. And that has always been the approach of the Cato Institute: to apply the great principles of liberty to policy and current affairs.

In any epoch, freedom of thought and expression is one of our essential liberties. Earlier this year, Cato held a virtual Young Leaders Seminar for college students, focusing on the importance of freedom of speech as a pillar of a free society and the unique threats facing free speech in the 21st century. The seminar paid special tribute to the legacy of former Cato senior fellow Nat Hentoff, one of the great First Amendment defenders of the past half-century.

In opening that seminar, I drew on our connection to Trenchard and Gordon. I noted that the great American political historian Clinton Rossiter described Cato's Letters as "the most popular, quotable, esteemed source of political ideas in the colonial period." Bernard Bailyn, perhaps the most important historian of early America, wrote, "To the colonists the most important of these publicists and intellectual middlemen were those spokesmen for extreme libertarianism, John Trenchard and Thomas Gordon."

Another historian of the American Founding, Forrest McDonald, points out that "free speech" was never a central political claim prior to the 1720s: "It was John Trenchard and Thomas Gordon . . . who first gave unreserved endorsement to free speech as being indispensable . . . and who were willing to extend the privilege to all, including those who disagreed with them."

As Trenchard and Gordon wrote in Letter 15, "Without freedom of thought, there can be no such thing as wisdom; and no such thing as publick liberty, without freedom of speech. . . . This sacred privilege is so essential to free government, that the security of property; and the freedom of speech, always go together; and in those wretched countries where a man cannot call his tongue his own, he can scarce call any thing else his own. Whoever would overthrow the liberty of the nation, must begin by subduing the freedom of speech."

So, the importance of freedom of speech was in our bones even before the Cato Institute was founded. And obviously freedom of expression is essential for the work we do and, as Trenchard and Gordon wrote, for the public liberty.

We exercise our rights of free speech in books, studies, journals, and newspapers, on the radio, television, and internet, and in seminars and public speeches. We defend the right of free speech through our advocacy, as well as in the courts, on college campuses, and in our advice to legislators and policymakers.

People often complain that free speech is being violated when a newspaper refuses to run an article, a social media company bans a controversial account, a publisher cancels a book, an NFL team won't hire a politically outspoken quarterback, or an owner shuts down a magazine after its criticisms of an elected official. We want to encourage a culture of free speech, but all these private actors are making decisions about which ideas and controversies they want to be associated with. That's very different from government restrictions on expression. The First Amendment forbids any "law . . . abridging the freedom of speech, or of the press," not editorial decisions by private companies.

Our defense of free speech must be aimed at those on both sides of the political spectrum who seek to have local, state, or federal governments ban—or compel—the expression of certain ideas. Government remains the true threat to be guarded against, and state censorship is crucially different from the decisions of private actors, however open the latter are to fair criticism. Conflating the two opens the door to the very thing free speech guards against: control of the marketplace of ideas by the government rather than free individuals and private, voluntary society.

David Boaz

New booklet summarizes Cato scholar's findings

Myths and Facts of Immigration in the United States

Alex Nowrasteh is the director of immigration studies and of the Herbert A. Stiefel Center for Trade Policy Studies at the Cato Institute, providing expert analysis and groundbreaking research on the realities of immigration in the United States. His peer-reviewed academic publications have appeared in a variety of prestigious journals, and he regularly appears in major media outlets, including national cable news networks.

But it was a Cato blog post that became one of his most-cited pieces of writing. "The 14 Most Common Arguments against Immigration and Why They're Wrong" was published on *Cato at Liberty* on May 2, 2018. In it, Nowrasteh runs through the objections to liberalizing immigration laws that he hears most often, from abuse of welfare to stealing jobs to crime rates, and provides his evidence-based rebuttals.

The post turned out to be such a popular and concise summation of the case for immigration and the counterarguments to restrictionists that it has now been adapted into a short booklet published by Cato's Libertarianism.org. With one more argument added to make a total of 15 and retitled *The Most Common Arguments Against Immigration and Why They're Wrong*, the colorful and sharply illustrated 37-page booklet is available both in print and as a free download.

As Nowrasteh explains, "This booklet attempts to answer the most common objections to immigration that I've heard throughout my career from policy wonks and academics as well as from everyday Americans."

Arguments discussed include no. 7, "Immigrants are a major source of crime." Nowrasteh pulls from his own original research to show that immigrants are much less likely than native-born Americans to commit crimes, including violent crimes.

For no. 13, he addresses the claim that "Immigrants bring with them bad cultures, ideas, or other factors that will undermine and destroy our economic and political institutions." The reality is that there is no evidence that immigrants do anything of the sort. One explanation is the self-selecting nature of immigration. It is people with the highest opinions of American liberty, the ones most eager to escape oppressive ruling ideologies at home, who uproot their lives and come to the United States.

Two of the most common arguments, including from some libertarians, are no. 3, "Immigrants abuse the welfare state," and no. 4, "Immigrants increase the budget deficit and government debt." This might seem intuitive, but as Nowrasteh explains, it's not true. Immigrants are less likely to use welfare, on top of being subject to many legal restrictions that exclude them from most welfare programs. Many tend to come to America as young adults, after any possible costs of public schooling and with decades to go before hitting the age of retirement benefits. In other words, immediate net taxpayers. "Immigrants in the United States have about a net-zero effect on government budgets," concludes Nowrasteh. ■

***THE MOST COMMON ARGUMENTS AGAINST IMMIGRATION AND WHY THEY'RE WRONG* IS AVAILABLE IN PRINT OR AS A FREE DOWNLOAD AT LIBERTARIANISM.ORG AND IN KINDLE FORMAT ON AMAZON.**

Cato News Notes

LIBERTY, INSHALLAH

Mustafa Akyol, Cato senior fellow, was one of three scholars of Islam whose work was profiled by *The Economist* ("Thinkers in America Are Debating Islam's Past and Future," May 17, 2021). Akyol, whose newly released book *Reopening Muslim Minds* makes the case for enlightenment, toleration, and liberalism in the Muslim world, was contrasted with some of the other writers who have recently written on the same issues. The book has also drawn coverage in the *New York Times*, *Washington Post*, and *Wall Street Journal*.

MARE LIBERUM

Sen. Mike Lee (R-UT) and Rep. Tom McClintock (R-CA) have introduced the Open America's Waters Act, a bill that would repeal the Jones Act and allow all qualified vessels to engage in domestic trade between U.S. ports. In their announcement of the bill, the legislators cited research from Cato's Project on Jones Act Reform out lining how "the annual cost of the Jones Act is in the tens of billions of dollars."

CATO COMES HOME

As pandemic restrictions are wound down in the nation's capital, in-person work has resumed at Cato's building on Massachusetts Avenue, which had been closed for the past year except for essential facilities and support staff. In-person events are also resuming.

Senior fellow **Mustafa Akyol** participates in a book forum for his new release *Reopening Muslim Minds: A Return to Reason, Freedom, and Tolerance*, moderated by **Ian Vasquez**, Cato vice president for international studies, with commentary from Pulitzer Prize-winning author and scholar of religion **Jack Miles**.

Ryan Bourne (1), the R. Evan Scharf Chair for the Public Understanding of Economics at the Cato Institute, discusses his new book *Economics in One Virus: An Introduction to Economic Reasoning through COVID-19* with economist **Alexander Tabarrok** (2) of George Mason University, Cato adjunct scholar **John H. Cochrane** (3), and *Washington Post* columnist **Megan McArdle** (4).

Neal McCluskey (1), director of Cato's Center for Educational Freedom, assesses how private schooling has fared during the pandemic with **Donna Orem** (2) of the National Association of Independent Schools, **Lynn E. Swaner** (3) of the Association of Christian Schools International, and Sister **Dale McDonald** (4) of the National Catholic Educational Association.

With President Biden pushing a $2.3 trillion infrastructure spending plan, Cato's director of tax policy studies **Chris Edwards** (top left) sat down with senior fellow **Randal O'Toole** (top right) and the Reason Foundation's **Robert W. Poole Jr.** to discuss better alternatives.

Continued from page 1

THE FAILED HISTORY OF INDUSTRIAL POLICY

By contrast, *real* "industrial policy" has a long and ignominious history in the United States, one that honest supporters acknowledge has been riddled with "performance underruns and cost overruns," owing to four main obstacles to these policies' effective design and implementation.

First, past U.S. industrial policy efforts have often struggled to surmount F. A. Hayek's knowledge problem, particularly for high technology goods. Centralized attempts to identify "critical technologies" in the 1990s, for example, failed in part because the government could not predict which technologies would be most valuable in the future or foresee how the marketplace would develop. Contemporaneous semiconductor and supercomputer protectionism picked the right industries but the wrong products and companies.

Second, even if U.S. planners can pick the right industries or products, politics thwarts their policies' implementation—just as public choice theory predicts. Supercomputer policy in the 1990s, for example, was essentially aimed at supporting one politically powerful U.S. company, Cray, and ignored other American market entrants that offered different and arguably better products. Energy technology demonstration projects funded by President Barack Obama's American Recovery and Reinvestment Act (ARRA) were dominated by unpromising (and now failed) clean coal and carbon capture projects, accounting for about five of every six dollars allocated, due in large part to the political influence of coal and ethanol producers and Obama's affection for his home state of Illinois. Then, of course, there is Solyndra and the Obama administration's green energy loan programs, which studies have repeatedly found to connect funding amounts to lobbying expenditures and campaign contributions, not scientific merit.

"Politics thwarts their policies' implementation."

Most recently, Defense Production Act subsidies have gone to politically favored industries, such as shipbuilding, that have no connection to COVID-19. Even in cases where the connection to the pandemic is clearer, these sorts of industrial policy interventions have a poor track record. For example, certain vaccine supplies have been imperiled by Maryland vaccine manufacturer Emergent Biosolutions—a longtime government contractor that invested heavily in lobbying and consistently underperformed but was rewarded with an (as yet uncompleted) $628 million vaccine contract, perhaps because it had effectively "captured" the government agency awarding the contracts.

Emergent certainly isn't alone. Politics routinely causes American industrial policies to suffer from a lack of discipline regarding scope, duration, and budgetary costs. Unlike private transactions whose success or failure is usually adjudicated—often ruthlessly—by the market, government industrial policies often live or die based on political considerations rather than their actual efficacy. Linda R. Cohen and Roger Noll documented such issues in their 1991 book, *The Technology Pork Barrel*, which examined six federal industrial policy programs originating in the 1960s and 1970s—the Supersonic Transport, the Applications Technology Satellite Program, the Space Shuttle, the Clinch River Breeder Reactor, Synthetic Fuels from Coal, and the Photovoltaics Commercialization Program—and found none truly successful. Four were "almost unqualified failures," costing billions and crowding out more meritorious R&D projects yet enduring long after failure was established—a survival owed to political pressure and captured regulators.

The authors' principal conclusion: "American political institutions introduce predictable, systematic biases into R&D programs so that, on balance, government projects will be susceptible to performance underruns and cost overruns." Other programs—such as the Jones Act, the U.S. ethanol program, the U.S. antidumping law, and the clean coal megaprojects—permit the same conclusions. In each case, legislators and bureaucrats responded to years of failure not with reform or termination but with more funding or protectionism.

Third, industrial policies are often undermined by other government policies that have distorted the market at issue. Substantial ARRA funding for carbon capture, for example, was diverted to ethanol—a subsidized energy product with few if any environmental benefits but substantial political backing. Federal loan guarantee applicants' compliance with the Davis-Bacon Act (mandating high wages and favoring politically connected labor unions), Buy American Act (mandating domestic content), and National Environmental Policy Act (requiring government review and approval of projects "significantly affecting" the environment) increased project costs, duration, and paperwork—and scuttled some projects altogether. New legislation to boost U.S. R&D spending and subsidize domestic semiconductor manufacturing has been larded with Davis-Bacon and Buy American rules, just as public choice predicts.

Fourth, industrial policies have costs far beyond the budget assigned to a specific project. Beyond the "seen" cost overruns (especially after considering federal borrowing costs), U.S. industrial policies create a host of "unseen" costs, such as indirect costs paid by others (e.g., consumers of tariffed goods), deadweight loss for the economy as a whole, opportunity costs, misallocation of resources, unintended consequences, moral hazard and adverse selection, and uncertainty inherent in a system dependent on politics, not the market.

Almost all these issues arose in the government bailouts of General Motors (GM) and Chrysler, which the Obama administration deemed an industrial policy "success" because they only "cost" taxpayers about \$10 billion (the difference between the current-dollar value of funds the government "invested" and recouped). However, this rosy projection ignored not only the true interest-adjusted cost to taxpayers, estimated to be \$14 billion, but also whether the \$61 billion that the government invested could have been better spent at the time (for example, via direct payments to and retraining for autoworkers). Other neglected considerations include the long-term costs to GM and Chrysler because they were not reorganized via standard bankruptcy proceedings, the costs (e.g., lost business) incurred by Ford and other U.S.-based automakers who did not receive special treatment, and the costs to U.S. consumers and the economy because these companies' better products and business models were not rewarded with additional business. On top of these are the moral hazards that resulted from encouraging the continuation of the companies' and their union's irresponsible practices, the costs to bond-holders and other investors who did not receive the fair value of their holdings, and the cost of uncertainty about whether political actors will again decide to intervene in the U.S. market and legal system, citing the bailout as precedent.

Industrial policy advocates' responses to these criticisms are routinely deficient. Beyond the overbroad list of alleged successes, for example, rosy projections of direct economic benefits for recipient companies are rarely combined with empirical assessments of whether the U.S. economy overall would be better off due to the oft-claimed but usually unproven positive externalities, market-beating R&D spillovers, or faster economic growth. Furthermore, there is little consideration given for whether an industrial policy success would have occurred in a market without the supporting program at issue. Assessments of Department of Energy loan guarantee programs, semiconductor subsidies (SEMATECH), and cleantech startups funded by the U.S. Advanced Research Projects Agency-Energy (ARPA-E) all have found that government support mostly went to companies that could have obtained private funding or produced outcomes that the market could have provided (and did previously without government assistance).

> "Manufacturing jobs cannot justify industrial policy."

Advocates also frequently claim that these economic and political costs are worth the expense if the project ultimately supports one big "winner," such as Tesla Motors. However, even assuming that Tesla's story is fully written and that it couldn't have succeeded in the absence of government subsidies, this last-gasp argument must have limits: Would government backing of Tesla be worth a trillion dollars in waste, failure, and cronyism? Two trillion? Surely, some amount of money wasted on losers would be too much, even if the government picked one winner in the process.

"GOOD JOBS"

Finally, there is the small issue that the most common "problems" that industrial policies are supposedly needed to solve aren't problems at all. As I explained in a recent Cato policy analysis (*Manufactured Crisis: "Deindustrialization," Free Markets, and National Security*, Policy Analysis no. 907), for example, widespread claims of American "deindustrialization" are mistaken. Both U.S. manufacturing job losses and the sector's shrinking share of gross domestic product primarily reflect long-term global trends shared by most industrialized nations and disconnected from specific federal economic policies, whether free market or interventionist.

At the same time, the U.S. manufacturing sector remains among the most productive in the world and has expanded since the 1990s—continuing earlier trends in output, investment, and financial performance. Between 1997 and 2018, real value-added for U.S. manufacturing overall and the durable goods sector in particular increased by 52.8 percent and 109 percent, respectively. Investment in the manufacturing sector—capital expenditures, R&D, and foreign direct investment—has been consistent and strong over roughly the same period. Indeed, real R&D expenditures more than doubled between 1999 and 2018, from around \$127 billion to \$274 billion. Pre-pandemic data and more recent news reports, moreover, show particularly strong investment in motor vehicles (especially electric vehicles and batteries), semiconductors, pharmaceuticals, and renewable energy products (i.e., the very industries that industrial policy fans in the White House and Congress now want to subsidize or protect).

Manufacturing jobs cannot justify a new U.S. industrial policy push either. Declines in manufacturing jobs are driven by secular trends shared by countries around the world, regardless of their industrial or labor policies. And as a 2013 Congressional Research Service report put it, "Although Congress has established a wide variety of tax preferences, direct subsidies, import restraints, and other federal programs with the goal of retaining or recapturing manufacturing jobs, only a small proportion of U.S. workers is now employed in factories."

U.S. policy could in theory produce a one-time increase in overall manufacturing employment, but there is little reason to believe that such jobs would be sufficiently special or economically beneficial as to warrant government intervention, even assuming that such policies would be successful. For example, Cato's Ryan Bourne showed in 2019 that U.S. manufacturing jobs are not significantly more stable or secure than jobs in other sectors, especially for low-skilled workers whose jobs have been disappearing for decades and are most exposed to automation and trade. Any additional increases in industrial productivity, moreover, would likely mean fewer jobs, a dynamic demonstrated by the last few years of increasing U.S. manufacturing jobs and sagging productivity.

The evidence that manufacturing provides "good jobs," as President Biden and other politicians claim, is also thin. The manufacturing "wage premium" today is small if it exists at all. According to a December 2019 report by the Bureau of Labor Statistics, for example, by the end of 2018, "average hourly earnings of production and nonsupervisory workers in the total private sector had surpassed those of their counterparts in the relatively high-paying durable goods portion of manufacturing" (nondurables pay was even lower). Fortunately, middle-class compensation overall has not been stagnant, driven in large part by gains in services like warehousing and transportation. Median production and supervisory wages have increased by more than 30 percent since the early 1990s, and total personal compensation is up 61 percent.

American living standards cannot justify new U.S. industrial policies either. In terms of basic necessities like food, clothing, and home goods, Americans today are absurdly rich as compared to only a few decades ago. Cato's Marian Tupy has shown that the average time that an unskilled American worker had to work to earn enough money to buy a long list of everyday items declined by 72 percent since the late 1970s, when manufacturing jobs were at their zenith. That means that for the same amount of work

"Americans today are absurdly rich as compared to only a few decades ago."

that allowed an unskilled worker to purchase one item in 1979, he or she could buy 3.56 items in 2019 on average. Tupy has found similarly impressive gains for food, helping to explain why food insecurity reached an all-time low before the pandemic hit.

Finally, there is little reason to believe that the industrial policy experiences of other countries, particular China, justify U.S. industrial policy. For one thing, most experts agree that differences in nations' culture, economies, and political systems limit the extent to which perceived industrial policy successes can inform whether similar results are possible in the United States. In any event, the "successes" of countries like Japan, Taiwan, Singapore, and South Korea are routinely exaggerated, with studies showing that the nations' impressive economic growth was, at best, mostly disconnected from industrial policy and, at worst, actually slowed by it. Meanwhile, any legitimate successes in these and other countries are more than offset by countless failures in Latin America, the UK, Europe, India, and—of course—the United States.

While China's recent and troubling embrace of illiberalism and expansionism surely warrants criticism and attention, the view of Chinese industrial policy and China more broadly as urgent threats to the United States—one justifying a broad rejection of free markets and strong embrace of American industrial policy—is also misguided. China's rapid growth is primarily owed to market-based policy reforms (including World Trade Organization accession) following decades of self-imposed poverty, *not* industrial policy. Despite this "catch-up growth," moreover, China still lags the United States in many important industries (e.g., semiconductors) and is struggling to advance.

Chinese industrial policy may have helped some other industries, perhaps even overtaking the United States in the process, but the cost of doing so was enormous, and those same policies have introduced distortions that could hamper future growth. China also faces several other challenges—an aging population, declining productivity, prioritization of moribund state-owned enterprises over private businesses and entrepreneurs, and increasing bureaucratization—that further undermine the all-too-common perception in the United States of China as an unstoppable economic juggernaut that, fueled by industrial policy, will inevitably overtake the United States.

In sum, industrial policy—properly defined—has an extensive and underwhelming history in the United States, featuring high costs (both seen and unseen), failed objectives, and political manipulation. Not every U.S. industrial policy effort has ended in disaster, but facts here and abroad demand that we rigorously question any new government efforts to boost "critical" industries and workers and thereby fix alleged market failures. Unfortunately, such skepticism is rarely applied.

The United States undoubtedly faces real economic and geopolitical challenges, but the solution lies not in copying China's top-down economic planning on the grounds that the U.S. system is failing and that China is an inevitable economic power. Instead, American policymakers should lean into the things that made the United States a global leader to begin with: openness to foreign trade, workers, and investment; tax policies that avoid excessive burdens; flexible labor markets; stable monetary policy; and most notably, a lack of any grand industrial policy. ■

Is Hayekian Behavioral Economics an Oxymoron?

F. A. Hayek was one of the 20th century's most influential economic, political, and social philosophers—and a Distinguished Senior Fellow at the Cato Institute. **Cass Sunstein**, currently at Harvard Law School and formerly the administrator of the Office of Information and Regulatory Affairs under President Obama, invokes Hayekian concepts for a theory of "libertarian paternalism," which uses behavioral economics to justify a range of public policy interventions to frame individual choices in ways intended to nudge them toward better outcomes. **Mario Rizzo**, an economist at New York University, disputes the Hayekian justification for this vision. In May, they participated in a Cato policy forum to discuss these differences as well as which is the better interpretation of Hayek's insights.

CASS SUNSTEIN: For decades, Hayek has been a hero of mine. Behavioral economics and its findings have been a focus of mine for not quite as long as I've had my admiration for Hayek, but still for some decades.

The question is whether there is such a thing as Hayekian behavioral economics. I'm going to suggest that there is in the sense that we can take with enthusiasm Hayek's notions about the fallibility of planners and the epistemic problems planners of all sorts face, while also recognizing that human beings are sometimes insufficiently informed, something that I think would not surprise Hayek in the least, nor that this lack of information is sometimes behaviorally biased.

The ideal we're getting at here is thinking of what choosers choose under epistemically favorable conditions. We can consider epistemically favorable conditions to be those where choosers are free, or at least free enough, from information gaps and from behavioral biases. Hayekian behavioral economics at its core is not going to ask, "What do planners know and believe and prefer?" Rather, it asks, "What do choosers know and believe and prefer under circumstances that are epistemically favorable?" That is how we can get at people's true preferences to the best of our ability.

Hayek's distinctive account of the reason to respect individual liberty is rooted in his critique of socialism and centralized planning. His emphasis was on the lack of knowledge on the part of planners compared with the knowledge that participants in markets have. The basic objection sketched in his great 1945 essay "The Use of Knowledge in Society" is that the price system is a marvel because it aggregates the information and tastes of lots of people, incorporating a lot more information than could possibly be assembled by central planners or groups or boards.

Hayek emphasized the unshared nature of information, the dispersed bits of incomplete and frequently contradictory knowledge that all the separate individuals possess. He stressed the very important and unorganized knowledge, the knowledge of particular circumstances of time and place. Hayek was not an emotional writer, but there's a sense of soaring, at least, in his suggestion that it is more than a metaphor to describe the price system as a kind of machinery for registering changes, or a system of telecommunications that enables individual producers to watch merely the movement of a few pointers. On Hayek's account, the price system is an extraordinary device for capturing collective intelligence in part because it collects in everyone what everyone knows and in part because it imposes the right incentives.

That's the background. In light of modern behavioral findings about human error, it would be possible to object that the price system is not always so marvelous and that other institutions might do better. If consumers show limited attention, if they don't pay attention to certain characteristics of products, let's say, or if they show unrealistic optimism, or if they are more indifferent than they ought to be to risks that they face because they wrongly think they have a personal immunity against those risks, or if they suffer from present bias in the sense that they have implausibly high discount rates, then under those circumstances the price system might miss something important. Hayek's "system of telecommunications" might give the wrong messages.

It is possible to agree with Hayek's arguments about planning and prices while also thinking that certain forms of regulation and being alert to behavioral biases are not out of bounds. Hayek himself did not engage with behavioral findings for reasons that we can discuss, in some cases because they came after his time, but he did engage with the limitations of private markets.

Hayek wrote, "Probably nothing has done as much harm to the liberal cause as the wooden insistence of some liberals on some rough rules of thumb, above all the principle of laissez-faire." Hayek didn't choose his words carelessly, so we might pause over that provocative sentence. Or consider this, from The Road to Serfdom: “To prohibit the use of certain poisonous substances or to require certain precautions in their use, to limit working hours or to require certain sanitary arrangements, is fully compatible with the preservation of competition.”

The only question here is whether in a particular instance the advantages gained from an intervention are greater than the social costs that they impose. Hayek was, at least sometimes as we see from these passages, on board the cost-benefit train and willing to concede some regulations even in a case where it’s not clearly a matter of externalities. In fact, limitation of working hours or requirement of certain sanitary arrangements doesn’t seem offhand to be a problem of externalities, but Hayek cited those as justifiable examples.

Maybe a mandatory seatbelt law, a ban on trans fats, or regulation of exposure to certain carcinogens in the workplace would be unobjectionable if the only question to consider is costs versus benefits, according to Hayek. The question remains, do Hayek’s other arguments about the knowledge problem count against, for example, cigarette taxes or taxes on sugar-sweetened beverages? Are they a large-scale objection to paternalism from public institutions? Hayek didn’t answer these questions. His high-level concerns about coercion and about the deficiencies of planners can’t answer concrete questions such as whether salient disclosure requirements are essential to overcome limited attention or whether energy efficiency mandates are an appropriate response to present bias and myopic loss aversion. Those just aren’t questions he ever directly answered.

I would contend that any form of Hayekian behavioral economics would firmly reject the view that public officials should be content to merely identify individual errors and to declare victory. We have to ask on Hayekian grounds how costly the errors are compared with the errors that would be induced by corrective measures. To engage in that analysis, we have to know something about relative institutions. What I’m suggesting is that if we do decide to proceed with a remedy, a Hayekian approach would try to reduce the knowledge problem by asking what individuals would do under epistemically favorable conditions.


CASS SUNSTEIN

“What do choosers do under epistemically favorable conditions?”

The good news is a stream of research is asking exactly that question: What do choosers in fact do under epistemically favorable conditions? It’s not about what planners want given their own values and desires and commitments; it’s about getting at those subjective individual preferences. And behavioral economists have developed a range of conceptual tools and empirical methods to do that, ways to understand and analyze how people respond when they are freed from undesirable biases and insufficient information.

So, the best approach I’m suggesting is to ask what are active, informed choosers who are free of behavioral biases, who have broad view screens, and who are unaffected by clearly irrelevant factors and frames to do? Now, this might seem like an abstract question. It might even seem the sort of question for which one ought to, on Hayekian grounds, be most distrustful of those who even dare to ask it. But before you get there, let’s just notice there’s a stream of research that’s asking exactly these questions. At least to some degree, the answers are not unknowable, and they are not irretrievably hidden behind the knowledge problem.

It would be extravagant maybe to claim that those interventions defended by reference to people’s choices under epistemically favorable conditions are Hayekian in the sense that Hayek advocated them. But it may not be going too far to insist that they’re in Hayek’s general spirit and respectful of his most fundamental concerns. They might, if we’re lucky, provide an orientation for both theory and practice, now in its early stages, that promises to preserve and to cherish freedom while also improving human lives, not least by lengthening them.

MARIO RIZZO: I don’t intend to spend much time on whether Hayek would have approved a behavioral public policy. However, as many of you know, May 8 was Hayek’s 122nd birthday. He’s quite old right now. And in my birthday seance with him, I asked whether he approved of behavioral public policy, and he said simply that he didn’t much care for it. And that is all he had to say. Well, that’s not quite enough. So what I will do here is answer the question, has behavioral public policy solved the Hayekian knowledge problem?

Let me review a few things to start. And on these points, I think Cass and I are in perfect agreement. Behavioral public policy is not just one thing. I view it as a combination of three things. First, a set of normative standards. And these range from subjective true preferences, which was a term previously used, to objective direct welfare measurement. Second, it's a continuum of policies, from soft to hard, advice, nudges, nonwaivable defaults, sin taxes, and mandates. And third, it claims to be evidence based. That means no a priori assumptions about individual behavior.

So what is the Hayekian knowledge problem? I think Cass correctly identified it: we have to contrast general scientific knowledge, propositions, rules derived from science, with the concrete knowledge of the circumstances of time and place.

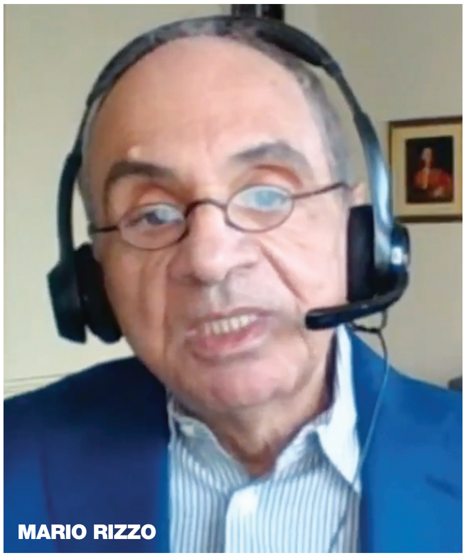
For example, certain biases may be found in lab experiments. However, in the real world, these are heavily dependent on context, both as to existence and quantitative magnitude.

One of the leading psychologists of the 20th century, Jerome Kagan, in his book *Psychology's Ghost*, emphasizes what he considers to be a fundamental problem of psychology: "Few psychological concepts intended to represent a person's tendency to react in a certain way apply across diverse settings."

This is a recognition, I think, of essentially the Hayekian knowledge problem, only in psychology. We can have generalizations about psychological propensities, but they are very, very dependent on context.

So, is behavioral public policy evidence based? I'm going to talk about what I consider to be some of the deadly knowledge problems of behavioral public policy. The first relates to the question of true preferences. These are essentially counterfactual preferences, preferences that people would have if they had all relevant information, no deficit of cognitive abilities, and complete willpower. But this is essentially the picture of the perfect neoclassical agent, which behavioral economists say does not exist.

Therefore, the satisfaction of these sorts



MARIO RIZZO

"Has behavioral public policy solved Hayek's knowledge problem?"

of theoretical preferences does not satisfy the preferences of any real living person, even if they can be discovered. This is an interesting result that's not often emphasized, and I'm going to ignore it for the rest of what I have to say, but I think it's an important point. Second, there's the question of the degree of bias. It's not enough to know the presence of a bias; we must know its quantitative extent. For example, a properly calibrated sin tax, let's take cognizance of the degree to which people prefer healthier food later rather than now, their present bias with respect to food. The weaker the bias, the lower the tax should be, and vice versa. But quantitative estimates of bias are unreliable and do not generalize into the real world.

The third one that I want to emphasize is the question of bias interactions. Normally behavioralists analyze the effect of only one bias at a time. Wikipedia lists, however, 175 cognitive biases. In all fairness, not all of these 175 biases are that distinct, but nevertheless, there are an awful lot of cognitive biases. A recent National Bureau of Economic Research study shows that biases are very often highly correlated with each other. Since biases do not all move in the same direction, or to the same degree, the net effects can cancel, or efforts to counterbalance a particular one can make matters worse.

For example, a person may be present-biased and intend to save too little, but if he also exhibits projection bias—that is overestimating his future consumption needs and plans for too long a retirement—the overall effect of the biases unclear, as they move in different directions.

Fourth, there's population heterogeneity. Behavioral policies are usually one-size-fits-all, one sin tax for all consumers of sugary drinks, but biases are not uniform. In one major study, heterogeneity was substantial. For example, 29 percent of the sample had present bias, while 33 percent had future bias with respect to money. With respect to food—that is healthier food now or later—15 percent had present bias, 7 percent had future bias, and the rest were unbiased.

Counteracting behaviors is my fifth problem. I give two examples. First, behavioral economists love to attack sugary soft drinks. Would it do any good even if consumption were reduced? The most likely substitute are soft drinks with

Continued on page 14

Cato's expert witnesses inform committees on better policy

Congressional Testimony Brings Liberty to Capitol Hill

Part of Cato's mission is to provide a voice for the policies of liberty in Washington, DC, ensuring that freedom has a seat at the table. In April, numerous Cato policy experts provided testimony to congressional committees across a range of important topics.

On one day alone, April 28, Cato was represented before three different committees. Research fellow David Bier explained to the House Judiciary Committee's Subcommittee on Immigration and Border Security the byzantine labyrinth of barriers to legal immigration and the need to liberalize and rationalize these restrictive laws. As Bier noted, he was not new to the subcommittee, having previously worked to draft immigration bills for Rep. Raúl Labrador (R-ID), who was at the time vice chair (and later became chair) of the panel charged with overseeing America's immigration laws.

Bier addressed a common but uninformed question about immigration: Why don't immigrants simply "get in line" to come legally instead of becoming illegal immigrants? The answer is that they can't. Unlike almost all other areas of law, "all immigration is presumptively illegal unless immigrants prove that they fall within a few narrow exceptions based on U.S. sponsorship or selection, and most exceptions have hard numerical limits."

With prohibition as the default, it should be no surprise that those who have no legal pathway to follow resort to illegally crossing the border or overstaying their visas. The economic and moral costs are severe, including an aging population and the separation of American families through deportation.

The same day, Neal McCluskey, director of Cato's Center for Educational Freedom, testified before the House Committee on Education and Labor about federal education spending, particularly the large increase that has been seen during the pandemic.

In addition to noting the dubious constitutional basis for federal involvement, the bulk of McCluskey's testimony focused on the effectiveness of federal education spending and its dismal record of producing desirable outcomes. "Contrary to what may be a common impression, funding for American education has risen appreciably over time," he explained. Despite a tripling of per-student spending on K–12 since federal funding began in 1965, results as measured by test scores and other outcome metrics have remained stagnant at best.

While Bier and McCluskey were speaking to House committees, on the other side of the Hill Cato adjunct scholar David Kopel appeared before the Senate Judiciary Committee's Subcommittee on the Constitution to address the constitutionality of so-called red flag laws. These laws, enacted in 19 states and the District of Columbia, enable judicial orders for confiscation of firearms from individuals deemed dangerous.

While there may be some role for genuine cases of immediate danger, Kopel explained, these laws are severely deficient in respecting both Second Amendment rights and due process rights: "There are no states that have sufficient due process from start to finish."

The day before these three appearances, Ilya Shapiro, director of Cato's Robert A. Levy Center for Constitutional Studies, testified before the Senate Judiciary Committee's Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights.

The hearing, called by Chairman Sen. Sheldon Whitehouse (D-RI), was largely aimed at criticizing some of the Supreme Court's decisions striking down some laws favored by Democrats, such as campaign finance restrictions that ran afoul of the First Amendment. Whitehouse has recently focused on denouncing conservative and libertarian filers of amicus briefs and strategic litigators, and the hearing was in particular targeting a supposedly improper use of "fact-finding" by the Court. Shapiro noted that, in his view, this reflects how "progressives are frustrated that there's a major institution they don't control."

As he explained, the Supreme Court taking cognizance of underlying facts is neither new nor improper and has generally been uncontroversial. Though as an appellate court, the justices do not engage in fact-finding in the sense usually understood for trial courts, it is not uncommon "to explore the practical consequences of potential rulings, to develop doctrine that goes beyond the case at hand, and just rhetorically to buttress arguments."

In testifying before Congress, Cato's scholars not only help inform legislators but also bring their research and analysis to a broader audience with an impact on the national debate. ■

Cato scholars influence policy outcomes in the 50 states

Wins for Freedom beyond the Beltway

The impact of Cato's research and advocacy is not limited to the workings of the federal government and Congress in Washington, DC. Increasingly, policymakers and legislators in statehouses around the country are approaching Cato for inspiration and analysis. This influence can be seen in several policy outcomes in the past year.

In Arizona, Cato senior fellow and practicing surgeon Jeff Singer was invited to brief staffers for Gov. Doug Ducey about ways to preserve and build on waivers for bad regulations set aside on an emergency basis due to the pandemic. Subsequently, Arizona passed landmark legislation liberalizing medical licensing and easing the process for practitioners who move into the state after being licensed elsewhere. Arizona also has freed patients and doctors to engage in virtual telehealth work across state lines.

This sort of direct interaction with state policymakers is the chief aim of Chris Hansford, director of state relations at Cato since 2019. As he explains, gubernatorial and legislative staffers are often keen to hold discussion with think tank experts and other scholars. These relationships are forged on a direct basis, ensuring that Cato is at the table, and are built on Cato's reputation as innovative, data-driven, and nonpartisan.

As Hansford explains, "From Tallahassee and Austin to Sacramento and Albany, the exciting part of Cato's State Leaders Initiative is that regardless of party, we can always find an issue to work with state-level policymakers on."

Cato does not engage in lobbying or endorse specific pieces of legislation; its scholars are not whipping votes to get bills passed. Rather, Cato's experts simply present ideas and suggestions to policymakers, who are then free to act on them, and many do.

One topic of great interest has been Cato's Project on Criminal Justice, led by Senior Vice President for Legal Studies Clark Neily. The project made the elimination of qualified immunity one of its top priorities three years ago. At the time, the issue was little known, but since then there has been a flood of new allies and efforts to reform or even abolish qualified immunity. This judicially created doctrine shields police and other government agents from liability for violations of constitutional rights, despite there being no such defense in the text of the landmark Civil Rights Act of 1871, which creates that liability.

Recently Colorado, followed by New Mexico, adopted legislation to abolish qualified immunity as a defense in state law, effectively bypassing the neutering of accountability under federal law. Cato scholars including Neily and research fellow Jay Schweikert, recognized for having led the way and produced some of the most comprehensive analyses on the matter, were asked to brief legislators in both states. As protests against police brutality gained steam, legislators were eager for solutions. Even though bills in Congress to abolish or at least limit qualified immunity have thus far not advanced, citizens in at least two states now enjoy crucial new protections against violations of their rights. Similar bills have been introduced in over a dozen states.

These efforts often involve coalitions with other organizations from across the political spectrum. In Missouri, the Innocence Project successfully pushed for a bill to allow prosecutors much-needed leeway to dismiss charges and free the wrongfully convicted when new evidence comes to light. Previously, prosecutors had been unable to do this, even when they wanted to correct a miscarriage of justice. As part of this successful push for reform, Cato scholars briefed senior legislative leaders on the necessity of fixing this injustice.

In Montana, senior fellow Scott Lincicome's work was cited by a senior adviser to Gov. Greg Gianforte as a crucial underpinning to the decision to end the state's participation in expanded unemployment benefits. Lincicome has documented how the larger payments have contributed to a widespread labor shortage.

The impact of Cato scholars at the state level is ongoing and growing, with other recent efforts including proposed private infrastructure legislation in Texas, educational savings accounts to expand school choice in New Hampshire, and the permanent legalization of cocktails to go in Florida.

By laying the factual, analytical, and research groundwork for the policies of individual liberty, limited government, and free markets, these victories highlight the role of Cato and the strategic theory underlying all the Institute's work: that by shifting the field of both public opinion and expert consensus, real and substantial progress can be made toward a freer, more prosperous, and more just world. ■

Continued from page 11

noncaloric sweeteners, but there is no consistent evidence that the substitution does any good from a health perspective. Why? People respond by consuming more calories elsewhere. Example two: those firms that introduce automatic enrollment in retirement savings programs saw their enrollees offset 40 percent more of the retirement savings with loans and withdrawals after eight years, compared to those who actively opted in.

The sixth problem is one relating to self-regulation and small-group debiasing. We need to know not only the tendencies toward biases but also the operative amount in any given situation. This is affected by first, self-regulation, which is idiosyncratic and hard to identify. Mary eats junk food on weekends; is she breaking her diet, or is this the glue, the exception, that keeps the diet in place? Second, growing research shows that when people make decisions after discussion in small groups, biases are eroded and sometimes disappear entirely. In the real world, this would include family members, friends, colleagues, and other advice-givers.

The last problem that I want to mention is the dynamic impact on self-regulation. Considerable research shows that regulation by external sources and self-regulation are substitutes. Behavioral public policy is supposed to be in part a remedy for deficient willpower. But when internal or self-control is not exercised, it deteriorates in the long run, even in areas unrelated to the initial external regulation. The loss of self-control and self-regulatory capacity generalizes.

In conclusion, nothing I said should be construed as claiming that people do not make mistakes, that they are not sometimes foolish, or that they have perfect willpower; people are fallible. But it is one thing to recognize human foibles on a general level yet another thing to ascertain them in specific instances, given the myriad of local and personal factors that must be considered in decisionmaking. People need good information to make good decisions. The market can provide much of it. In some cases, the government may need to provide it. But providing information is not a nudge, it just boosts our decisionmaking capacity. We already knew that before behavioral economics. The more aggressive interventions Cass proposes, even when they still leave some degree of choice, are still both centralizing and coercive in ways that do not entirely escape Hayek's objections to coercive central planning. ■

New book takes on the costs of military interventionism

War, What Is It Good For?

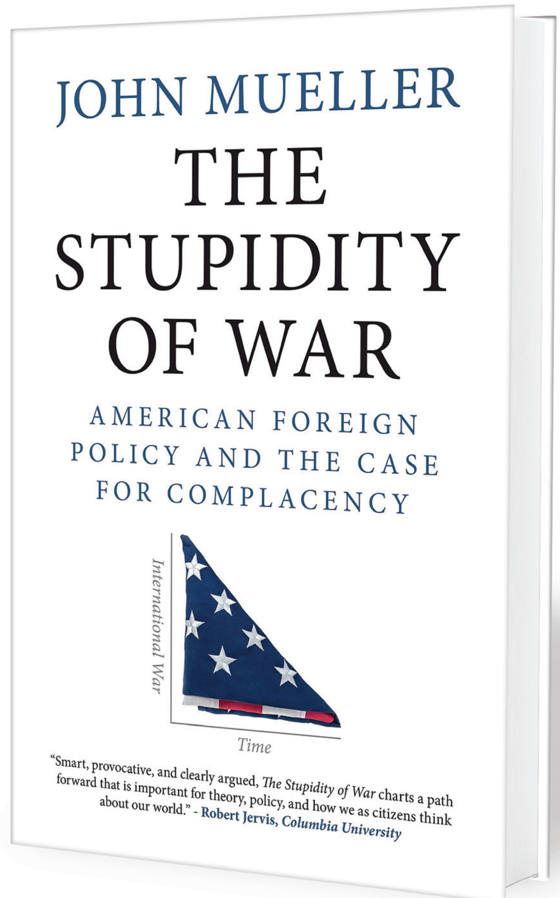
"The idea that war is profoundly stupid has likely been evident pretty much forever." Thus opens a new book by Cato senior fellow John Mueller, *The Stupidity of War*, in which he traces the errors, mistakes, and downright idiocy of America's bellicose foreign policy since the end of World War II.

It's a view that, despite being as ancient as Homer's account of the Trojan War, has only recently gained traction and then only in some parts of the world. Interstate wars have been in decline, and the European continent that was once so often torn apart by war has become remarkably peaceful. Even among dictatorial regimes and in poorer countries, a nation's government waging war against its neighbors has become a rarity, though certainly not unknown.

So why has the United States not joined in this aversion to interstate war? Since 1945, America has engaged in wars in Korea, Vietnam, Panama, Somalia, Afghanistan, Iraq, and Libya and smaller interventions in a plethora of other nations. As Mueller puts it, the track record is that the U.S. military "is often incapable not only of defeating insurgents at an acceptable cost, but also of training locals to effectively defend themselves after the Americans have left."

At the heart of this record of bellicosity is a problem of threat inflation. Even when faced with genuine dangers such as from the Soviet Union during the Cold War, the actual risks being faced have been wildly inflated by bad intelligence, political incentives, and an eagerness for saber-rattling. From the mythical missile gap to the domino theory, officials in Washington have long claimed imminent existential dangers that were later revealed to be wildly inflated.

Additionally, the United States in some sense overlearned the lessons of Japan and Germany, nations that under American occupation thrived with a quick return to liberal democracy. But the historical circumstances that made that possible have not applied elsewhere, from Vietnam to Iraq. Democratization by the might of the U.S. military has been a chimerical fantasy used to justify catastrophically failed wars.



The purported missile gap of the late 1950s is another telling example. American intelligence and military officials, as well as politicians like presidential candidate John F. Kennedy, expressed the need for a massive arms buildup to catch the supposedly advanced fleets of Soviet missiles aimed at the United States. One report, Mueller explains, "projected that the Soviet missile strength in the early 1960s would stand at 700." In fact, "the actual figure turned out to be four, though the Air Force continued doggedly to suggest for a while that barn silos, medieval towers, a Crimean War memorial, and various mysterious-looking buildings in isolated areas were actually cleverly disguised missiles."

Decades later, the same sort of threat inflation resulted not only in the waste of billions of taxpayer dollars but also in thousands of American military members' lives and hundreds of thousands of civilian lives. The 2003 invasion of Iraq was premised on not only bad intelli-gence but even worse understanding of Saddam Hussein's regime and its goals, foremost of which was mere survival after the total defeat of the 1990–91 Gulf War.

After the 9/11 attacks in particular, "fears about rogue states and about the proliferation of weapons of mass destruction were much enhanced by fancies that such states might one day decide suicidally to hand over some of their precious and potentially traceable arsenal to terrorists—irresponsible groups they could not control." This theory was not only factually erroneous about Hussein's actual arsenal of weapons but also about the plausible actions he might take even if he did have such weapons. ■

***THE STUPIDITY OF WAR*, PUBLISHED BY THE PRESTIGIOUS CAMBRIDGE UNIVERSITY PRESS, IS AVAILABLE FROM MAJOR BOOKSELLERS AND AT CATO.ORG/BOOKS.**

As part of Cato's Project on Poverty and Inequality in California, senior fellow **Michael Tanner** (1) hosted an all-day conference in April on building a more inclusive economy for the state in the aftermath of the pandemic. Participants included San Diego councilmember **Chris Cate** (2), **Steven Greenhut** (3) of R Street Institute, **Anastasia P. Boden** (4) of the Pacific Legal Foundation, **Jay King** (5) from the California Black Chamber of Commerce, and **Rob Lapsley** (6) of the California Business Roundtable.

Cato scholars make frequent television appearances to offer their expertise on issues of the day. **Scott Lincicome** offers his insight into rising meat prices and the relationship to international trade developments. **Ilya Shapiro** discusses the Supreme Court hearing an immigration case. **Jeffrey A. Singer** explains new COVID guidance and the origin of the virus. **Clark Neily** presents the case for Cato's campaign to end qualified immunity, which protects police from accountability.

Cato's **Brandon Valeriano** (1) moderates a book forum for *The Stupidity of War* with the author, Cato senior fellow **John Mueller** (4), and commentary from **Christopher Fettweis** (2) of Tulane University and **Martha Crenshaw** (3) of Stanford University.

APRIL 8: *Economics in One Virus*: What Have We Learned?

APRIL 13: *Reopening Muslim Minds: A Return to Reason, Freedom, and Tolerance*

APRIL 20: After COVID-19: Building an Inclusive Economy for California

APRIL 22: *The Stupidity of War: American Foreign Policy and the Case for Complacency*

APRIL 26: Biden's Infrastructure Plan and Alternatives

APRIL 27: *Private Schooling and COVID-19: How Has the Sector Fared?*

MAY 11: Hayekian Behavioral Economics: An Oxymoron?

AUDIO AND VIDEO FOR MOST CATO EVENTS CAN BE FOUND ON THE CATO INSTITUTE WEBSITE AT CATO.ORG/EVENTS.

Cato Calendar

FAIR SHARES: RETAIL INVESTORS AND THE FUTURE OF EQUITIES MARKETS
The Cato Summit on Financial Regulation
Washington ● Cato Institute
September 9, 2021
Speakers include Elad Roisman, Jill Fisch, Mike Piwowar, Gina-Gail Fletcher, and Jonathan Macey.

20TH ANNUAL CONSTITUTION DAY
September 17, 2021
Speakers include Rachel Barkow, Douglas Laycock, and Bradley Smith.

CATO INSTITUTE POLICY PERSPECTIVES 2021
New York ● The Pierre
October 15, 2021
Speakers include Johan Norberg.

MILTON FRIEDMAN PRIZE PRESENTATION DINNER
Washington ● September 30, 2021

CATO CLUB RETREAT
Washington ● Cato Institute
September 30–October 3, 2021
Speakers include George Will, Phil Gramm, and Steven Pinker.

FIGHTING POVERTY AND INEQUALITY IN CALIFORNIA: A NEW AGENDA
Sacramento ● Sheraton Grand
October 21, 2021

POPULISM AND THE FUTURE OF THE FED
39th Annual Monetary Conference
Washington ● Cato Institute
November 18, 2021
Speakers include Barry Eichengreen, Raghuram Rajan, Rosa Maria Lastra, George Selgin, and Narayana Kocherlakota.

CATO INSTITUTE POLICY PERSPECTIVES 2021
Chicago ● Ritz-Carlton
December 2, 2021

33RD ANNUAL BENEFACTOR SUMMIT
Carlsbad, CA
Park Hyatt Aviara Resort
February 24–27, 2022

CATO CLUB 200 RETREAT
Bluffton, SC
Montage Palmetto Bluff
September 29–October 2, 2022

Updated information on Cato Institute events, including cancellations, can be found at Cato.org/events.

World Wide Web of Regulations

National debates over policies that affect the flow of digital information are heating up as censorship, surveillance, control over personal data, and requirements to store data locally have emerged as contentious political issues. In **"Digital Trade Agreements and Domestic Policy"** (Free Trade Bulletin no. 79), Simon Lester analyzes how these international agreements have serious ramifications for domestic policy and the laws governing a wide range of regulations.

FREE TO PROSPER

Coming off the economic devastation of the pandemic, Americans need more businesses and opportunities. One way to do that would be slashing the sea of red tape that often presents insurmountable barriers to creating new businesses, especially by state and municipal governments, as explained by Chris Edwards in **"Entrepreneurs and Regulations: Removing State and Local Barriers to New Businesses"** (Policy Analysis no. 916).

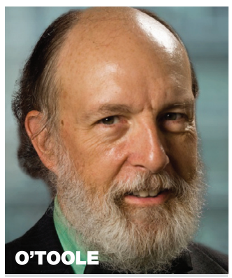
PANDEMIC SCHOOLING


MCCLUSKEY

Private schools were potentially in a place to be hit harder than traditional public schools by the COVID-19 pandemic, given that they survive only if people pay for them voluntarily. In **"Private Schooling after a Year of COVID-19: How the Private Sector Has Fared and How to Keep It Healthy"** (Policy Analysis no. 914), Neal McCluskey assembles the most comprehensive data set to date on private school closures over the past year. He finds that at least 132 private schools have closed permanently with a roughly 5 percent decline in private school enrollment.

PLANES, TRAINS, AND AUTOMOBILES

Dreams of a national high-speed rail network are perennially popular, especially among progressives, and Transportation Secretary Pete Buttigieg recently proposed a massive new spending plan to make it a reality. In **"The High Speed Rail Money Sink: Why the United States Should Not Spend Trillions on Obsolete Technology"** (Policy Analysis no. 915), Randal O'Toole explains why this costly plan amounts to pouring trillions into an obsolete technology poorly suited for America's geography and mobility needs.


O'TOOLE

POWER TO THE PEOPLE?

The English-speaking world has primarily followed a doctrine of shareholder primacy in corporate governance, giving the owners the ultimate say in how their corporations are structured and governed, while many European countries require a broader stakeholder model that includes mandatory worker representation on boards. In **"Do Employees Benefit from Worker Representation on Corporate Boards?"** (Research Brief in Economic Policy no. 258), Christine Blandhol, Magne Mogstad, Peter Nilsson, and Ola L. Vestad find that while worker representation on boards correlates with some benefits for workers, this outcome is driven by correlation with other factors rather than the effect of the representation itself.

WORLD'S OLDEST PROFESSION

Laws against sex work are widespread, but a growing movement of advocates has called for the repeal of the prohibition of prostitution. In "Crimes against Morality: Unintended Consequences of Criminalizing Sex Work" (Research Brief in Economic Policy no. 259), Lisa Cameron, Jennifer Seager, and Manisha Shah produce new data on the effect of criminalization on sexually transmitted infections in low-income countries. They find that criminalizing sex work increases the prevalence of such diseases by 27.3 percentage points, an

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astonishing 58 percent increase. They find that this is driven primarily by greater reluctance to use condoms, which are heavily stigmatized, with possession often used as evidence of presumptive illegal sex work.

MYTH OF THE CRIMINAL IMMIGRANTS

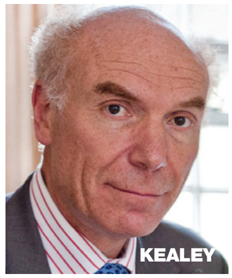
Alex Nowrasteh, Cato's director of immigration policy studies, has spent years compiling extensive data sets to refute the common misperception that immigrants are prone to higher crime rates and make Americans less safe. In **"Criminal Immigrants in Texas in 2019: Illegal Immigrant Conviction Rates and Arrest Rates for Homicide, Sex Crimes, Larceny, and Other Crimes"** (Immigration Research and Policy Brief no. 19), he updates one of those data sets with the latest data from Texas, finding that illegal immigrants were 37.1 percent less likely than native-born Americans to be convicted of a crime, and legal immigrants were 57.2 percent less likely.

RED SCARED

Both policymakers and the public increasingly view China's rapidly growing wealth as a threat, with the dictatorial Communist regime reaping the rewards of market liberalization without any accompanying political liberalization. These fears are largely misplaced, at least from a national security perspective, according to John Mueller in **"China: Rise or Demise?"** (Policy Analysis no. 917), which notes that even under its authoritarian government, China does not harbor any intent to conquer the world or wage war against the United States or its neighbors.

RACE TO THE BOTTOM

President Biden has unveiled plans to increase the U.S. government's science funding by some 20 percent over the next year. Both Republicans and Democrats increasingly see such subsidies as crucial to keeping pace with Chinese research and development. In **"Don't Be like China: Why the U.S. Government Should Cut Its Science Budget"** (Economic Policy Brief no. 4), Terence Kealey explains why this emulation of Beijing's economic policies is misguided and unnecessary.


KEALEY

CULTURE PANIC

The idea that immigration leads to the dilution of Western values and institutions is a recurring theme of right-wing nationalists, inspiring outright conspiracy theories of a "great replacement" as well as milder calls for the protection of the besieged native culture and its values. In **"Migration and Cultural Change"** (Research Brief in Economic Policy no. 260), Hillel Rapoport, Sulin Sardoschau, and Arthur Silve develop a new model for migration-driven cultural changes, providing a theoretical underpinning for the empirical results that worries about migrants eroding cultural capital are vastly overblown.

PROSECUTORIAL PROMOTION

It is generally perceived that a disproportionate number of federal judges served as government lawyers or prosecutors before joining the bench. Cato's Project on Criminal Justice devised a methodology for coding judges' prior professional experiences and went through the federal judiciary judge by judge to test that perception. Those findings, in **"Are a Disproportionate Number of Federal Judges Former Government Advocates?"** by Clark Neily, show that indeed the federal judiciary is sorely lacking in judges whose previous clients were not the government. ■

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"To Be Governed..."

BIDEN PLEDGES TO FOLLOW HOOVER'S ECONOMIC POLICY

All the investments in the American Jobs Plan will be guided by one principle: Buy American. (Applause.) Buy American.

And I might note, parenthetically, that does not violate any trade agreement. It's been the law since the '30s: Buy American.

—**President Biden, address to Congress, April 29, 2021**

GOVERNING WHILE DISTRACTED

On the same day a distracted driving bill was introduced, state Sen. Andrew Brenner, R-Delaware, participated in a government video meeting while driving.

"I wasn't distracted. I was paying attention to the driving and listening to it (the meeting,)" Brenner said. "I had two meetings that were back to back that were in separate locations. And I've actually been on other calls, numerous calls, while driving. Phone calls for the most part but on video calls, I'm not paying attention to the video. To me, it's like a phone call."

—***Columbus Dispatch,* May 3, 2021**

THIS IS NOT BUYING VOTES

California Gov. Gavin Newsom embarked on a cross-state road show Monday to trumpet the fruits of an astonishing $75.7 billion state surplus thanks to soaring capital gains during the pandemic. His first order of business: tell Californians he wants to give them cash and pay some of their utility bills and back rent.

The stimulus play demonstrates how an unexpected windfall offers the Democratic governor a powerful tool to ward off a recall threat. Checks would arrive in voters' mailboxes not long before ballots do this fall.

—***Politico,* May 10, 2021**

SOME PEOPLE JUST CAN'T ACCEPT LOSING AN ELECTION

The union trying to organize workers at an Amazon warehouse in Bessemer, Ala., sounded a pessimistic note Thursday as a partial tally showed votes against the union with an early and widening lead.

With about half the 3,215 ballots counted, no votes hit 1,100 while yes votes totaled 463. . . .

"Our system is broken," Retail, Wholesale and Department Store Union President Stuart Appelbaum said in a statement Thursday night that seemed to anticipate defeat. "Amazon took full advantage of that, and we will be calling on the labor board to hold Amazon accountable for its illegal and egregious behavior during the campaign."

—***Washington Post,* April 8, 2021**

BY RAISING CORPORATE TAXES?

This report describes President Biden's Made in America tax plan, the goal of which is to make American companies and workers more competitive.

—**U.S. Treasury Department, "The Made in America Tax Plan," April 2021**

TAXES WILL MAKE US FRIENDLIER TO OUR NEIGHBORS?

Tech companies are likely to be hit with tax rises this year as a series of new proposals are muted by multilateral organizations.

The first is a "solidarity tax" proposed by the IMF, and designed to fix the income gap between rich and poor that has widened over the past year . . . a "temporary surcharge" on income tax as well as an increase to property and inheritance taxes to "promote fairness and protect the environment."

A symbolic and temporary tax rise would "strengthen social cohesion," the IMF believes, as it would make those that have profited during the pandemic help businesses that have lost out.

—***Forbes,* April 8, 2021**

ECONOMIC IGNORANCE IS UNIVERSAL

As Beijing tightens the noose around Hong Kong's democracy movement, Taiwan has emerged as a key destination for those escaping the dragnet. . . .

After Tsai's administration announced measures to welcome some Hong Kongers last May, an official from an opposition party shared a post on a popular college forum, declaring: "I don't want to see a bunch of Hong Kongers on our streets, competing for Taiwan's job opportunities and resources."

—***Washington Post,* May 14, 2021**

ALMOST AS IF THE CAUSE WAS SOMETHING OTHER THAN PRESIDENTIAL SPEECHES

Today, prices for everything from gasoline to groceries are surging as the economy roars back from the pandemic recession. And that's raising concerns in some quarters about whether the United States is headed back to the awful economic days of the 1970s, when the country was gripped by double-digit inflation . . .

Gerald Ford declared inflation "Public Enemy Number One." Carter called it the nation's most pressing domestic problem.

Despite the tough talk from the White House, prices kept climbing.

—**NPR, May 29, 2021**