
The Politics of Freedom

BY DAVID BOAZ

Thomas Paine said that freedom had been hunted and harassed around the world and that only America offered it a home. Today, it seems to many Americans that freedom is on the run here, too. War and taxes, the nanny state and the Patriot Act, unsustainable entitlements—all threaten the liberty we enjoy as Americans.

But our situation is not as bleak as that might sound. I write most often about threats to freedom. But just as I chide the mainstream media for ignoring the good news about prosperity, technology, health, and life expectancy, I sometimes need to remind myself of the good news about freedom—which of course is what makes possible all that other good news.

Our recent political history provides ample cause for depression. Forty years of Democratic control of Congress gave us what the Republicans in 1994 called “government that is too big, too intrusive, and too easy with the public’s money.” Dissatisfaction with that record and with the Clinton administration’s efforts to make government yet bigger and more intrusive led to a historic Republican victory.

It didn’t take long for the Republicans to get just as comfortable in power as the Democrats had become, especially after the election of George W. Bush gave the GOP control of the presidency and both houses of Congress. For decades the Republicans had promised voters that they would reduce the size and power of government if only they controlled the White House

... if only they controlled the Senate ... if only they controlled the entire government. Beginning in 2001, they did.

And what did complete Republican control of the federal government deliver? Federal spending up \$1 trillion in six years. Exploding earmarks. The centralization of education. The biggest expansion of entitlements since Lyndon Johnson. A proposed constitutional

amendment to take marriage law out of the hands of the states. Federal intrusion into private family matters. Spying, wiretapping, “sneak and peek” searches. A surge in executive power. And a seemingly endless war.

No wonder the voters quickly tired of that and returned Congress to the Democrats. As Dr. Phil would say, How’s that working out for ya?

Within two months of the Democratic takeover, the *Washington Post* reported that Democrats were charging lobbyists—including some of Jack

Abramoff’s favorite clients—big bucks to meet Speaker Nancy Pelosi and the chairmen of the congressional committees that write tax laws, regulations, and spending bills. After six months, they’d held hearings and press conferences and all-night slumber parties.

But the war goes on. The spending goes on. Citing Citizens Against Government Waste’s “Pig Book,” the *Washington Times* reported, “Congress stuffed 11,610 projects into fiscal 2008 spending bills, the second-

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highest total ever and more than triple the number of projects in fiscal 2007.” American citizens are still being held in jail without access to a lawyer. Democrats are proposing huge increases in federal spending—on top of Bush’s trillion-dollar increase—and tax hikes to pay for them.

Which is presumably why a CBS News–New York Times poll in April showed that 81 percent of Americans said the country was on the wrong track. Only 22 percent approved of Congress’s performance, according to a February Associated Press–Ipsos poll.

The politics of big government continues to flounder. Maybe it’s time for the politics of freedom.

Assaults on freedom come from all sides these days. The right and the left, the military-industrial complex and the teachers unions, the environmentalists and the family-values crowd, they all have an agenda to impose on us through government. Political scientists offer a number of labels for the vast and powerful state that threatens our constitutional freedoms:

The Nanny State. On both left and right we’re bombarded by people who just want the government to take care of us, as if we were children. This takes many forms—Bill Clinton was famous for “I feel your pain and I have a program for it.” George W. Bush responded with “compassionate conservatism” and “We have a responsibility that when somebody hurts, government has got to move.” Both conceptions offer a sweeping mandate for the federal government, one never envisioned by the Founders nor even by FDR. They combine Progressivism with Prozac.

And once in a while politicians reveal the patronizing attitude toward the voters that underlies these promises. Vice President Al Gore told an audience, “The federal government should never be the baby sitter, the parents,” but should be “more like grandparents in the sense that grandparents perform a nurturing role and are aware of what parenting was like but no longer exercise that kind of authority.”

Bush’s one-time chief of staff Andy Card disagreed: The government should be the parents, he said; “this

president sees America as we think about a 10-year-old child,” in need of firm parental protection.

And so we get sexual-harassment laws from the Democrats and niggling regulations on workplaces, and smoking bans, and fat taxes, and gun bans, and programs to tuck us in at night.

Political Goodies

And from the Republicans we get federal money for churches; and congressional investigations into textbook pricing, the college football bowl system, the firing of Terrell Owens, video games, the television rating system, you name it; and huge new fines for indecency on television; and crackdowns on medical marijuana and steroids and ephedra; and federal subsidies to encourage heterosexuals to marry; and bans to prevent homosexuals from doing so.

And on both sides the politicians and the intellectuals tell us they’re just trying to encourage “socially desirable behavior”—not a role that Thomas Jefferson and James Madison envisioned the government playing.

The Entitlements Crisis. Everyone in Washington knows that the burden of “entitlement” programs like Social Security, Medicare, and Medicaid is growing to an unsustainable level. But not only does no politician want to

talk about the problem, they continue to pile on more benefits that make the situation worse.

Entitlements already cost taxpayers more than \$1 trillion a year, about 40 percent of the federal budget. That’s a heavy enough burden. But the first members of the huge baby-boom generation are retiring this year. In barely 20 years, economists predict, entitlements will almost double as a share of national income. Today’s young workers will find themselves staggering under the burden of supporting tens of millions of retired boomers.

After years of discussion of this looming fiscal crisis, what have the politicians done? They all declare themselves “fiscal conservatives” and then keep on spending. They reject reform proposals and promise more benefits. “Nobody shoots at Santa Claus,” Al Smith used to

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say of Franklin Roosevelt's New Deal handouts, and politicians have found that a useful reminder ever since. Instead of fiscal responsibility, in 2003 Democrats and Republicans combined to pass a prescription-drug entitlement for Medicare recipients. Critics said it might cost a trillion dollars over the next decade.

But even that figure drastically underestimates the problem. Jagadeesh Gokhale, an economist at the Cato Institute, calculated the real costs of our current entitlement programs. The numbers are simply incomprehensible: the total cost of the drug benefit alone will eventually be more than \$16 trillion, on top of the \$45 trillion that Medicare was already going to cost taxpayers. That's how much *more* money we'll eventually have to raise in taxes if we're going to pay off these debts.

Terror, War, and Surveillance. Theocratic Islam is a real threat to freedom in the Muslim world, where people often face a desperate choice between secular dictators and religious totalitarians. Americans need not worry about living under an Islamic theocracy, but terror is certainly a threat to our life, liberty, and pursuit of happiness. Thus we need a strong national defense, better intelligence, and international cooperation to track and prevent terrorism.

But ever since the September 11 attacks, we have let fear and panic drive us to put up with infringements on freedom that change the nature of our society without any real increase in safety. Laws like the Patriot Act were passed without careful scrutiny, and without providing for the normal checks and balances of constitutional government. The more power government has in such areas, the more important it is to constrain that power within the law, with congressional oversight and judicial review.

Secrecy and Presidential Absolutism

In this new world the Bush administration is pushing secret subpoenas, secret searches, secret arrests, and secret trials. American citizens are being held without

access to a lawyer, and without access to an impartial civilian judge. The Great Writ of habeas corpus is denied. The administration's "torture memos" have been most notorious for their carefully oblique definitions of what constitutes torture and for the fact that they were kept secret for years. What has been too often overlooked in discussions of the memos is their assertion that the president cannot be restrained by laws passed by Congress. They claim executive powers that far exceed what our constitutional tradition allows. As Gene Healy and Timothy Lynch write in their study "Power Surge," "The Constitution's text will not support anything like the doctrine of presidential absolutism the administration flirts with in the torture memos."

One problem with the new powers is that they aren't used just to investigate and prosecute terrorists. There's a bait-and-switch game going on. Citing the threat of another 9/11, administration officials demand and get greatly expanded powers to deal with terrorism. But then it turns out that the new powers aren't restricted to terrorism cases. And indeed the Bush administration has been using the powers granted in the Patriot Act with increasing frequency in criminal investigations that have little or no connection to terrorism. Those cases range from drugs

and pornography to money laundering, theft of trade secrets, and simple fraud. No doubt we could prevent or punish more crimes if we allowed the federal government to put a surveillance camera in every conference room and every living room. But we don't want to live in that kind of society. We're moving in that direction, though, by granting government new powers to deal with terrorism and not restricting the scope of those powers.

And of course the fight against terrorism isn't the only source of expanded powers for police and prosecutors. Long before 9/11 legal scholars were bemoaning the "drug exception to the Fourth Amendment." The Supreme Court ruled that government investigators do

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not need warrants to conduct aerial surveillance of areas that any pilot could legally fly over, including both the fenced yards of private homes—where they might be looking for marijuana—and highly secure chemical factories, where the Environmental Protection Agency was looking for evidence of air pollution violations.

Every new war, real or metaphorical—war on terror, war on drugs, war on obesity—is an excuse for expanding the size, scope, and power of government. A good reason to organize antiwar movements.

The Politics of Statism. For any friend of freedom, one of the most frustrating aspects of our current political system is the near absence of politicians challenging any of these expansions of state power. It's hard to find officeholders, Republican or Democratic, who don't support one or another aspect of the nanny state. Practically every member of Congress turns away when the problem of our unsustainable welfare state is mentioned. "It won't go bankrupt before the next election, so it's not my problem," seems to be their attitude. As for the wars on both terrorism and drugs, most politicians just want not to be labeled as "weak." The Patriot Act passed the Senate with only one dissenting vote, even though few if any members of Congress had actually read the bill. Most Democrats, including all presidential candidates then in the senate, joined nearly all Republicans in voting for the authorization for war with Iraq. And virtually no elected officials will protest the insanity of the war on drugs, or even vote against its continued escalation.

It's not that politicians couldn't show a little courage once in a while. After all, gerrymandering and campaign-finance regulations have given House members a reelection rate of over 98 percent. With so little to fear from the voters, they ought to be able to vote their consciences. But there aren't many citizen-politicians these days; they all want to be part of a permanent ruling class, in office forever until they collect their congressional pensions, so they try to play it safe. All the talk about increased polarization between Democrats and Republicans just obscures the increasing agreement on

most aspects of the welfare-warfare state, a sprawling federal government that promises to meet our every need, as long as we give it ever-increasing amounts of money, and keeps us embroiled in conflicts around the globe.

A Stacked Deck

It's no wonder that ever-larger numbers of Americans express disgust with the current political establishment, even though the election laws make it difficult to organize and fund a new party, an independent campaign, or even an insurgency within the major parties.

After a litany of problems like that, it's easy to get discouraged, to believe that we're losing our freedom, year after year. Libertarians often quote Thomas Jefferson: "The natural progress of things is for liberty to yield and government to gain ground."

But let's take a moment to think about some of the laws we *don't* have any more: Slavery and established churches. Segregation and sodomy laws. Sunday-closing laws, 90 percent income-tax rates, wage and price controls. In many ways Americans are freer today than ever before.

Politicians don't get much of the credit for that. They often tended to react, not to lead. Social change and a

mass movement challenged segregation before Congress responded. Popular resentment over rising taxes led to Proposition 13 in California and then the election of Ronald Reagan. A court challenge struck down the last few sodomy laws, which had fallen into disuse anyway. Economists produced enough evidence on the costs of transportation, communications, and financial regulation that Congress finally had to recognize it.

It's certainly not time to rest on our laurels. But we should take pride in the freedom that we have wrested from government and remain optimistic about the future of freedom.

When I argue for a society that fully recognizes each person's right to life, liberty, and the pursuit of happiness, I'm often asked, Where's an example of a successful libertarian society? The answer to that question is easy: the United States of America.

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As I noted above, the United States has never been a perfectly libertarian society. But our Constitution and our national sense of life have guaranteed more freedom to more people than in any other society in history, and we have continued to extend the promises of the Declaration of Independence to more people.

More than any other country in the world, ours was formed by people who had left the despots of the Old World to find freedom in the new, and who then made a libertarian revolution. Americans tend to think of themselves as individuals, with equal rights and equal freedom. Our fundamental ideology is, in the words of the political scientist Seymour Martin Lipset, “antitaxism, laissez-faire, individualism, populism, and egalitarianism.” Some people don’t like that fact. Professors Cass Sunstein and Stephen Holmes complain that libertarian ideas are “astonishingly widespread in American culture.”

And indeed they are. My recent work with David Kirby found that in several different public-opinion surveys, 15 to 20 percent of Americans give libertarian answers to a range of questions—answers that in combination distinguish them from both “liberals” and conservatives. But that figure seriously underestimates the prevalence of libertarian ideas. Many American conservatives are fundamentally committed to small government and free enterprise. Many American liberals believe firmly in free speech, freedom of religion, and the dignity of every individual. Both liberals and conservatives may be coming to better appreciate the value of the Constitution in restraining the powers of the federal government. The sharpening of the red-blue divide in the past decade causes liberals and conservatives to deepen their opposition to “the other team.” But it may obscure the number of Americans on both sides of the divide who are fundamentally libertarian in their attitudes.

As one measure of that, after the 2006 election the Cato Institute commissioned Zogby International to ask poll respondents if they would describe themselves as “fiscally conservative and socially liberal.” Fully 59 percent of the respondents said yes. When we asked the

same question but noted that such a combination of views is “known as libertarian,” a robust 44 percent of respondents still answered yes.

Freedom Versus Power

Part of the challenge for libertarians is to help those Americans understand that their fundamental political value is freedom. Instead of being frightened and distracted by politicians, they should recognize that the main issue in politics—in 2008 and beyond—is the freedom of the individual and the power of government.

In some ways the idea of freedom is very simple. Recall the bestseller, *All I Really Need to Know I Learned in Kindergarten*. You could say that you learn the essence of libertarianism—which is also the essence of civilization—in kindergarten:

Don’t hit other people,
Don’t take their stuff, and
Keep your promises.

Most people understand that idea in their personal lives. Now if only we could get people to apply it to “public policy” as well: Don’t use force to make other people live the

way you think they should. Don’t use the power of taxation to take their stuff. Don’t interfere with contracts, and don’t make promises the taxpayers can’t keep. A politician who ran on such a platform would find a large and receptive audience.

There’s never been a golden age of liberty, and there never will be. There will always be people who want to live their lives in peace, and there will always be people who want to exploit them or impose their own ideas on others. There will always be a conflict between Liberty and Power.

In the long run, freedom works, and people figure that out. I have no doubt that at the dawn of the fourth millennium more of the human beings in the universe will live in freer societies than do today. In the shorter run the outcome is less predictable, and it will depend on our own efforts to capitalize on our strengths and learn to counter the trends that work against a free and civil society.



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