



## HOPE AND DATA

How the world's getting better

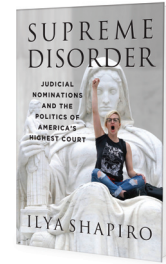
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The history of confirmation battles

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# Cato Policy Report

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## A Pro-Immigration Agenda for the Biden Administration

BY DAVID J. BIER AND ALEX NOWRASTEH

**J**oe Biden will be the next president of the United States, and he has vowed to take aggressive actions to reverse President Trump's policies. One of the most significant areas of reversal will be Trump's signature issue of immigration. President Trump has shown that a committed president can aggressively restrict immigration, but it is unclear whether a president can substantially liberalize it. Regardless, President-elect Biden can improve the system to benefit all Americans by at least replacing Trump's anti-immigration policies with welcoming ones.

### PRESSURE TO CHANGE THE STATUS QUO

Before Trump became president, executive branch policies already significantly restricted legal immigration to the United States beyond the laws enacted by Congress. Presidents have narrowly interpreted the law to keep out many legal immigrants who could otherwise have qualified. Trump greatly added to the burden of immigration restrictions, to such an extent that America's immigrant share of the population has stagnated for the first time since the Great

Recession—even before his near-total ban on new immigrants in 2020 in response to COVID-19 and the resulting recession.

At no time in American history has immigration been as legally restricted as it is currently. Trump has overseen a reduction in legal immigration greater than the declines during the two world wars, the Great Depression, or even after Congress ended America's open immigration policy with Europe in the 1920s. President-elect Biden could do more to expand, improve, and deregulate the immigration system

than any other president if for no other reason than that the system is largely shut down right now.

Biden has no political reason to back down from his campaign promises, either. According to a Gallup poll, for the first time in that poll's 55-year history, more Americans support increasing immigration than decreasing it. Support for decreasing immigration has imploded, dropping from 50 percent in 2009 to 28 percent today—mostly before Trump even took office.

*Continued on page 6*



**ALEX NOWRASTEH** is the director of immigration studies and **DAVID J. BIER** is an immigration policy analyst at the Cato Institute's Center for Global Liberty and Prosperity.

In September, San Diego mayor **Kevin Faulconer** and California state auditor **Elaine Howle** participate in a virtual Cato conference, "Crisis: Housing and Homelessness in California," as part of senior fellow Michael Tanner's Project on Poverty and Inequality in California.



BY PETER GOETTLER

“Cato is pushing more resources into defending the free economy.”

## PRESIDENT'S MESSAGE

# Protecting Prosperity's Engine

**W**hen I joined Cato, many were claiming we were on the cusp of a “libertarian moment.” Now, five years later, the environment seems distinctly un-libertarian.

Who would have thought it possible that Democrats could move even further away from free market ideas than they already were? Could anyone have guessed many Republicans would come to blame markets for leaving working-class Americans behind, and that they would begin flirting with long-discredited ideas such as protectionism, industrial policy, and central planning?

Against this backdrop, free markets have been disparaged from both sides of the spectrum as “libertarian economics.” A natural impulse is to say, “Hold on a minute! The mixed economy in which we live isn’t any libertarian’s conception of ‘free markets.’” Yes, we’ve got markets, but they’re heavily distorted with government interventions. And key sectors of the economy such as education and health care are dominated by government. But is this the best response for advocates of free markets? I don’t think so.

Socialists have long argued that, sure, communism hasn’t worked, but that’s only because it hasn’t really been tried or properly implemented. It is ironic—and misguided—if free marketers sing a similar tune. There’s a better response to attacks on free markets and looming threats to capitalism from left and right. First, take credit. Next, man the barricades.

Yes, we’re not living in the free and open society we’re working toward, and we’d be much better off if we were. Without so much government meddling in the economy, the sky might indeed be the limit. But as David Boaz points out in the May–June issue of *Cato Policy Report*, libertarians have indeed designed the basic operating system—rule of law, self-government, markets, voluntary exchange—on which the world runs today. And the results have been breathtaking.

Cato has done an exceptional job showing that those who contend free enterprise and markets don’t work are simply wrong, not just in theory but by empirical evidence. Through HumanProgress.org, *Ten Global Trends Every Smart Person Should Know* (by Reason’s Ron Bailey and Cato’s Marian Tupy), *Progress: Ten Reasons to Look Forward to the Future* and *In Defense of Global Capitalism* (by senior fellow Johan Norberg),

*The Improving State of the World* (by Indur Goklany), *Poverty and Progress* (by late senior fellow Deepak Lal), and more—including a mountain of multimedia work—we’ve told the story of the prosperity and human flourishing ushered in by liberty, limited government, and markets.

It’s a blessing when flourishing and prosperity become ubiquitous, but it lets us take progress for granted. So it’s essential to find new ways of communicating the story, like how Marian Tupy and Gale Pooley have shown that people need to work an ever-shorter time to be able to afford the things they need and want.

Furthermore, capitalism is taking shots these days for difficulties created not by free markets, but by policy mistakes on the part of government. Whether it’s the high cost of health care, challenges escaping from poverty or adjusting to the forces of globalization, lack of educational achievement, or a host of other issues, there’s a compelling case the fault lies with politics and policy rather than free enterprise. But that shouldn’t obscure the reality that markets, by and large, are working as promised and delivering astonishing results for human well-being.

As for manning the barricades, Cato is pushing more resources and strategy into defending the free economy. Scott Lincicome has joined to augment these efforts. Ryan Bourne has written an outstanding book teaching a wide range of economics lessons through the lens of the pandemic. Chris Edwards continues to anchor Cato’s unwavering efforts to rein in runaway government spending. Michael Cannon is laying plans to go on the offense against the government-dominated health care system. And Michael Tanner continues to show how misguided policies in areas as diverse as criminal justice, anti-poverty, education, drugs, and regulation conspire to make it so much more difficult for fellow citizens to escape poverty.

Yes, libertarian economics engenders wealth, cooperation, achievement, flourishing, and peace. It has produced a world that is better—by leaps and bounds—than at any previous time in human history. We should be happy to take credit for that.

*New book illustrates the case for rational optimism*

## What a Wonderful World

It might not feel like it, but things are getting better all the time. While pundits and politicians stress gloom and doom, the reality is that human flourishing has been radically improving. People have never been wealthier, healthier, and happier. These trends and their causes are the subject of a new book by Marian L. Tupy, editor of Cato's HumanProgress.org, and Ronald Bailey, science correspondent for *Reason*.

*Ten Global Trends Every Smart Person Should Know: And Many Others You Will Find Interesting*, released in August, compiles these facts and accompanying charts in a beautifully illustrated volume suitable for display on your coffee table or in your office. The first printing of the book has already sold out as a result of large orders for use as holiday gifts for friends and clients. A second printing is now in stock.

As Tupy explains, "Well-known negativity biases that are deeply entrenched in the human psyche, and which we discuss in the introduction, conspire to make us think of the world as being in much worse shape than it is. So, the primary goal of the book is educational. If readers walk away feeling a sense of pride over

the degree and scope of human accomplishment and imbued with a sense of rational optimism about our species' future, so much the better."

Trends discussed include a documented rise in happiness; a decline in global income inequality; radical reductions in both criminal violence and war; the expansion of equality and empowerment for women; decriminalization of same-

sex relationships; increasing access to electricity, clean drinking water, and the internet; and many more. In all, the book covers 78 different positive trends, with data to back them up.

This might seem like a difficult year to make the case that the world is getting better. But it is impossible to understand the world we live in today without knowing the reality of how much better things have gotten within our lifetimes. And in a time of widespread pessimism, that ray of sunshine might be especially needed. These radical improvements are the product of a global system of trade and capitalism that has produced wealth and wonders beyond the wildest dreams of our ancestors.

*Ten Global Trends* is intended to not just gather dust on a bookshelf, but rather to be prominently shown as a conversation piece, much as other coffee table books on art and architecture. Light on exposition and prose, the true centerpiece of the book is its charts. A picture is worth a thousand words, and the trends documented in this volume are translated into easily digestible visual illustrations. Cato Institute designers Guillermina Sutter Schneider and Luis Ahumada Abrigo have accomplished this task and produced a stunning piece of art that readers will be proud to display. ■

**TEN GLOBAL TRENDS IS AVAILABLE AT ONLINE BOOKSELLERS AND [CATO.ORG/BOOKS](https://Cato.org/books).**



## Cato News Notes

### ARISE, SIR STEVE

Steve H. Hanke, senior fellow and director of Cato's Troubled Currencies Project, has been made a Knight of the Order of the Flag by decree of Ilir Meta, president of Albania. He is only the second American to receive this honor. In the commendation, Meta explained that Hanke "introduced and implemented the principles of market economy and sound money to the post-Communist Republic." From 1990 to 2018, Albania rose from 88th to 26th in the *Economic Freedom of the World* index.

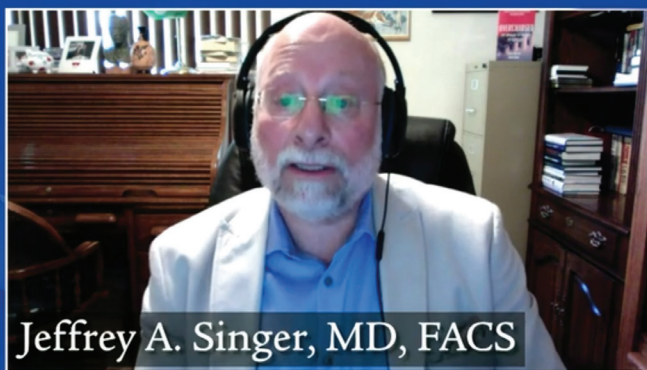
### CMFA WELCOMES NEW FINREG DIRECTOR

Cato welcomes Jennifer J. Schulp as the new director of financial regulation studies in the Center for Monetary and Financial Alternatives. Before joining Cato, Schulp was a director in the department of enforcement at the Financial Industry Regulatory Authority, Inc. (FINRA). At Cato, she will focus on the regulation of securities and capital markets.

### WORD OF THE DAY

**M**erriam-Webster's *Collegiate Dictionary* selected "cronyism" as its word of the day for September 16, 2020, defined as "partiality to cronies especially as evidenced in the appointment of political hangers-on to office without regard to their qualifications." To provide an example of the term's usage, the esteemed dictionary cited Lee Drutman's lead article in the July/August 2020 issue of *Cato Policy Report*.





Jeffrey A. Singer, MD, FACS



Paul J. Larkin, Jr., JD



Maqbool Halepota, MD, FACP, CPE



Alex Nowrasteh, MS

In August, Dr. **Jeffrey A. Singer**, senior fellow, moderates a policy forum on barriers facing immigrant doctors and how states have rolled back these restrictions in response to the pandemic with **Paul J. Larkin, Jr.** of the Heritage Foundation, Dr. **Maqbool Halepota** of the Palo Verde Cancer Center, and **Alex Nowrasteh**, Cato director of immigration studies.



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In September, Cato's Center for Monetary and Financial Alternatives (CMFA) hosted the 2020 Cato summit on financial regulation. 1. CMFA adjunct fellow **Dan Quan**. 2. **Linda Lacewell**, superintendent of the New York State Department of Financial Services. 3. **Ron Shevlin**, director of research at Cornerstone Advisors. 4. **Maria B. Early**, partner at Reed Smith. 5. **Brian Brooks**, acting Comptroller of the Currency. 6. **Jennifer J. Schulp**, Cato's director of financial regulation studies.

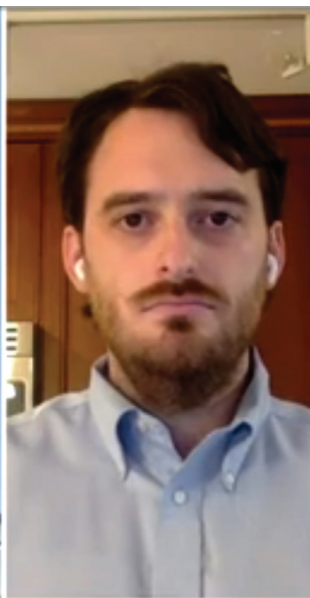




**P. J. O'Rourke**, Cato H. L. Mencken Research Fellow, launches his new book, *A Cry from the Far Middle: Dispatches from a Divided Land*, at an online book forum in September.



**Clint Bolick**, associate justice of the Arizona Supreme Court and cofounder of the Institute for Justice, participates in a panel for Cato's 19th Annual Constitution Day symposium on September 17, 2020.



**Matthew Feeney** (second from left), director of Cato's Project on Emerging Technologies, discusses the Republican National Committee's complaint against Twitter to the Federal Election Commission on Fox Business's *The Claman Countdown* in October.

Continued from page 1

Meanwhile, support for increasing immigration rose from 14 percent to 34 percent over the same period, while the percentage who want to keep the present levels has remained about constant in the high 30s. As importantly for Biden, half of Democrats want increased immigration.

In 2020, 77 percent of Americans called immigration a “good thing” for the country today, up 20 percentage points since 2010. The turnaround in public perception is even more dramatic because Gallup asks about all immigration, not just legal immigration, so the poll likely understates support for legal immigrants.

President Trump and candidate Biden presented Americans with a stark choice on immigration: cut legal immigration or expand it. They chose to expand it, aligning their votes with the trend in polling responses. No president has ever had more political momentum to loosen legal immigration restrictions than Biden will have.

## THE BIDEN ADMINISTRATION'S IMMIGRATION POSITION

President-elect Biden's position paper on immigration was the most comprehensive and detailed by any presidential candidate in history. Importantly, it demonstrated a deep awareness of the shortcomings of the current legal system.

To understand those shortcomings, one must step back from the legal details and see the big picture. Even before Trump, the United States was among the least welcoming developed countries in the world. Before Trump closed the borders, the United States legally accepted more immigrants than any other country *in absolute terms*, but accounting for its size and economy, it ranked in the bottom third of wealthy countries for both its foreign-born share of the population and its annual per capita growth in the foreign-born population in 2019.

Immigrants in Canada are about 21 per-

cent of its population. Immigrants make up more than 26 percent of the population in New Zealand and about 30 percent in both Australia and Switzerland. By contrast, legal immigrants account for just 11 percent of the U.S. population, rising to 14 percent when illegal immigrants are included. The per capita annual inflow of immigrants into those countries ranges between three and six times greater than that of the United States.

The United States has an exceptional immigration history. More than 100 million immigrants have come to these shores and built better lives for themselves, their children, and the native-born Americans who were here before them. Immigrants built a culture of risk-taking and creative destruction that, combined with the blessings of American liberty, has turned the United States into the free and prosperous society it is today. But in the past century, we've lost that exceptionalism. In the 2010s, our per capita legal immigration rate had already dropped two-thirds from 100 years earlier, and now it's as close to zero as it has ever been.

America has an image of itself as being proudly open to immigration, but for a long time that hasn't been the reality. The immigration system is so constrained that it has built up an unprecedented backlog of nearly 5 million applicants for green cards. In 1991, the last time Congress adjusted the numerical caps on green cards, those limits forced 3 percent of green card recipients to wait more than a decade to immigrate. Now it's 28 percent. And those are just the immigrants who received green

cards. In 2020, about 23 million people worldwide applied for America's green card lottery, with just 50,000 winners. There are 25 million refugees worldwide. America took in just 10,000 in 2020. President Trump inherited a heavily restrictive immigration system and made it much worse.

People across the world want to live the American Dream, and Americans want to welcome them as family, workers, consumers, and employers, but there are very few legal opportunities for them to come. As a result, many have come illegally, leading to an estimated 10.5 million illegal immigrants living in the United States.

President Ronald Reagan argued that the United States should again be a city on a hill with “doors . . . open to anyone with the will and the heart to get here,” but we have fallen well short of that promise. President-elect Biden has an opportunity to reclaim it now.

## WHAT CAN PRESIDENT BIDEN DO?

President-elect Biden's position paper suggests that he would apply lessons from Canada on how to improve American immigration policy. Controlling for population, America's smaller neighbor allows more skilled immigrants, family-based immigrants, and refugees than the American system. Biden's immigration plan borrows heavily from the Canadian model by “rejecting the false choice” between different types of immigrants to embrace them all.

Biden has said he intends to ask Congress to increase the number of employment-based green cards for skilled immigrant workers. His proposal would allow the number to fluctuate with the unemployment rate and exempt PhDs from U.S. doctoral programs from the caps entirely. Biden also wants to increase family-sponsored immigration by exempting about 90,000 spouses and minor children of green card holders from the numerical caps. Those green cards would then go to some of the more than

“  
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stark choice on  
immigration.  
”



3 million adult children and siblings of U.S. citizens and green card holders caught in decades-long backlogs.

Anticipating that this increase would not be enough to eliminate the backlog, Biden says he would also ask Congress to create a new temporary visa to allow these family-sponsored immigrants to come to the United States to live and work legally while they wait for permanent residence. Biden also proposes to immediately increase the refugee cap to 125,000, which would be the highest number since President George H. W. Bush and a huge difference from the roughly 10,000 admitted in 2020.

Alone among the Democratic primary candidates, President-elect Biden stood out for recognizing the importance of America's temporary worker system. He rightly labels the guest worker regulations as "cumbersome, bureaucratic, and inflexible—driving up incentives to circumvent the system by hiring undocumented laborers." He says he would streamline the process and "expand opportunities for individuals seeking temporary worker visas," particularly from violence-torn Central America, where most illegal border crossers originated in 2019.

No single policy has done more to reduce illegal immigration than expanding the number of temporary migrant workers. Border Patrol apprehensions of Mexican illegal border crossers per agent declined 96 percent from 1997 to 2019, largely because of the 11-fold expansion in guest worker visas issued to Mexicans during that time. As one Mexican worker explained in 2019, "Most of my friends go with visas or they don't go at all." He noted that while he hadn't received a visa that year, he wouldn't risk his chance next year by crossing illegally.

The fact that Biden understands this dynamic puts him in a class of his own among Democrats, who have historically opposed guest worker programs. Indeed, his own former boss President Obama voted

## “ Guest worker visas reduce illegal immigration. ”

for an amendment as a senator that gutted the guest worker expansion in the Senate's 2007 immigration reform bill. Biden wants to do less to improve temporary worker visas for high-skilled migrants on the H-1B visa, but even here he still wants to expand the number of high-skilled visas in exchange for some ill-conceived protectionist measures such as higher minimum wages for foreign workers and more regulations to prevent native-born job displacement.

Biden has also called for a "new visa category to allow cities and counties to petition for higher levels of immigrants" to counter population decline or support more robust local economic growth. This decentralized system is also based on the Canadian system, which allows provinces to select immigrants.

President Trump has also touted the Canadian model for its ability to attract skilled immigrants, but he has ignored how the Canadian system welcomes relatively larger numbers of refugees, family-based immigrants, and temporary workers of all skill levels. In contrast, President-elect Biden wants to implement the best features of the entire Canadian system without explicitly endorsing it.

### **PRESIDENTIAL AND ADMINISTRATIVE ACTIONS**

President-elect Biden will have to exert considerable effort to get the U.S. immigration system back to where it was in 2016, but he has vowed to start on Day One of his presidency. Biden can immediately repeal the immigration bans that President Trump enacted in response to COVID-19 and the ensuing recession, which Biden

rightly criticized because "immigrants help grow our economy and create jobs." Biden has also said he would repeal the travel and immigration bans that now target a dozen countries on the basis of a national security pretext, even though no terrorist from those countries has committed a deadly attack on U.S. soil in more than four decades.

Congress explicitly granted the president the power to set the refugee limit, and Trump has used this power to almost end the refugee program by reducing admissions from about 85,000 in 2016 to about 10,000 in 2020, the fewest since the program's creation in 1980. In 2020, he offered no slots at all to victims of political persecution, such as those in Hong Kong or other communist countries. Biden has said he will ditch those policies and admit 125,000 refugees in 2021.

Similarly, President-elect Biden has promised to reverse Trump administration actions that barred almost all asylum applicants and deported many of them to unsafe conditions in Mexico or other Central American countries. Although Biden can rescind presidential actions and executive orders immediately, it will take longer for him to rescind formal regulations enacted by agencies during the Trump administration through the requirements of the Administrative Procedure Act. The most significant regulation that he should want to repeal is Trump's tightening of the public charge rule. The change was sold as a way to reduce immigrant welfare consumption, but it bans any immigrants whom government officials project would have low incomes when they arrive. Immigrants can't even beat the rule by pointing out that they can't legally consume federal welfare programs until they're eligible to become U.S. citizens.

In some cases, Biden can issue executive actions to expand legal immigration beyond just repealing Trump's regulations and orders. He can allow relief for some applicants stuck in the family-sponsored green card

backlog of roughly 3.5 million by expanding the Department of Homeland Security's parole authority.

In 1952, Congress enacted a statute allowing immigration agencies to "parole" a foreigner into the country by effectively waiving the limits on admission "for urgent humanitarian reasons or significant public benefit." Since then, agencies have used parole sparingly, such as by providing parole to Cubans fleeing communism under the wet-foot/dry-foot policy. But Biden could expand it dramatically by classifying family separations of more than a year as an urgent humanitarian reason, helping millions of legal immigrants reunite with their American families.

President-elect Biden could also stop counting the spouses and minor children of workers who enter on a green card against the numerical caps. Currently, U.S. law allows 140,000 green cards for workers, but less than half of those go to the workers themselves—the rest go to their immediate family members. President-elect Biden could implement this reform very quickly because no law or regulation requires counting the spouses and minor children of immigrant workers against the green card cap. Doing so would essentially double the annual number of legal workers who can earn a green card. He could also apply this reform to other family-based green card categories and altogether increase legal immigration by a quarter.

The new administration could also deregulate employment authorization for temporary workers and their family members. There are hundreds of thousands of foreign students as well as spouses of temporary workers who cannot legally work in the United States right now because of long-standing presidential orders. The executive branch has occasionally adopted more permissive policies, such as when President George W. Bush allowed foreign STEM students to work after their graduations. The Obama administration even allowed some

## Biden could overreach on executive actions.

spouses of H-1B high-skilled workers to work if they were in line for a green card. A Biden administration could expand these policies by allowing all spouses and minor children to work legally.

Finally, Biden could replace the immigration personnel and administrative judges who evaluate immigration applications and asylum claims. Those bureaucrats have enormous discretion to accept or reject visa applications. Former presidents have staffed immigration agencies with administrators committed to rejecting applicants on the flimsiest of pretexts. For instance, the Trump and Bush administrations stacked the asylum system with former law enforcement officers who gave less weight to applicants' testimonies in order to deny more claims. Biden could go the other way by hiring adjudicators from the private sector who will give applicants a better shot.


### WHERE BIDEN COULD GO WRONG

Biden's biggest weak spot could be his affinity for labor unions that are opposed to the temporary worker programs that he

supports. It is not difficult to imagine Biden being convinced to raise minimum wages for temporary workers to levels that would make it effectively impossible for farmers and employers to hire them.

Another risk is that Biden could overreach on executive actions in the same manner as President Obama did by providing legal status to illegal immigrants without following the law, taking the wind out of the sails of congressional reform efforts while doing little to liberalize the legal immigration system. Biden will likely be more mindful of Congress and how it will react to executive actions since he has spent more years in the Senate than any other president in American history, but the temptation to overreach with executive actions will be great.

Biden's election should give immigrants as well as Americans who want expanded legal immigration more hope than they have had in decades. President Obama's election also raised hopes of immigration reforms that the president failed to deliver, but Democrats in 2009 were much less supportive on immigration than they are today. Through regulatory reforms and asking Congress to pass legislation to expand and deregulate the legal immigration system, President-elect Biden has a golden opportunity to remake U.S. immigration policy for the 21st century. ■




## Free Thoughts Podcast




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— DAVID BOAZ

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# Civic Illiteracy and the Rule of Law

**Don Willett** is a judge on the U.S. Court of Appeals for the Fifth Circuit and previously served as an associate justice on the Texas Supreme Court. In September, he delivered the annual B. Kenneth Simon Lecture for Cato's Constitution Day symposium to mark the release of the *Cato Supreme Court Review*. He spoke on the importance of civil literacy in preserving the rule of law.

**T**he year 2020 has been a wild ride, and I say that as a former rodeo cowboy. There has been a confluence of overlapping crises: pandemic, recession, impeachment, social unrest. So far, the most normal part of 2020 has been *Tiger King*.

But we look for silver linings where we can. And the turmoil has perhaps sharpened our focus on first principles. According to the 2020 Constitution Day Civics Survey, 51 percent of American adults can now name all three branches of government—up from 39 percent last year (which was the all-time high). But truth be told, our nation still has an abysmal civic IQ. We inhabit an age of miracles and wonders, with access to mankind's accumulated knowledge at our fingertips. Yet it's also an age of staggering civic illiteracy. Our civic temperature may be high, but our civic knowledge is not. There is much to indict. But through commendable events like today's symposium, perhaps we can move from indicting to informing—and better still, inspiring and invigorating.

Two hundred thirty-three years ago today, a throng of Philadelphians waited outside Independence Hall. And like most Philly crowds, it was tense. Our infant nation was floundering. The United States were anything but. The Articles of Confederation had created a loose "league of friendship," but the former colonies had yet to coalesce into a country.

For four sweltering months, delegates to the convention huddled in secret behind closed doors. And those outside were wary of those inside.

On the convention's final day, Benjamin Franklin delivered the last great speech of his life, urging adoption of the new constitution "with all its faults." And Franklin found plenty of faults. He wanted federal judges to be elected, for example. But Franklin, 81 years old, the oldest delegate and the most renowned American in the world, flexed his considerable diplomatic skills and implored his fellow delegates to "doubt a little of his own Infallibility." "The older I grow," said Franklin, "the more apt I am to doubt my own Judgment, and to pay more Respect to the Judgment of others." We could all use a refreshing dose of that intellectual modesty today—more humility and less superiority.

We all know what happened next. A triumphant Franklin was approached by Mrs. Powel, who blurted out, "Well Doctor, what have we got, a republic or a monarchy?" And Franklin delivered his sharp-witted rejoinder, "A republic, if you can keep it."

Franklin's zinger was heartening—"A republic"—no more royal absolutism! But it was also frightening—"if you can keep it"—because it suggested that the survival of freedom depends on people, not parchment.

The duty of preserving our rich civic inheritance falls on us. We must ensure our republic doesn't descend into anarchy or monarchy. This is a job for everyday Americans, like Mrs. Powel, who posed a question for the ages, one that echoes today—"What have we got?" This republic is ours. Ours to keep. And ours to lose.

But Franklin was not the first to recognize whose job it is to build an enduring na-

tion. Eleven years earlier, on the same politically sacred spot, the Declaration—our original birth announcement; the greatest breakup letter of all time—proclaimed that we wanted government, as Lincoln put it four score and seven years later, "of the people, by the people, for the people."

Margaret Thatcher once noted that Europe, unlike the United States, is "the product of history and not of philosophy." America is *sui generis*, she said, because it was "built upon an idea—the idea of liberty."

Our Founders, imperfect yet inspired, aimed for something transcendent: not to enshrine a process—democracy—but to enshrine a promise—liberty. Individual freedom. The essential condition of human flourishing.

Our Founders gambled big, and they hit the trifecta. They had hindsight. They knew the history of kings and dictators, so they insisted on a government of laws and not of men.

They had insight. They knew that government exists to "ensure the blessings of liberty"; that liberty is not provided by government but preexists government; that liberty is our natural birthright, not a gift from politicians.

And they had foresight. They knew that to safeguard liberty, government must be structured to control its power.

Knowing that a bunch of guys dumped tea into Boston Harbor means nothing if we don't know why they dumped it. And if we don't grasp the why of our design, it'll never command affection and reverence. Most Americans now say they do not trust any branch of government.

American national pride is at an all-time low. The Father of the Country would be dismayed. Washington made clear in his first inaugural address that this is on us: "The preservation of the sacred fire of liberty, and the destiny of the Republican

model of Government, are . . . staked on the experiment entrusted to the hands of the American people.” And frankly, Washington was pessimistic, confiding to another delegate, “I do not expect the Constitution to last for more than 20 years.” Thankfully, he was wrong.

But civic illiteracy—obliviousness to the “what” and “why” of America—accelerates disattachment. Because if we don’t know our history, warts and all, we can never understand our history. We’ll have nothing to hold onto. Nothing to ground us.

Amid today’s pandemic is something endemic: a deep misunderstanding of American self-government. Today is Constitution Day. But our confusion also runs to our true founding document: the Declaration of Independence.

The Declaration was high treason. It was a literal indictment of the Crown, in painstaking detail, that married disobedience with eloquence. The first two paragraphs are vacuum-packed. There was no beating around the bush. No gauzy phrases like “irreconcilable differences.” The Declaration is declarative.

The second sentence is the most famous—“We hold these truths to be self-evident. . . .” This line does a lot of heavy lifting. It declares: (1) these rights belong to us as individuals; (2) they are fixed, innate, our natural birthright, unrelinquishable, unwaivable, unsunderable; and (3) they are God-given, so they may not be taken by man.

The Declaration unveiled the American theory of government, and its bottom line is clear: government exists to protect our individual, unalienable rights—rights that are ours by virtue of our very humanity.

It is undeniable that at the Founding, the ideals collided with the reality, America’s original sin of slavery. One-third of the Declaration’s signers were slave owners. We were flawed and stained at the start. Jefferson’s initial draft included an anti-slavery passage, but it was cut. America is imper-

fect, as all human things are.

Even so, the Declaration’s underlying ideals are timeless, and they are winning out. Lincoln would not abandon them even to avoid civil war. At Independence Hall, just before he was inaugurated, Lincoln described equal liberty as a gift “not alone to the people of this country, but, I hope, to the world, for all future time.” The Declaration



DON WILLETT

“  
The Framers  
were not tinkers.  
They upended  
things.”

was a linchpin argument for abolitionists, and the Supreme Court feebly tried to explain it away in *Dred Scott*.

My favorite piece of art in my chambers is an oil painting of Frederick Douglass. In his iconic speech, “What to the Slave Is the Fourth of July?,” Douglass notes that the promises of liberty and equality in the Declaration are eternal, even if America broke those promises. There was a jarring disconnect between the commendable words of the Declaration and the condemnable

deeds of those who adopted it. But those founding ideals still lay the foundation for righting wrongs, including the “new birth of freedom” wrought by our Second Founding and the Civil War amendments that belong at the center of America’s constitutional story.

The quest to live up to America’s ideals is never-ending; it requires constant striving. Even the aspirational Fourteenth Amendment failed to fulfill its promise during its first 75 years. But the central idea of the Declaration—that “all men are created equal”—set in motion an inexorable march.

Dr. King, perhaps the most renowned protestor in our nation’s history, called on his fellow citizens not to tear down America’s heritage but to live up to it. After his own March on Washington, Dr. King demanded not that our founding documents be changed to fit new ideals, but that our government change to fit the enduring ideals of our founding documents, which he called “a promissory note to which every American was to fall heir.” Perfection is elusive in this life. But bit by bit, amendment by amendment, we are drawing nearer to the first enumerated purpose of the Preamble: formation of that “more perfect Union.”

So far, I’ve focused on the Declaration, which lies at the heart of the American project. But it is preserved through the Constitution. The Declaration is aspirational; the Constitution is architectural. The Declaration declared the purpose of government: to secure our God-given rights. The Constitution erected an ingenious structure to achieve that purpose.

The Framers were not tinkers. They didn’t pledge their lives, fortunes, and sacred honors to fiddle around the edges. They upended things. The Madisonian architecture was infused with Newtonian genius: three coequal branches locked in synchronous orbit by competing interests. “Ambition . . . counteract[ing] ambition,” as Madison put it. A radical structure that divided power to control power.



And the most extraordinary element? These three rival branches derive power from three unrivaled words, supersized on the page for all the world to see: “We the People.” Not “We the Government,” “We the Judges,” or “We the Subjects.” In an era of kings and sultans, this was a script-flipping heresy. Nothing was more radical than the idea that sovereignty resides not in government but in the governed.

Popular sovereignty is a duty, not a mere theory. Shortly after the Constitution was signed, Jefferson wrote from Paris: “Wherever the people are well informed, they can be trusted with their own government.”

But again, We the People’s civic illiteracy is staggering:

- Seventy-one percent of Americans can’t identify the Constitution as the supreme law of the land.
- Sixty-three percent can’t name one of their state’s U.S. senators.
- Sixty-two percent can’t identify the governor of their state.

But there is a ray of hope: naturalized Americans, those who’ve risked everything to help write the next chapter of the American story. When it comes to the U.S. citizenship exam, immigrants “get the job done.” Do you know what percentage of immigrants pass the civics test their first try? Ninety percent. The same 100 multiple-choice questions were given to some American high schoolers. The passage rate: Five percent. The generation with the greatest access to information is also the least informed.

An informed citizenry is indispensable to self-government. But even that is no guarantee of good government. Beyond education, you need engagement. Franklin said “if you can keep it” because he knew the secret sauce: an engaged citizenry.

American citizenship is not a spectator sport. Justice Brandeis put it well: “The only title in our democracy superior to that of president is the title of citizen.” Our

Constitution is an exquisite charter of freedom, but freedom requires patriots, not passersby. It demands fierce defenders, not feeble bystanders.

Last year, the federal judiciary convened its first-ever national civics conference. Article III judges, including three Supreme Court justices, joined with law school deans, bar leaders, and others from Maine to Guam to discuss how the judiciary could help boost civics literacy.

A few weeks later, Chief Justice Roberts wrote in his year-end report on the federal

“  
A republic  
comes with  
responsibility.  
”

judiciary, “Each generation has an obligation to pass on to the next, not only a fully functioning government responsive to the needs of the people, but the tools to understand and improve it.” The chief justice was echoing Justice O’Connor, who has devoted her post-Court life to civics education: “Knowledge about our government isn’t handed down through the gene pool.” And she was echoing President Reagan, who warned, “Freedom is never more than one generation away from extinction. We didn’t pass it to our children in the bloodstream.”

They’re right. This isn’t something hardwired into our DNA as Americans. The habits of citizenship must be taught and learned anew by each generation.

And schoolchildren are often center stage in transforming our nation. Take Linda Brown, the schoolgirl at the center of *Brown v. Board of Education*. When the Supreme Court rejected racial segregation, it stressed the importance of education as a crucible for good citizenship. And for many students,

schools may be the only place they are exposed to the American political tradition.

As Jefferson put it, “If a nation expects to be ignorant and free . . . it expects what never was and never will be.” Education, he said, enables “every man to judge for himself what will secure or endanger his freedom.” For popular sovereignty to work, education must underscore, not undermine, our common civic identity. Education should instill in children a respect for American self-government and the tools to achieve it—to equip students not just academically but civically.

Schools, however, shouldn’t bear the full burden. Judges play a role too. As Chief Justice Roberts put it, “Civic education, like all education, is a continuing enterprise and conversation,” and judges, “by virtue of their judicial responsibilities . . . are necessarily engaged in civics education.” We explain our reasoning in written opinions, lead naturalization ceremonies, oversee mock legal proceedings, etc. This past March, the Judicial Conference of the United States affirmed that civics education is a core component of judicial service. And the Administrative Office of the U.S. Courts has developed terrific online resources for judges, teachers, attorneys, and parents.

A republic comes with responsibility. Self-government is not self-perpetuating. It’s tough sledding, and each generation must take its turn. This raucous republic belongs to us all, and its preservation is up to us all. Franklin told Mrs. Powel, “if you can keep it.” A quarter of a millennium later, with every tool laid at our feet, there is no longer a question of capability. There is only a question of culpability.

America boasts the oldest written national constitution on earth. What an extravagant blessing. But preserving that inheritance requires a culture that prizes liberty and public-spirited virtue. For now, We the People are—and through God’s grace, will remain—the world’s oldest constitutional republic.

If we can keep it. ■

Constitution Day release of new Cato Supreme Court Review

## Looking Back, Looking Forward at the Supreme Court

On September 17—Constitution Day—Cato released its 19th annual *Cato Supreme Court Review*, the first such journal to be released after the end of each term for the Court. With contributions from scholars across the field, the *Review* is the only comprehensive look at the Court's cases that addresses the decisions from a classically liberal, Madisonian perspective grounded in limited government principles.

As always, the release of this year's volume was accompanied by Cato's Constitution Day symposium, held virtually this year because of the COVID-19 pandemic. The symposium included the Annual B. Kenneth Simon Lecture delivered by Judge Don Willett of the U.S. Court of Appeals for the Fifth Circuit. (See "Civic Illiteracy and the Rule of Law," page 9.)

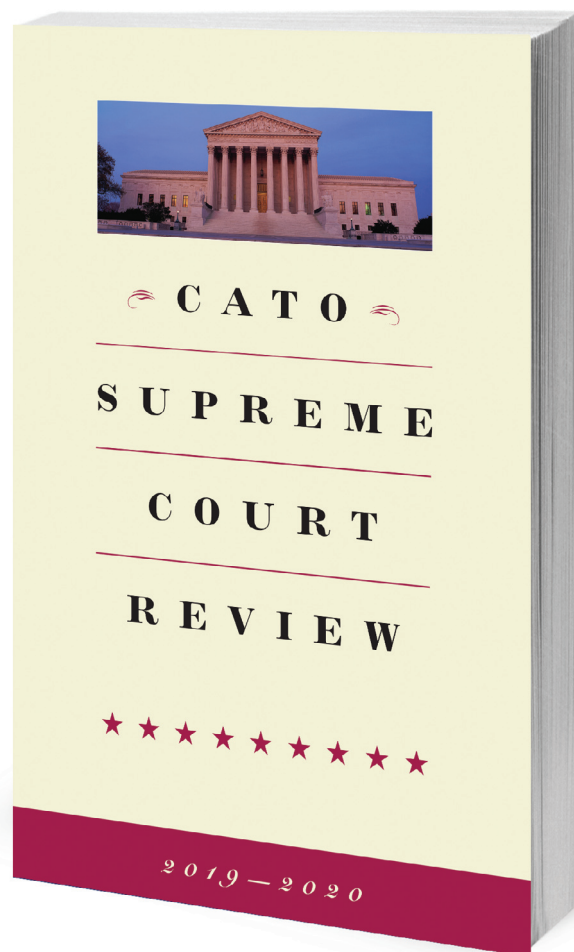
The Supreme Court has also had to adapt to the pandemic, cancelling oral arguments in March and April while conducting an unusual series of hearings in May using teleconferences. That didn't stop the Court from making several important rulings, whose consequences and merits are addressed in the *Review* under editor in chief Trevor Burrus, a research fellow at Cato's Robert A. Levy Center for Constitutional Studies.

One case that attracted particular attention was *Chiafalo v. Washington*, along with its companion case, *Colorado Dept. of State v. Baca*. Keith E. Whittington analyzes the ruling in "The Vexing Problem of Faithless Electors," explaining how the Court resolved the thorny textual problem of state laws binding members of the Electoral College to vote for their party's candidates. In 2016, several states sought to enforce these laws for the first time in response to a movement of so-called Hamilton Electors seeking to block the election of Donald Trump. The Court ul-

timately ruled unanimously, though with some justices offering different rationales, that state laws binding electors are constitutionally valid.

School choice and the First Amendment were also on the docket, with a crucial victory for liberty in *Espinoza v. Montana Dept. of Revenue*. Clint Bolick, cofounder of the Institute for Justice and now a justice on the Arizona Supreme Court, writes about the case in "The Dimming of Blaine's Legacy." The Blaine in question is U.S. Senator James G. Blaine (1830–1893). Blaine was a strident opponent of immigration and Catholicism in particular, and he led an effort to adopt a constitutional amendment barring state funding for "sectarian" schools, a thinly veiled attack on the system of parochial schools operated by the Catholic Church.

Blaine's efforts to amend the federal Constitution were unsuccessful, but several similar "baby Blaine" amendments were adopted as part of state constitutions, where they have recently been invoked against programs that allow parents to direct funding to the school of their choosing. The unambiguous origin in anti-Catholic bigotry led to a 5-4 ruling striking down the Blaine amendments as violations of the First Amendment. Bolick traces the long history of cases that led the Court to strike down these provisions, explaining that "*Espinoza*, in a very important sense, is the culmination of a long journey meant to make America safe for school choice."



As always with the *Cato Supreme Court Review*, in addition to analyzing the cases just decided, contributors look ahead to the upcoming 2020–2021 term, which began on the first Monday in October. Anastasia Boden, senior attorney at the Pacific Legal Foundation, takes on that topic in "Looking Ahead: Déjà Vu at the Supreme Court."

Pending cases include another challenge to the Affordable Care Act, *California v. Texas*, which stems from a lawsuit filed by several Republican-governed states, and *Fulton v. City of Philadelphia*, in which Philadelphia excluded religious agencies from the city's foster care system because of their refusal to place children with same-sex couples. ■



Ilya Shapiro on how we got here and what to do about it

# The Contentious History of Supreme Nominations

Once again, Americans have faced a contentious vacancy on the Supreme Court with Republicans and Democrats bickering along party lines in Judiciary Committee hearings. A new book by Ilya Shapiro, director of Cato's Robert A. Levy Center for Constitutional Studies, examines how we got to this point and where the court wars will go from here. *Supreme Disorder: Judicial Nominations and the Politics of America's Highest Court* was released on September 22, which happened to be four days after the death of Justice Ruth Bader Ginsburg.

The first portion of *Supreme Disorder* explores the history of Supreme Court nominations since George Washington. Nomination controversies aren't new, and presidents throughout the history of the republic have had nominees rejected by the Senate. These fights were sometimes partisan, as when the defeated Federalists and John Adams passed the Midnight Judges Act during their lame duck tenure to rapidly create and fill new judgeships before the inauguration of Thomas Jefferson. In most cases, however, disputes were about geographic concerns, and presidents were usually less concerned with appointing ideologues who agreed with their policy agenda. Many nominations sailed through with little to no debate on voice votes.

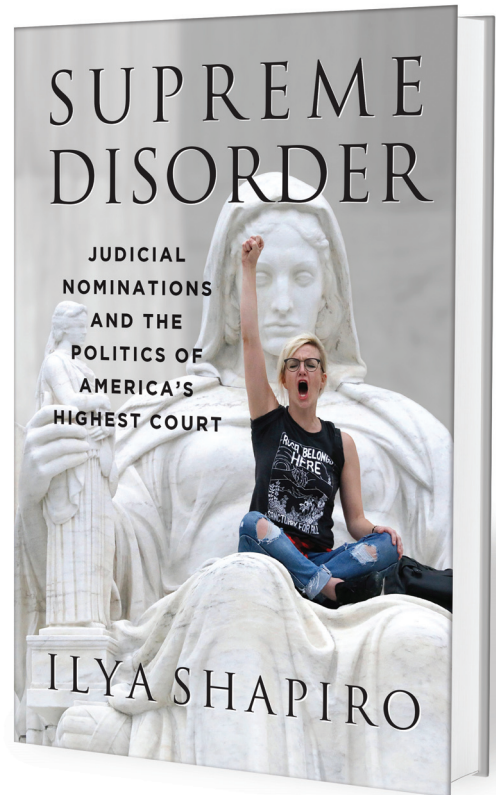
One aspect of these fights is very modern: high-profile and contentious public hearings in the Senate Judiciary Committee. As Shapiro explains, "The Senate didn't even hold public hearings on Supreme Court nominations until 1916... It wouldn't be until 1938 that a nominee testified at his own hearing. In 1962, the part of Byron White's hearing where the nominee himself testified lasted less than 15 minutes." As recently as Ronald Reagan's nomination of Antonin Scalia in 1986, the nomination provoked no opposition on the Judiciary

Committee and was unanimously approved by the Senate with little debate.

The modern era of escalating partisan politics in Supreme Court nominations began with the Senate's rejection of Reagan nominee Robert Bork. Senate Democrats launched an attack on Bork's conservative and originalist judicial philosophy with dire warnings of the possible policy results. Sen. Edward M. Kennedy (D-MA) decried an America where "women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue police could break down citizens' doors in midnight raids, school children could not be taught about evolution, [and] writers and artists could be censored at the whim of [the] government" if Bork was confirmed.

In recent years, partisan fighting over Supreme Court seats has led to several escalating changes to the Senate's rules, culminating in the total elimination of the filibuster and its requirement for 60 votes rather than a simple majority. Allegations of personal misconduct have caused explosive controversies over the nominations of Clarence Thomas and Brett Kavanaugh. And Republicans in 2016 refused to hold hearings or a vote on Barack Obama's nominee, Merrick Garland.

After discussing the recent escalation of battles over the future of the Supreme Court, Shapiro considers possible reforms. One popular proposal that has attracted bipartisan support is term limits for the court, usually proposed to be set at 18 years. Shapiro finds this proposal worthwhile and finds that it would have benefits in restoring public confidence but would not have many of the wide-ranging effects ascribed by its proponents: "But even if term limits won't change the Court's decision making, they might be worth trying anyway because



at least there would be less randomness about when vacancies arise."

More radical proposals include court packing, or increasing the number of justices. That proposal has recently become a point of contention in the 2020 presidential election as Democrats consider it as a means of retaliation for recent Republican dominance in judicial confirmations. Others would have justices selected by a random lottery among judges on the circuit courts of appeal. These proposals would all produce poorer results than the current structure, and Shapiro notes reasons to doubt their political viability.

The ultimate message of *Supreme Disorder* is "The reason we have these heated court battles is that the federal government is simply making too many decisions at a national level for such a large, diverse, and pluralistic country." ■

**SUPREME DISORDER, PUBLISHED BY REGN-ERY, IS AVAILABLE FROM ALL BOOKSELLERS.**

## Democrats for Freer Trade?

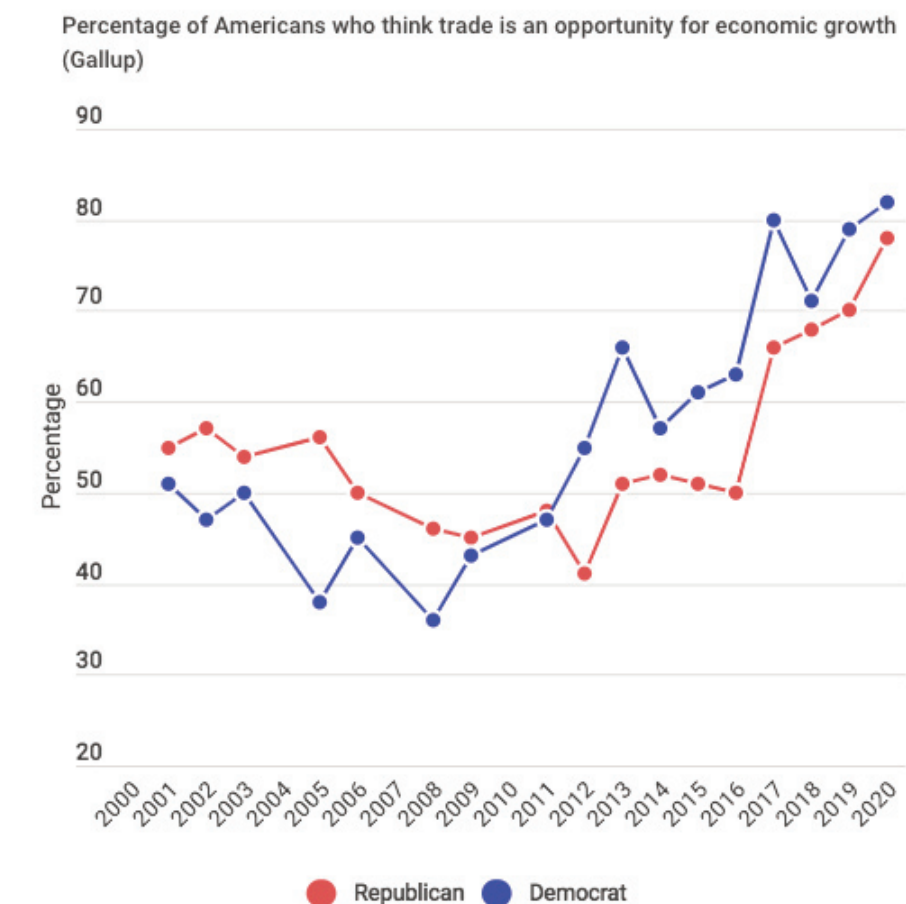
**P**resident Trump has worked a realignment on the politics of free trade. The Republican Party, once a bastion of free-traders, has taken a sharp turn toward protectionism and tariffs. After the 2020 elections, where does that leave the Democrats?

In a new policy analysis, Cato adjunct scholar James Bacchus—himself a former Democratic congressman as well as former chief judge of the World Trade Organization’s Appellate Body—lays out the possibilities. “Democrats and Trade 2021: A Pro-Trade Policy for the Democratic Party” (Policy Analysis no. 900) lays out the case for Democrats to avoid what he calls “the trap of trying to compete with Donald Trump in skepticism about trade.”

“Instead,” Bacchus explains, “Democrats should set out the positive case for trade liberalization and the rule of law in international trade.”

And there is evidence that Democratic voters are also moving in a more pro-free trade direction. Simon Lester, associate director of the Herbert A. Stiefel Center for Trade Policy Studies, noted this trend in a Cato blog post coauthored with research associate Huan Zhu: “Recent polling shows that all voters have become more pro-trade in the past several years, but Democrats have moved in this direction a bit faster.” Some of this may indicate partisan backlash to Trump, but it’s possible this shift in attitudes will continue under a Biden administration. The era of Democrats as the party of protectionism might already be coming to a close.

Lester also authored a recent *Free Trade Bulletin* examining the possibility of a Biden administration and what policies it might pursue on trade, along with some recommendations. (“Trade Policy under a Biden Administration: An Overview of the Issues and Some Practical



Suggestions,” *Free Trade Bulletin* no. 76). Writing before the election, Lester examined seven points that Biden will face, including the possibility of implementing improvements to the new United States-Mexico-Canada Agreement (USMCA). Lester also reviewed possible picks for key positions in the administration with influence over trade policy.

What would a more pro-trade Democratic Party look like, and what policies could it adopt? For one thing, Congress should reclaim its constitutional prerogatives over trade policy, ending decades of excessive delegation to the executive branch to set trade policy. This would include rolling back some of the authorities the Trump administration has abused, often under questionable pretexts, to en-

gage in trade wars and worsen relationships with key allies. In addition, Democrats must not abandon their traditional posture as champions of the working class, which has been among the hardest hit by Trump’s trade disruptions. An immediate starting point is resetting checks and balances. Using a variety of statutory authorities, many ostensibly intended for national security, the Trump administration has pursued protectionist policies that likely never would have passed Congress. Although some delegation is a practical necessity, bipartisan bills have already been introduced that would constrain the president’s options and provide fewer opportunities for abuse and more say for Congress.

Of course, what one president can do



unilaterally, his successors can undo unilaterally. Joe Biden could immediately undo the tariffs imposed by Trump, a course Bacchus encourages. In addition to the disruption of American jobs and manufacturing the tariffs caused, their cost has been almost entirely passed on to American consumers in the form of higher prices. The tariffs that Trump imposed have also prompted retaliatory tariffs that have further harmed American exports.

Democrats can also affirm their commitment to internationalism and the rule of law in international trade through strengthening the World Trade Organization (WTO) and revitalizing multilateral trade negotiations that have been repudi-

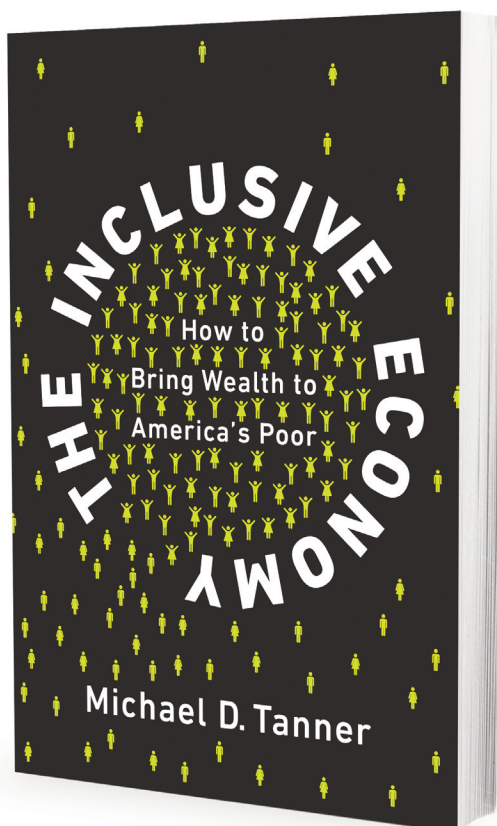
ated under Trump. As Bacchus observes, “Democrats are often supporters of multilateral solutions through international cooperation everywhere except in international trade.” That inconsistency can be removed through a Democratic embrace of the very policies and institutions Trump has turned against. International cooperation built a global system of free trade after World War II that has helped lift billions out of poverty.

A particular concern has been the WTO’s Appellate Body, on which Bacchus once served. The international legal tribunal is responsible for enforcing many of the pro-trade rules embodied in the WTO’s treaties. However, the Trump ad-

ministration has refused to consent to the appointment of new judges. Currently the Appellate Body has only one active judge, below the minimum of three required to conduct business. This makes many of the key provisions of international trade law unenforceable and replaces legal procedures with strong-arm tactics and bilateral escalations.

In conclusion, Bacchus offers this recommendation: “Whether or not Democrats win the presidency and control of the Congress in 2021, they should adopt a pro-trade agenda that centers on renewing support for trade as a policy that can benefit all Americans.” ■

# Empowering people



“An extraordinarily thoughtful and comprehensive look at the history, causes, and debates about poverty.”

—ANDREW STERN, *president emeritus, Service Employees International Union*

“Tanner’s excellent new book bypasses the left-right divide to take the problem of poverty seriously.”

—JASON BRENNAN, *Georgetown University*

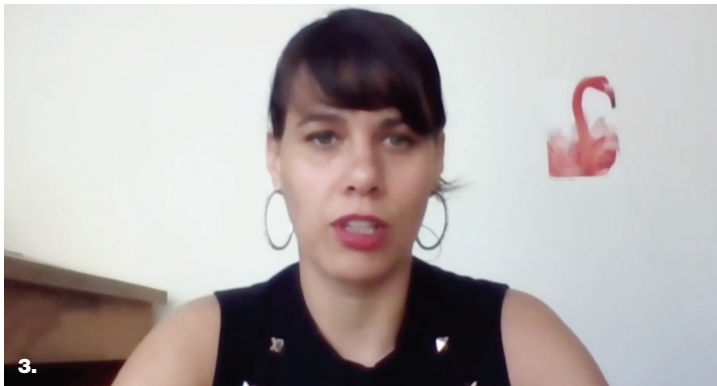
**A**uthor Michael Tanner offers a new anti-poverty agenda that includes criminal justice reform, educational freedom, housing deregulation, banking reform, and more inclusive growth—all focused on empowering people, enabling them to take greater control of their lives.

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**Ilya Shapiro**, director of the Robert A. Levy Center for Constitutional Studies, discusses the Senate confirmation hearings for Supreme Court nominee Amy Coney Barrett on Fox News's *The Journal Editorial Report* with Paul Gigot.



1. **Michael Tanner** moderates panel discussions for Cato's conference on housing and homelessness in California. 2. **Laura Foote**, executive director of YIMBY Action, a pro-housing advocacy nonprofit in the Bay Area. 3. **Sonja Trauss**, executive director of YIMBY Law, which litigates on behalf of the pro-housing movement in California. 4. **Lee Ohanian**, professor of economics at UCLA.





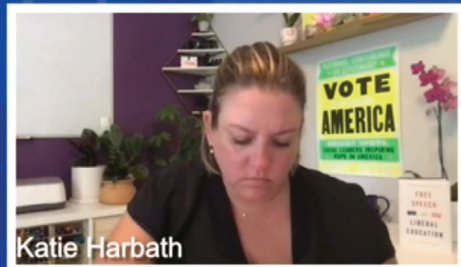
Donald A. Downs



Kat Murti



Jason Kuznicki



Katie Harbath



Robby Soave



Nadine Strossen

**Kat Murti**, Cato associate director of audience engagement and acquisition, moderates a policy forum in September, “Is Free Speech Still Alive on the American College Campus?,” featuring **Donald A. Downs**, author of the new Cato book *Free Speech and Liberal Education*; **Jason Kuznicki**, editor of Cato Books and *Cato Unbound*; **Katie Harbath**, public policy director for global elections at Facebook; **Robby Soave**, senior editor at *Reason*; and **Nadine Strossen**, former president of the American Civil Liberties Union.

**AUGUST 3:** *The Vanishing Trial*

**AUGUST 5:** Doctors with Borders: Embracing the Potential of Immigrant Doctors

**AUGUST 13:** *Free to Move: Foot Voting, Migration, and Political Freedom*

**SEPTEMBER 2:** Constitutional Issues in an Unusual Year

**SEPTEMBER 9:** The Evolution of Banking: The 2020 Cato Summit on Financial Regulation

**SEPTEMBER 10:** Is Free Speech Still Alive on the American College Campus?

**SEPTEMBER 14:** Right-Skilling Health Professionals: Replacing

Government Licensing with Third-Party Certification

**SEPTEMBER 15:** *A Cry from the Far Middle: Dispatches from a Divided Land*

**SEPTEMBER 17:** 19th Annual Constitution Day

**SEPTEMBER 21:** *Supreme Disorder: Judicial Nominations and the Politics of America's Highest Court*

**SEPTEMBER 22:** Crisis: Housing and Homelessness in California

**SEPTEMBER 24:** *Apocalypse Never: Why Environmental Alarmism Hurts Us*

AUDIO AND VIDEO FOR MOST CATO EVENTS CAN BE FOUND ON THE CATO INSTITUTE WEBSITE AT [CATO.ORG/EVENTS](https://Cato.org/events).

## Cato Calendar

**CATO INSTITUTE POLICY PERSPECTIVES 2020**  
Naples, FL • Ritz-Carlton, Naples  
January 26, 2021

**MILTON FRIEDMAN PRIZE PRESENTATION DINNER**  
New York • Cipriani • May 26, 2021

**32ND ANNUAL BENEFACITOR SUMMIT**  
New York City • May 27, 2021

**CATO CLUB 200 RETREAT**  
Washington • Cato Institute  
September 30–October 3, 2021

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

Updated information on Cato Institute events, including cancellations, can be found at [Cato.org/events](https://Cato.org/events).

# It Pays to Be Green?

**E**nvironmental, social, and governance (ESG) metrics have become increasingly important as institutional investors seek to engage in socially responsible investing. Is this creating a premium for assets that score better on ESG? That's the question examined by David F. Larcker and Edward Watts in "Where's the Greenium?" (Research Briefs in Economic Policy no. 221). Larcker and Watts find the evidence lacking that green-friendly assets are better investments.

## BOOM AND BUST

The Community Reinvestment Act was a well-intentioned law aimed at increasing home ownership, particularly after aggressive enforcement began in the 1990s. In "Role of the Community Reinvestment Act in Mortgage Supply and the U.S. Housing Boom" (Research Briefs in Economic Policy no. 222), Vahid Saadi reviews the evidence that this policy helped fuel the housing boom that then catastrophically collapsed.

## CHINA SYNDROME

It has become fashionable for politicians to point to the normalization of trading relations with China and China's entry into the World Trade Organization in 2000–2001 as having produced a "China Shock" that cost Americans millions of jobs. In "Testing the 'China Shock': Was Normalizing Trade with China a Mistake?" (Policy Analysis no. 895), Scott Lincicome finds that this narrative does not stand up to close scrutiny.

## LOVE WINS

Marital surplus is defined as the excess value produced, such as extra income or efficiencies, compared with what both partners could have expected from stay-

ing single. In "Same Sex Couples and the Marital Surplus: The Importance of the Legal Environment" (Research Briefs in Economic Policy no. 223), Daniel S. Hamermesh and Scott Delhommer find that, comparing two otherwise identical same-sex couples, the one that has spent the longer period of time under legalized same-sex marriage will have a higher family income and greater likelihood of owning a home.

## HUMAN RIGHTS AND POPULATION CONTROL

In the 20th century, neo-Malthusian ideas about overpopulation led to severe human rights abuses in China and India. That history is explored by



FOLLETT

Chelsea Follett in "Neo-Malthusianism and Coercive Population Control in China and India: Overpopulation Concerns

Often Result in Coercion" (Policy Analysis no. 897).

## TARIFF DIKTATS

Congress should defend both the rule of law and good trade policy by placing new limits on Section 232 of the Trade Expansion Act of 1962, in light of abuses seen as frivolous and insincere under the Trump administration. That's the case made by Daniel J. Ikenson in "Tariffs by Fiat: The Widening Chasm between U.S. Antidumping Policy and the Rule of Law" (Policy Analysis no. 896).

## PASS-ALONG TAX

To what degree do corporate taxes fall on consumer prices, as opposed to workers or capital? This tax incidence is a key question for policymakers. In "Corporate Tax-

es and Retail Prices" (Research Briefs in Economic Policy no. 224), Scott R. Baker, Stephen Teng Sun, and Constantine Yannelis estimate that 31 percent of corporate taxes fall on consumers in the form of price increases.

## ROBOTS AND JOBS

Automation has the potential to be highly disruptive, but what are the actual effects? Philippe Aghion, Céline Antonin, Simon Bunel, and Xavier Jaravel leverage new micro data on the population of firms and plants in the French manufacturing sector to provide an analysis of the effect of automation on employment, wages, prices, and profits between 1994 and 2015, in "What Are the Labor and Product Market Effects of Automation?"

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**New Evidence from France**” (Research Briefs in Economic Policy no. 225).

### MODERNIZATION IN INDIA

India has several highly isolated forest tribes, which some have claimed are harmed by modernization. But Swaminathan S. Anklesaria Aiyar and Neeraj Kaushal find the opposite through studying the example of tribes displaced by the Sardar Sarovar Dam in the 1980s and 1990s, in **“How Property and Civil Rights Help Forest Tribes Modernize and Prosper: Lessons from India”** (Policy Analysis no. 898).

### MORE MEDICS NOW

The COVID-19 pandemic has made it clear that many government licensing requirements are barriers to needed care, particularly in emergencies. In **“Health Care Workforce Reform: COVID-19 Spotlights Need for Changes to Clinician Licensing”** (Policy Analysis no. 899), Shirley Svorny and Michael F. Cannon review some of the lessons learned and outline possible reforms such as more flexible licensing and third-party certification.

### WAR AND DISCRIMINATION

The effects of discrimination have been difficult to measure. But the example of Germans in the United States during World War I provides something of a natural experiment, given the sudden and sharp increase in discrimination. Andreas Ferrara and Price V. Fishback create a novel measure of anti-German sentiment and show significant positive correlation between war casualties and ensuing discrimination in **“Discrimination, Migration, and Economic Outcomes: Evidence from World War I”** (Research Briefs in Economic Policy no. 226).

### DO INCENTIVES MATTER?

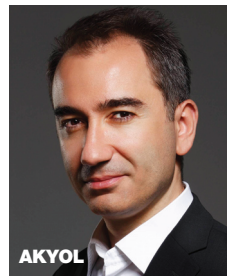
Since the global financial crisis of 2007–2008, many governments have tried to

adopt new incentives for entrepreneurial activity, largely by providing financing. In **“Government Incentives for Entrepreneurship”** (Research Briefs in Economic Policy no. 227), Josh Lerner finds that despite good intentions, most of those policies have not produced the intended results.

### REGULATORY COSTS

It has been difficult for researchers to quantify regulatory costs as the flow of government decrees either increases or decreases. Charles W. Calomiris, Harry Mamaysky, and Ruoke Yang try a new approach based on natural language processing to analyze the transcripts of earnings calls for publicly traded corporations. In **“Measuring the Cost of Regulation: A Text Based Approach”** (Research Briefs in Economic Policy no. 228), the results indicate that firms more concerned with regulation suffer slower growth and lower future stock prices.

### ISLAMIC FREEDOM



**in the Muslim World**” (Economic Development Bulletin no. 33), Mustafa Akyol uses data from the Human Freedom Index to analyze the state of freedom in 40 Muslim-majority countries and examines why some nations, such as Bosnia and Herzegovina, score better.

### IMMIGRATION BENEFITS

Immigration has many economic benefits. One of the unexpected benefits was an increase in workplace safety for native-born Americans. In **“The Role of Mexican Immigration to the United States in**

**Improved Workplace Safety for Natives”** (Research Briefs in Economic Policy no. 229), Marcus Dillender and Melissa McInerney find a significant correlation between Mexican immigration and declining rates of workplace injuries.

### VOTE!

The COVID-19 pandemic has presented new and difficult challenges for election administrators, as many states move to expand voting by mail and decide how to safely run polling places in light of a highly contagious disease. In **“Election Regulation during the COVID-19 Pandemic”** (Legal Policy Bulletin no. 5), Ilya Shapiro and James Knight review the legal and constitutional options and make recommendations for possible state policy changes, including ways to minimize the risk of voter fraud.

### UNINTENDED CONSEQUENCE

One of the most serious labor law violations is wage theft, but the causes are complex and often driven at least partly by government policy. In **“Understanding ‘Wage Theft’: Evasion and Avoidance Responses to Minimum Wage Increases”** (Research Briefs in Economic Policy no. 230), Jeffrey Clemens and Michael R. Strain examine the correlation between below-minimum wage payments and increases in both the minimum wage itself and state enforcement efforts.

### DON'T GET STOCK TIPS FROM CONGRESS

In recent years, the STOCK Act has sought to cut down on insider trading by members of Congress. In **“Relief Rally: Senators as Feckless as the Rest of Us at Stock Picking”** (Research Briefs in Economic Policy no. 231), William Belmont, Bruce Sacerdote, and Ian Van Hoek find that the STOCK Act did in fact reduce the degree by which congressional investment portfolios overperform the market. ■

CATO

# “To Be Governed...”

## THEY'RE HIS CANNONS

[Belarus President Alexander Lukashenko] accused foreign agitators, including Russian opposition leaders, of organizing the protests [against his purported reelection] and urged Belarusians to “understand that you and our children are being used as cannon fodder!”

—*Wall Street Journal*, August 14, 2020

## EXPECTING TOO MUCH FROM POLITICIANS

I know that if we entrust this nation to Joe, he will do for your family what he did for ours: bring us together and make us whole.

—*Jill Biden, Democratic National Convention*, August 18, 2020

## AND A DUTY TO MAKE SURE EVERYONE'S HOME IS SECURE

Mayor Lori Lightfoot on Thursday defended the Chicago Police Department's ban on protests on her Logan Square block. . . .

“I have a right to make sure my home is secure,” Lightfoot said. “We have a right in our home to live in peace.”

—*WTTW*, August 20, 2020

## LAWS ARE FOR THE LITTLE PEOPLE

For months, the city of San Francisco health order has prevented local gyms from opening their doors, but some city-owned gyms have been back open for months and are allowing city employees to use them, crushing private gym owners. . . .

“It just demonstrates that there seems to be some kind of a double standard between what city employees are al-

lowed to do and what the residents of San Francisco are allowed to do,” said Dave Karraker, owner of MX3 Fitness in the Castro. . . .

Gyms for police officers aren't the only ones open. A sign at the Hall of Justice gym shows rules for use as of July 1 for its patrons, which would include judges, lawyers, bailiffs, and paralegals.

—*NBC Bay Area*, September 5, 2020

## BUYING VOTES

Mr. Bolsonaro has since March vowed to keep Latin America's largest economy alive. Breaking with earlier promises to tightly control spending, his government in April began funneling generous cash payments to millions of poor to help them ride out the economic storm.

Six months after the pandemic began to batter this country, the president's approach of playing down the disease while raising public spending appears to be paying off, even in regions where support for his leftist rivals has been historically rock solid. The shift could augur well for Mr. Bolsonaro and his allies ahead of November municipal elections and the presidential vote in 2022.

—*Wall Street Journal*, September 14, 2020

President Trump on Friday announced a package of billions in federal aid for Puerto Rico to help it recover from a powerful hurricane that hit the island three years ago—a move that comes as his reelection campaign increasingly relies on winning Florida with support from its Latino communities.

—*Washington Post*, September 18, 2020

Federal payments to farmers are projected to hit a record \$46 billion this

year as the White House funnels money to Mr. Trump's rural base in the South and Midwest ahead of Election Day.

The gush of funds has accelerated in recent weeks as the president looks to help his core supporters who have been hit hard by the double whammy of his combative trade practices and the coronavirus pandemic.

—*New York Times*, October 12, 2020

What would Joe Biden's plan do for you? Families with young children could get nearly \$7,000 for child care. Buying your first home, you'll get \$15,000 toward the down payment. Older seniors, your yearly Social Security benefits could increase by nearly \$1,300. The Biden plan: The wealthy and big corporations pay more, you benefit.

—*Biden for President TV ad*

## MADISON WEEPS

“The Cares Act was incredibly helpful on the campaign trail,” a GOP official involved in down-ballot races told Power Up. “That said, would it be helpful to pass a bill now? It wouldn't hurt is kind of the point. It wouldn't hurt. . . . Any time you pass anything it's helpful because you're demonstrating how effective the U.S. Senate was,” the official said.

—*Washington Post*, September 17, 2020

## IS IT . . . AN ALUMINUM COMPANY?

At Least One Company Is Cheering Renewed Aluminum Tariff on Canada

—*Wall Street Journal* headline, August 24, 2020