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# Cato Policy Report

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## Three Constitutional Issues Libertarians Should Make their Own

BY ILYA SOMIN

Libertarian legal scholars, activists, and public interest lawyers have made valuable contributions on a range of important constitutional issues, including property rights, school choice, Second Amendment rights, free speech, religious liberties, and more. But we have largely ignored three significant constitutional issues, thereby passing up valuable opportunities to expand liberty: zoning, constitutional constraints on immigration restrictions, and racial profiling in law enforcement.

Over the past several decades, libertarians have helped make important advances on several areas of constitutional law. Legal scholars Richard Epstein and Randy Barnett made pathbreaking contributions to our understanding of constitutional property rights and structural limits on federal power, respectively. Groups like the Institute for Justice and the Pacific Legal Foundation have

won important cases enhancing protection for property rights, constraining religious and racial discrimination in public education, and much else. In recent years, my colleagues at the Cato Institute have done much to advance the ball on curbing qualified immunity: the judge-made doctrine that insulates police and other government officials who violate citizens' rights from liability for their actions. Cato has also long been active on

issues involving property rights, limits on federal powers, free speech, and civil liberties. For a relatively small movement, this is an impressive record.

But there is, nonetheless, room for improvement. Libertarians have largely neglected three major constitutional issues that they would do well to focus on much more. All three combine strong constitutional arguments

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**ILYA SOMIN** is professor of law at George Mason University, B. Kenneth Simon Chair in Constitutional Studies at the Cato Institute, and author of *Free to Move: Foot Voting, Migration, and Political Freedom* and *The Grasping Hand: Kelo v. City of New London and the Limits of Eminent Domain*.



**VANESSA BROWN CALDER**, Cato's director of opportunity and family policy studies, speaks at a briefing on Capitol Hill about *Empowering the New American Worker*, a Cato book that offers free-market economic reforms to help working Americans.



BY PETER GOETTLER

“Contemplate today’s world had America’s foreign policy followed the path illuminated by Cato’s experts.”

PRESIDENT’S MESSAGE

# The Compelling Case for Restraint

W e sometimes hear from allies and supporters of liberty, “I agree with Cato on most everything, except foreign policy.”

One wonders why this should be. Those skeptical of government—and wary of its incompetence—should be even more skeptical of its ability to police the world and wield awesome military power without lots of collateral damage. Cato’s criticism of our government’s foreign policy, advocacy of greater military restraint, and encouragement of more careful threat assessment stand in stark contrast to the feckless and costly—in both lives and money—foreign policy the U.S. government has been running for so long.

Last month passed the twentieth anniversary of the start of the war in Iraq. Cato’s lonely opposition to the war was perhaps the Institute’s finest hour. At the time, its position was unpopular in the nation’s capital and even with many of our supporters.

But that stand was ultimately vindicated by the disastrous consequences of the war, which most proponents now concede it was a big mistake. (Including, I’m sorry to admit, me.) Those at Cato today take inspiration from this principled stand, its attendant challenges, and its vindication. This is the legacy we’re to uphold. So that the Institute’s reputation for principle, independence, and integrity is protected and, hopefully, grows.

It’s heartening that many more people across the political spectrum are questioning the conventional wisdom in American foreign policy and the frequency with which military intervention is deployed. Not so long ago, Stephen Wertheim, a prominent scholar at the Carnegie Endowment for International Peace, captured this in a tweet: “A decade ago, I could not have imagined such a prominent debate between primacy and restraint would take place...@CatoFP is the think-tank pioneer of restraint. Scholars there said it all when it was all unpopular.”

Much of the opposition to Cato’s foreign policy point of view in Washington relies on caricature. We are sometimes pilloried as isolationists. But this is unfair rhetorical sleight of hand. Because if critics want to debate whether it’s a legitimate, constitutional role of the state to protect our country and defend our freedom—and possibly use the military to do so—I don’t think there’s anything to debate. But if those same critics want to debate the sub-

stance of what Cato’s experts have been recommending for more than three decades compared to America’s actual foreign policy, bring it on.

For it’s fascinating to contemplate today’s world had America’s foreign policy followed the path illuminated by Cato’s experts, rather than that led by politicians, bureaucrats, and vested interests. A world in which the Iraq War hadn’t happened and Afghanistan didn’t turn into a 20-year fiasco. A world in which America’s foreign policy received a full reassessment following communism’s collapse, rather than leaving tens of thousands of troops in Europe and Korea while expanding NATO and American security guarantees to Russia’s borders. A world in which ghastly regimes in Iran and North Korea are not so strongly incentivized to pursue nuclear weapons, by seeing odious regimes without them toppled by American military power.

The unintended consequences of military engagement can be catastrophic in blood, treasure, and the growth of the state at home, so the bar for war must be very high. It’s not enough for intervention to serve an American interest or a noble humanitarian cause; it must be reserved for only the most vital U.S. interests, truly grave threats, and in a manner that aligns with the Constitution.

Ukraine is a case in point. The barbarism brought down on the Ukrainian people by the ruthless Russian invasion is heart wrenching. But Russian aggression in Ukraine does not threaten U.S. security in any meaningful way. And, save for its nuclear weapons, Russia is a weak foe—both economically and, has now been revealed, militarily. It’s ironic that nuclear weapons are the only way Russia can truly threaten the U.S., while our deepening engagement heightens precisely this risk. A risk that simply isn’t justified by threats to the U.S. or our interests.

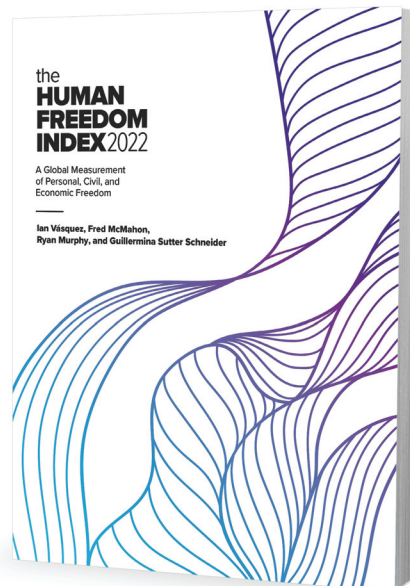
If we truly aspire to a free society, the bar for extracting trillions from taxpayers and future generations, much less sending young Americans to die for their country, must be very, very high, and its justification unimpeachable. As John Quincy Adams reminded us 200 years ago, Americans are friends of freedom everywhere but custodians only of our own.

# COVID-19 Pandemic Was a Catastrophe for Global Freedom

## New Human Freedom Index

“Emergencies’ have always been the pretext on which the safeguards of individual liberty have been eroded,” wrote the late F. A. Hayek, distinguished senior fellow of the Cato Institute and Nobel Prize-winning economist. Unfortunately, the COVID-19 pandemic proved his words to be true, according to the 2022 *Human Freedom Index*, released in January by Cato and the Fraser Institute.

In 2020, 94 percent of the world’s population saw a fall in freedom compared with the year before, highlighting how the pandemic was catastrophic for human



freedom. According to coauthor Ian Vásquez, vice president for international studies and director of Cato’s Center for Global Liberty and Prosperity, the latest *Human Freedom Index* tracks how the COVID-19 pandemic accelerated worrisome long-term trends—some 79 percent of the world’s population had already experienced decreases in freedom from 2007 through 2019. Freedom of expression, the rule of law, and freedom of association and assembly were among the categories that saw the most deterioration in the past two decades.

The 2022 *Human Freedom Index* presents the state of human freedom in the world on the basis of 83 broad indicators of personal, civil, and economic freedom—including rule of law, size of government, freedom of movement, religion, sound money, property rights, and more—across 165 jurisdictions around the world and shows a decline in freedom in most (148) jurisdictions.

The report has long tracked a decline in freedom in the United States. In 2000, the United States ranked sixth. Today the United States is 23rd, having fallen seven places since 2019.

In the latest rankings the top 10 freest countries in order are Switzerland, New Zealand, Estonia, Denmark, Ireland, Sweden, Iceland, Finland, the Netherlands, and Luxembourg.

The 10 jurisdictions with the largest declines in freedom since 2007—a global high point for human freedom—are all led by authoritarian regimes. In order of largest declines, those are Syria, Nicaragua, Hungary, Egypt, Venezuela, Turkey, El Salvador, Burundi, Bahrain, and Hong Kong. ■

**THE HUMAN FREEDOM INDEX CAN BE FOUND AT CATO.ORG.**

## Cato News Notes

### BANK PRIVACY REFORM ACT



Rep. John Rose (R-TN) announced the reintroduction of the Bank Privacy Reform Act at the Cato event “Bank Secrecy Act Reform: Restoring the

Fourth Amendment.” The bill is intended to prevent the government from accessing consumers’ transaction history without first obtaining a warrant, reaffirming the Fourth Amendment protections against unreasonable searches and seizures.

### LIBERTARIANISM.ORG WELCOMES NEW DIRECTOR

Jonathan Fortier is joining Cato as the new director of Libertarianism.org. Fortier was managing director of academic relations at the Institute for Humane Studies, and was previously an assistant professor at Bishop’s University, a fellow at Liberty Fund, senior fellow at the Fraser Institute, and junior dean at Corpus Christi College at Oxford.

### FENTANYL AND THE BORDER



Associate director of immigration studies David Bier testified at the hearing “Every State Is a Border State: Examining Secretary Mayorkas’ Border

Crisis,” which aired on C-SPAN. Bier summarized the event as “not a hearing with the intent of getting to the truth about anything.” Dr. Jeffrey Singer testified before the House Judiciary Subcommittee on Crime and Federal Surveillance at the hearing “The Fentanyl Crisis in America: Inaction Is No Longer an Option,” which aired on C-SPAN 2.





**ERIC HEGINBOTHAM** (left), principal research scientist at MIT, and **FREDERICO BARTELS** (right), a consultant at Pantheon Integrated Solutions, participate in a discussion with **JUSTIN LOGAN** (middle) at the event “How Much Does China Really Spend on Defense?”

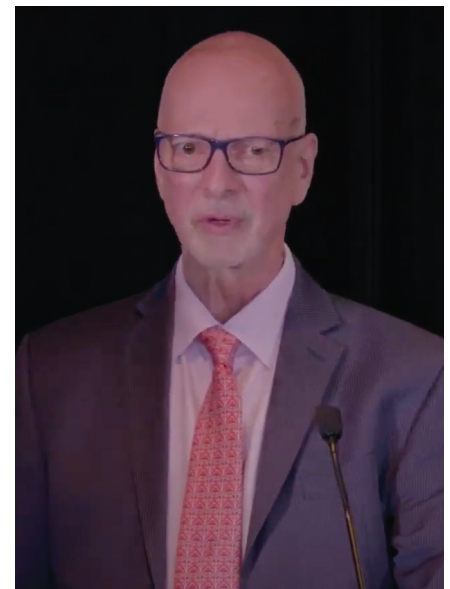


**LINDA JENG** (left), chief regulatory officer and general counsel at Crypto Council for Innovation, discusses policymakers’ calls to regulate cryptocurrencies and deregulated finance with **DANE LUND** (middle) of Alliance DAO and **TIFFANY J. SMITH** (right), a partner at Wilmer-Hale.





At the event “Performance Review: Evaluating the CDC in the Wake of the COVID Pandemic,” top experts offered their opinions on where the CDC failed and where it succeeded in responding to the pandemic. (1) **RONALD A. BAILEY**, science correspondent for *Reason Magazine*; (2) **MARTIN A. MAKARY, MD**, professor of surgery at Johns Hopkins University; (3) **ARI N. SCHULMAN**, editor of *The New Atlantis*; and (4) **JEFFREY A. SINGER, MD**, Cato senior fellow.



North Carolina experienced a population boom, which has made affordable housing a top priority for policymakers in the state. Cato senior fellow **MICHAEL TANNER** (photo at right), author of the new Cato study “Keeping North Carolina’s Housing Affordable,” moderated a discussion between **REP. VERNETTA ALSTON** (D-NC) (left), **REP. TIM MOFFITT** (R-NC) (middle), and **SEN. PAUL NEWTON** (R-NC) (right) on solutions for North Carolina housing problems.

Continued from page 1

with enormous real-world consequences for liberty and human happiness.

## ZONING

Exclusionary zoning is probably the greatest American property rights issue of our time. In many parts of the country, restrictions on the construction of new housing severely constrain property rights and cut off millions of people from housing and job opportunities. For example, the common practice of zoning for single-family housing blocks the construction of multifamily housing, which in turn prices most working and middle-class people out of the areas in question. Other types of zoning rules forbid the construction of a variety of housing options in large swaths of our most dynamic metropolitan areas, particularly on the East and West Coasts.

Economists and housing policy experts across the political spectrum largely agree that exclusionary zoning prevents huge numbers of people from moving to areas where they could be more productive, and have better educational and other opportunities. The effects are so enormous that economists estimate that U.S. gross domestic product would be some 36 percent higher if the level of zoning in several of the most restrictive metro areas was reduced to the national average.

Exclusionary zoning disproportionately victimizes the poor and minority groups. But all of us have much to gain from the increased economic growth and innovation that would result from empowering more people to “move to opportunity.” Property owners could benefit from loosening constraints on their ability to use their land as they see fit.

It is often argued that zoning restrictions at least benefit current NIMBY (not in my backyard) homeowners, who can thereby prop up their home values and keep out

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people they dislike. But even many current homeowners have much to gain from the economic growth that reform would create, and from reducing housing prices for their children.

Libertarians have not neglected zoning. Libertarian-leaning scholars, such as Harvard economist Edward Glaeser and the late legal scholar Bernard Siegan, have authored pioneering works on this issue. But libertarian legal scholars and litigators have mostly overlooked the constitutional dimensions of the issue, despite their successful focus on a wide range of other constitutional property rights questions.

One possible reason for this neglect may be the weight of long-standing precedent. Since the Supreme Court’s 1926 decision in *Village of Euclid v. Ambler Realty Co.*, which upheld zoning against constitutional challenges, and later rulings building on it, conventional wisdom has been that there is no strong legal case against the practice.

But *Euclid* was a terribly flawed decision. Among other things, the majority ignored the fact that the property rights protected by the takings clause of the Fifth Amendment (which requires the government to pay “just compensation” when it takes private property) include a right to use the property as the owner sees fit, not merely the right to prevent others from physically occupying the land or seizing formal ownership. That is in accordance with Founding-era understandings of natural property rights and much 19th century jurisprudence. If the government

severely restricts use rights, ownership becomes little more than a hollow shell.

The right to use could traditionally be limited by the “police power”—the government’s authority to protect public health and safety. But much exclusionary zoning goes far beyond anything that can be justified on that basis.

In recent years, the Supreme Court has shown a willingness to strengthen constitutional protections under the takings clause, in the process repudiating or modifying long-standing precedent. A well-developed litigation effort could lead the Court to narrow or overrule *Euclid*, as well. Libertarian organizations with extensive experience in property rights issues are well positioned to undertake such a campaign.

Libertarians would also do well to investigate the extent to which litigation can strengthen state constitutional protection against zoning. On some issues, state constitutions protect property rights far more than the Supreme Court’s current interpretation of the federal Constitution. In addition, many state constitutions are far more easily amended than the federal one. In states such as California (which has some of the most severe zoning problems in the nation), libertarians should consider investing in campaigns to enact restrictions on zoning by constitutional amendment.

Here, as elsewhere, constitutional reform is most likely to succeed through a combination of litigation and political advocacy. That is the lesson of past successful constitutional movements—such as the civil rights movement, the gay rights movement, and the gun rights movement—and past successful efforts to strengthen protection for property rights. Research by academics and policy analysts also played a significant role in moving the ball on these issues, including by influencing the development of legal doctrine. In recent years, there have been successful moves toward zoning reform in California, Oregon, and elsewhere. Libertarians can help build on this trend.



## IMMIGRATION RESTRICTIONS

Like exclusionary zoning, immigration restrictions massively restrict liberty and degrade human welfare. By barring entry to hundreds of thousands of people who seek freedom and opportunity in the United States, the federal government massively restricts the liberty of would-be immigrants and American citizens alike.

The impact on potential immigrants is enormous. Many of those excluded are effectively confined to lifelong poverty and oppression under authoritarian, socialist, or radical Islamist regimes. In theory, they can join the “line” and wait to enter legally. But for most, that line is either decades-long or nonexistent. And for the most part, these exclusions are based on arbitrary circumstances of parentage and place of birth, of a kind libertarians and others in the liberal political tradition consistently reject in other contexts. Persons born in the United States or those who have a U.S.-citizen parent can live and work in the United States. Otherwise, they can only do so if they get special permission from the government, which is usually denied.

Less widely appreciated, even by many libertarians, is the massive negative effect of immigration restrictions on the liberty of current American citizens. Immigration restrictions bar millions of Americans from engaging in economic and social transactions with potential immigrants. It closes off Americans from hiring immigrant workers, getting jobs at businesses founded by immigrants (who establish such enterprises at higher rates than native-born citizens), renting property to immigrants, and benefiting from scientific and economic innovations to which immigrants also contribute at higher rates than natives. No other current U.S. government policy restricts liberty more than immigration exclusion does—and that’s true even if we focus solely on the liberty of native-born citizens, especially economic freedoms.

Immigration restrictions also have massive

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negative effects on economic growth and human welfare. Economists estimate that free migration throughout the world would double global domestic product. That’s an enormous chunk of lost wealth for immigrants and native-born citizens alike.

Libertarian economists and political philosophers have played a leading role in highlighting the harm and injustice caused by immigration restrictions. Economist Bryan Caplan, Georgetown political philosopher Jason Brennan, and Cato Institute scholars Alex Nowrasteh and David Bier are among the libertarians who have made major contributions in this area. But libertarians—including most libertarian lawyers and legal scholars (myself included, for much of my career)—have largely ignored the constitutional dimensions of the problem.

It’s far from clear that the original meaning of the Constitution even gives the federal government a general power to restrict immigration in the first place. Nothing in the text specifically grants Congress or the president such authority, and leading Founding Fathers—including James Madison—argued that no such power existed. It took more than a century for the Supreme Court to rule—in the 1889 *Chinese Exclusion Case*—that the federal government does in fact have this unenumerated power. And that decision is based on highly dubious

reasoning and tinged with racism.

Whatever the merits of its reasoning, the Supreme Court is unlikely to overturn the *Chinese Exclusion Case* anytime soon. But libertarians would do well to take aim at extensions of that ruling that have largely immunized immigration restrictions from constitutional constraints that apply to virtually every type of government policy. For example, courts often uphold immigration restrictions that discriminate on the basis of speech, religion, race, ethnicity, and other characteristics that are presumptively forbidden in other areas of law. Immigration detention and deportation proceed with far weaker due process protections than other severe deprivations of liberty. Due process is so lacking in the system that Immigration and Customs Enforcement and other agencies have detained and sometimes even deported thousands of American citizens before they figured out their error. Such detention with little or no due process would not be tolerated elsewhere.

Similar double standards have resulted in the travesty of toddlers “representing” themselves in deportation proceedings, even though the right to counsel applies in other situations where serious restrictions on liberty are at stake. You don’t have to be a constitutional law maven to see that such practices make a mockery of the “due process of law” guaranteed by the Fifth Amendment.

In *Trump v. Hawaii* (2018), a narrow 5–4 Supreme Court majority unfortunately bolstered constitutional double standards in immigration law, by upholding then president Donald Trump’s travel ban targeting residents of five Muslim-majority nations, despite overwhelming evidence that the policy was motivated by anti-religious bigotry of a kind that would lead to invalidation of government policies in any other field. Similarly, immigration restrictions are almost the only field of government policy where federal officials openly endorse racial discrimination by law enforcement, in the form of racial profiling.

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The exemption of immigration restrictions from many normal constitutional constraints on government power has no basis in the text or original meaning of the Constitution. A few constitutional rights are explicitly confined to U.S. citizens. But the vast majority are phrased as general constraints on government power, and protect citizens and noncitizens alike. Judges readily accept this fact outside the area of immigration restrictions. Thus, no one denies that the government must provide due process protections to noncitizens charged with crimes. In current practice, a noncitizen who decides to contest a traffic ticket is often legally entitled to stronger procedural protections than one facing detention and deportation, who is left to the tender mercies of an oppressive government.

Eliminating such double standards would not end immigration restrictions. The government would merely be forbidden to base them on suspect classifications, such as race, ethnicity, and religion, and would be required to apply stronger due process protections. But this change would curtail many of the worst abuses of the current migration regime, and perhaps set the stage for further progress. Even incremental improvement could make the difference between freedom and oppression for many thousands of people.

Achieving even this much will not be easy. The present conservative majority on the Supreme Court is often hostile to constitutional rights claims in the immigration context. But they have never been presented with a systematic effort to highlight the ways in which constitutional double standards on immigration are inimical to those justices' own commitments to originalism and textualism. Libertarian litigators well versed in these methodologies from experience elsewhere are potentially in a good position to raise these issues. Moreover, the composition of the Court can shift over time, opening up new opportunities. There is also room for incremental progress in lower courts, as the Supreme Court only considers a small fraction of cases.

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As with zoning reform, success in the immigration field will likely require a combination of litigation and political advocacy. Libertarians can contribute on both ends of this equation, if more of us become motivated to do so.

#### **RACIAL PROFILING**

Racial profiling occurs when law enforcement officers treat members of one racial group worse than they would be treated in the same situation if they belonged to another group. If a police officer stops, searches, or arrests a black person when a white person in the same situation would be left alone, that's a case of racial profiling.

Not all cases of abusive police behavior qualify. Some involve “equal opportunity” police brutality. Still, racial profiling is a widespread problem. A 2019 Pew Research Center poll found that 59 percent of black men and 31 percent of black women say they have been unfairly stopped by police because of their race. Their perceptions are backed by numerous studies—including many that control for other variables—showing that police often treat blacks and (to a lesser degree) Hispanics more harshly than similarly situated whites. Sen. Tim Scott (R-SC) has movingly recounted multiple incidents in which he was racially profiled by Capitol Police.

Most cases of racial profiling do not result in anyone being killed, injured, or even arrested. Usually, police unfairly stop, question, or otherwise harass a minority-group member.

They then let that person go, perhaps with a traffic ticket. But that fact does not render racial profiling insignificant. It is painful and degrading if the people who are supposed to “protect and serve” you treat you as a second-class citizen—based on the color of your skin. Most individual cases of profiling have little effect; however, the cumulative impact of hundreds of thousands of such minor injustices is still severe.

Racial profiling also poisons relationships between the police and minority communities. If you (with good reason) believe that cops routinely discriminate against your racial or ethnic group, you are less likely to cooperate with them, report crimes, or otherwise help them. That creates obvious difficulties for both the police and civilians, and makes law enforcement less effective.

Curbing racial profiling should be a priority for all who believe government should be colorblind. If we libertarians truly believe that it is wrong for government to discriminate on the basis of race, we cannot ignore that principle when it comes to those officials who carry guns and have the power to kill, injure, and arrest people. Otherwise, we are blatantly inconsistent, and critics will rightly suspect that we oppose discrimination only when whites are among the victims, as in the case of racial preferences in education.

In addition to being unjust, racial profiling is also unconstitutional. The original meaning of the equal protection clause of the Fourteenth Amendment was centrally focused on unequal *enforcement* of laws by state and local governments, including the police. That happens when authorities enforce laws against some racial or ethnic groups differently from others, treating some more harshly on the basis of group identity. Racial profiling is a paradigmatic example of exactly that problem.

In part because the practice is so widespread, curbing racial profiling is a difficult task. Some important progress on this front can be made by pursuing traditional libertarian objectives, such as ending the war on drugs



and abolishing qualified immunity. The former would eliminate many of the police–civilian interactions most prone to racial profiling, whereas the latter would subject police to greater accountability for rights violations of all kinds, whether racially motivated or not.

But libertarians would also do well to consider more direct approaches to curbing profiling. It may be difficult to find an effective litigation strategy for doing so. But we should consider a variety of options. Here, as elsewhere, litigation can be combined with political action, such as legislative qualified immunity reform and steps to curb the power of police unions, which often protect abusive rogue officers.

With rare exceptions, libertarians—including libertarian legal thinkers—have devoted little time and effort to the problem of racial profiling. Greater engagement could enable us to make distinctive contributions to its solution. It would also help with the long-standing issue of improving libertarian outreach to racial minorities.

## CONCLUSION

Libertarians have achieved much on a variety of constitutional issues. But we have largely neglected three that cry out for our attention. It is, perhaps, no accident that two of them (immigration and racial profiling) tend to pit us against the political right. The third—zoning—cuts across ideological lines. The “fusionist” alliance between libertarians and conservatives has deteriorated in recent years, but remains stronger in the constitutional law field than elsewhere.

Libertarians should embrace useful collaboration with conservatives; however, we must also protect liberty across the board, regardless of whether the danger emanates from the left or the right. Constitutional law cannot address all such threats; even where useful, it must often be combined with other strategies. But we should not neglect its potential on these three extraordinarily important issues. ■

# THE MILTON FRIEDMAN PRIZE FOR ADVANCING LIBERTY



Thursday, May 18, 2023  
National Building Museum  
Washington, DC

# Inspiring Future Leaders: A Spotlight on the John Russell Paslaqua Intern Seminar Series

## Kenneth Paslaqua provides five more years of funding

A cornerstone of Cato’s mission is mentoring, motivating, and inspiring the brightest future leaders for liberty through a suite of student programs, such as the Cato Internship Program. A core component of a Cato internship—and one most often cited by former interns as transformative in deepening their knowledge and developing their views—is the John Russell Paslaqua Intern Seminar Series, which bears the name of a former intern who passed away in 2017, just two years after completing the program.

The John Russell Paslaqua Intern Seminar Series was established in 2019 by John’s father, Kenneth Paslaqua, to honor his son’s legacy. Encouraged by the success of the series in inspiring and preparing hundreds of young libertarians to embark on their careers—just as the Cato internship had for John—Kenneth is providing five more years of funding.

“We are pleased to partner with Cato to continue funding this outstanding educational series of seminars for the Institute’s interns and staff. As a continuing tribute to our son, John Russell Paslaqua, the seminar series will help to advance free, open, and civil societies in which individual liberty, limited government, free markets, and peace are key goals.”

John’s experience as a Cato intern deepened his passion for liberty, big ideas, and constitutional law—passions which he honed into professional skills while working with Cato’s Center for Constitutional Studies during his internship in 2015. Thanks to Kenneth’s generosity, nearly 430 young students had the opportunity

to follow in John’s footsteps since 2019, participating in research tutorials, professional development workshops, and deep-dive lectures on the philosophical underpinnings of libertarianism.

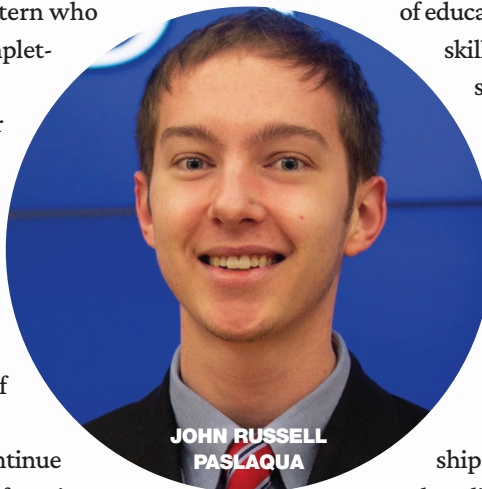
The seminar series curriculum covers topics ranging from public policy, economics, history, and political philosophy to writing and speaking skills, presented by Cato’s senior staff across more than 40 sessions per seminar series. Because of the unique combination

of educational lectures, professional opportunities, and skills development offered through a Cato internship, the program is highly competitive, with an acceptance rate on par with some of the most selective U.S. universities.

“It was the best internship I have ever had the privilege to do. The quality of the seminars was incredible—many exceeded the quality of my college lectures,” said Madison Breshears, an associate at Davis Wright Tremaine LLP.

Former Cato interns can be found in leadership positions in business, government, academia, and media, taking the experience and skills they honed at “Global Liberty HQ” with them. A consistent refrain among these intern alumni is the impact that the intern seminars had on them.

“Speaking to Cato’s scholars and soaking in the John Russell Paslaqua Intern Seminar Series helped me refine the areas of public interest law that I’d like to advocate in and practice after attending law school. I feel even more prepared to take on egregious infringements on our rights,” said Cameron Westbrook, an undergraduate student studying criminal justice at Louisiana State University of Alexandria. ■



JOHN RUSSELL PASLAQUA





# Does Liberty Have a Future in Iran?

Since September 2022, when the 22-year-old woman Mahsa Amini died at the hands of “morality police,” Iran has been shaken by massive anti-regime demonstrations. The protestors demand freedom from an authoritarian regime that has ruled in the name of religion since 1979. Do they have a chance? Or is the Islamic Republic strong enough to survive for the foreseeable future? And what are the lessons from Iran for other Muslim-majority nations, where the role of religion in public life keeps being contested? Cato research fellow **Sahar Khan** moderated a discussion with senior fellow **Mustafa Akyol** and **Mohamad Machine-Chian**, an Iranian intellectual who has been on the forefront of the freedom movement within the Islamic Republic, and who has personally experienced the regime’s brutality.

**Sahar Khan:** Last September, Mahsa Amini, a 22-year-old Kurdish woman, was killed by the morality police in Iran. That started a wave of protests that continue to this day. About 20,000 individuals have been arrested, over 500 have been killed by security forces, 18 people have been sentenced to death, and 4 have already been killed.

Mohamad just came from Iran, and he has experienced some of the protests firsthand. Mohamad, please tell us your story and how you found yourself here today.

**Mohamad Machine-Chian:** My story started as a frustrated teenager. At that time, I really felt like I was alone. I was frustrated from the situation, the human condition there. I was very much interested in liberty and individual autonomy and freedom of religion. I began researching, and somewhere I found out about this guy called John Locke. I tried to look him up and I couldn’t find much. It took me a couple of years, but thanks to a new thing called the internet, I found him. At the time, I had no idea this school of thought had a name. Nonetheless, I found *A Letter Concerning Toleration* by John Locke. It was a difficult read for me, so I had to buy a second, bigger dictionary to be



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 What I ended up with was the start of my career because I ended up with, more or less, a translation of John Locke.  
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able to understand it. Even then, I had to write down certain passages to piece it together and make sense of it. What I ended up with was the start of my career because I ended up with, more or less, a translation of John Locke.

It did not feel like something that was written 300 years ago; it was as if this guy wrote it last week. And like he wrote it for me; it was that personal. I published it online anonymously.

A couple of years later, I learned that when John Locke first published his work he also did so anonymously. That made it all the more personal to me. I became even more interested, more infatuated with translating and talking about these things. I soon started a blog and started writing about what I was reading and about the things that were happening around me. That is how I started as a translator, and then became a public intellectual, and eventually a journalist.

When we in Iran talk about getting detained, getting beaten up, or receiving threats, I know that to people in the free world, the developed world, that sounds like a big deal. But working as a journalist or having a public life in a place like Iran, it is expected. It is not a special thing. It is mundane. There are tortures, there are threats. It is sad to say that after a while you get used to it.

But at least whenever I was questioned, I had done something that led to that. The situation in Iran today is different. Many people are being detained, arrested, tortured, and even killed, not for saying something, but for just being there. Mahsa Amini’s crime was being a girl; that was it. She didn’t do anything. For my part, I knew what I was getting into. And every now and then I tasted the cruelty—cruel and unusual punishments. I am happy it’s in the past now that I am out of Iran.

**Khan:** I want to go into the regime’s decades-old policy of religious coercion, such as the

hijab by law and severely punishing blasphemy and apostasy. Mustafa has argued that these measures have made Iranian society not more religious, but rather less religious. What is your take on that?

**Machine-Chian:** We have abundant data to support that decades of religious coercion policies such as the hijab law, and severe punishment for blasphemy and apostasy, have made Iranian society not more but rather less religious. All the anecdotal experiences point in the same direction. Almost anybody that travels to Iran makes the same observation. Alcoholic beverages are readily available. I think it was a writer for *The Economist* that mentioned that your alcohol could get delivered to your house sooner than your pizza in Iran. Hijab is not taken seriously. Even surveys done by hard-liners within the regime indicate that. And mind you, when you're answering questions on a survey in Iran, you must be very careful. Nonetheless, the best result the regime could come up with was that 70 percent of people completely reject mandatory hijab in Iran. Seventy percent! Other surveys indicate it is even more people—as much as 85 percent. And I assure you, if there are 15 percent of Iranian people really in favor of mandatory hijab, they're definitely not the young generations. They're not the future of Iran.

**Mustafa Akyol:** Locke writes about just that last point in *A Letter Concerning Toleration*. He criticizes the people who want a Christian commonwealth and says all the coercive measures that the state uses lead to the “contempt of his divine majesty.” It leads to contempt. When you create a religious regime, which tends to be authoritarian, and which forces religion on people, it doesn't make them more religious, it makes them less religious, and it makes them contemptuous of religion. Somebody can be totally secular but still respectful of religious people. But the regimes like Iran end up creating societies that are angry at religion. So it's counterproductive what they're doing.

We see this in Iran, and in other parts of the world. We see this in my home country, Turkey. It's not comparable to Iran; what has happened in Turkey is still much milder than Iran; but there has been a return of Islam to power, especially in the past 10 years. You see



“  
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”

the government building mosques everywhere. Wearing a hijab is now an advantage, not a disadvantage as it was once. And both are wrong, obviously—it should not be the government's business. Our “very populist” president says they will raise pious generations through state power and state schools.

What has actually happened in Turkey is a new movement among Turkish youth. They are becoming deists. They believe in God but

not religion. That's a very Enlightenment concept that is now flourishing in Turkey. The supporters of the government are saying this must be a conspiracy. “Whose conspiracy is this? How are the imperialists cooking this up?” Well, it is your conspiracy, and your unwise policies. If you create an authoritarian government that is corrupt, people don't respect it.

And in Iran, a lot of surveys indeed show that there's widespread secularization, which of course makes the regime quite unhappy. There is also a very interesting tide of conversion to Christianity. And of course, converts go through a lot of terrible experiences there because it's a crime to convert to another religion. They can put you in jail, even on death row.

I see Iran as an amazing lesson that we need to bring Islam and liberty together, otherwise it is destructive for society and even Islam itself.

**Khan:** I'm from Pakistan. There's a great deal of religious laws on the books in Pakistan; you can certainly go to jail for a blasphemy, for apostasy. There is a community of Muslims called the Ahmadiyya community. In Pakistan, it is unconstitutional to be an Ahmadiyya Muslim, and they're officially declared as non-Muslims. This is the government that is declaring a group of individuals as non-Muslims. In terms of religious coercion, certainly Pakistan also has a lot of lessons to offer, similar to Turkey. And to your point about accessibility of alcohol, in Pakistan there are similar stories, you can get your alcohol faster than pizza.

**Akyol:** People also die of bootleg alcohol in Iran. That's another unintended consequence of trying to make society more pious.

**Machine-Chian:** There is also an interesting economic aspect to it. In Iran there is price control; the price of everything is set by the government. However, there is a huge black market with almost everything a normal human being would want that is illegal. Currently, we have a high inflation, so everything



is getting more expensive. However, the black-market prices are more or less stable. Which is very ironic. If you want to buy bacon or alcohol or drugs, the price isn't growing with inflation.

**Khan:** Can you talk a little bit about the brighter side in terms of your engagement with Shia clerics, what they say, what their stance is on Iran's religious evolution?

**Machine-Chian:** Let me say this to preface. Ayatollah Khomeini's interpretation of Shia Islam has been promoted for the past almost five decades. They have been pushing this idea that his understanding, his interpretation is the main line—is the orthodoxy. However, his understanding and interpretation are very radical, and have nothing to do with the tradition. Not that traditional Shia Islam has no problems; I would be the first to point out the flaws. However, Ayatollah Khomeini's interpretation has nothing to do with that; it is a very radical understanding.

His interpretation is that the religious scholar should be the head, the philosopher king, or the absolute guardian—an ayatollah being the guardian to 80 million people. This understanding is very radical and irregular, and was never accepted by the highest-ranking religious leaders in Shia tradition, much less in other sects. This is a summary of how it used to work; the traditional way of doing things: we had competing authorities with overlapping jurisdictions. It had flaws, but especially to a libertarian, it's a magnificent system. The different authorities with overlapping jurisdictions were funded by people's donations and voluntary taxes. Ayatollah Khomeini never liked it though, and a lot of other people of his ilk agreed. They wanted more power. They wanted government money.

Ayatollah Khomeini had to look beyond the tradition, especially in Shia, to find inspiration. To draw inspiration because of what he wanted to create.

**Akyol:** Ayatollah Khomeini found the inspiration he was looking for, not in John Locke, but the Soviet Union.

He actually copied the Soviet model, combined with Islamic concepts, and that's the structure of the Islamic Republic.



“  
The morality police  
detained her and  
during detention they  
beat her so much that  
she had a concussion  
and passed away.  
”

This explains the Revolutionary Guards' controlling a big chunk of the economy, and the whole economic structure. Clerics cannot speak out because they are all tied to the government forces' funds.

**Machine-Chian:** Another example is the institution of private property. It is sacrosanct in Islam. After the revolution, they confiscated property with the flimsiest of justifications. And the argument was not theological at the time. The argument was, these are imperialist capitalist pigs, and we need to

get rid of them. Similarly with hijab. During the revolution, mandatory hijab was never on the menu. But after the revolution, Ayatollah Khomeini—when he argued for hijab, when he introduced mandatory hijab—a lot of educated, elite academics agreed with him even though they were secular Marxists, mostly.

Ayatollah Khomeini saw the modern woman, typically more active in society with makeup and Western clothes, as a symbol of imperialism and capitalism. They couldn't tolerate that symbol everywhere they looked. That symbol happened to be very attractive, so they had to get rid of it. A lot of secular people, very educated people, agreed.

Because it was anti-capitalist and anti-imperialist, as they put it.

**Khan:** The protests that we are seeing today stem from Mahsa Amini, who was arrested essentially for not wearing the hijab properly. The morality police detained her and during detention they beat her so much that she had a concussion and passed away. A healthy 22-year-old, according to her family, dead within 24 hours of being arrested.

These protests that we're seeing today is not the first time that Iranians have gone to the street to protest. The protests of today, are they different from the protests of 2009, of 2019?

**Machine-Chian:** I've had people tell me: "You Iranians, you're in the streets every other year. And what are you doing? It's just repeating itself."

It is not just repeating itself. People's demands have been evolving. In 2009, because the regime had a pretense of democracy—nothing more than a pretense—but nonetheless, a lot of people tried to reform the country using democratic processes. And the main demand during those protests was, "Where is my vote?" These days, nobody is talking about their votes anymore.

**Akyol:** They don't even want to vote in it, they want the system to go away. ■





Public schools are now one of the primary battlefields on which culture wars are fought. At the event “Culture Wars in Education: What Can Be Done to Bring Peace?” Cato’s director of the Center for Educational Freedom **NEAL MCCLUSKEY** (1) spoke with **JONATHAN ZIMMERMAN** (2), professor of history of education at University of Pennsylvania, about how to mitigate these battles by expanding school choice.



Historian and sociologist **RAINER ZITELMANN** (middle) visited Cato to screen his documentary *Life Behind the Berlin Wall* and participate in a discussion with **PAUL MEANY** (right), editor of *Libertarianism.org*, and **CONOR FOGARTY** (left), Cato’s student programs manager. Audience members, which included Cato interns, also participated in a question and answer session with Zitelmann.



**DECEMBER 1:** Cato Institute Policy Perspectives 2022

**DECEMBER 7:** Cato Club Naples 2022

**DECEMBER 8:** How Much Does China Really Spend on Defense?

**DECEMBER 8:** Keeping Housing Affordable in North Carolina

**DECEMBER 9:** Performance Review: Evaluating the CDC in the Wake of the COVID Pandemic

**DECEMBER 15:** Culture Wars in Education: What Can Be Done to Bring Peace?

**JANUARY 19:** Differentiating DeFi: Understanding Efforts to Regulate Decentralized Finance

**JANUARY 25:** Cato Club Naples 2023

**JANUARY 25:** Does Liberty Have a Future in Iran?

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

# Cato Calendar

**CATO INSTITUTE POLICY PERSPECTIVES 2022**  
New York • Harvard Club  
April 24, 2023

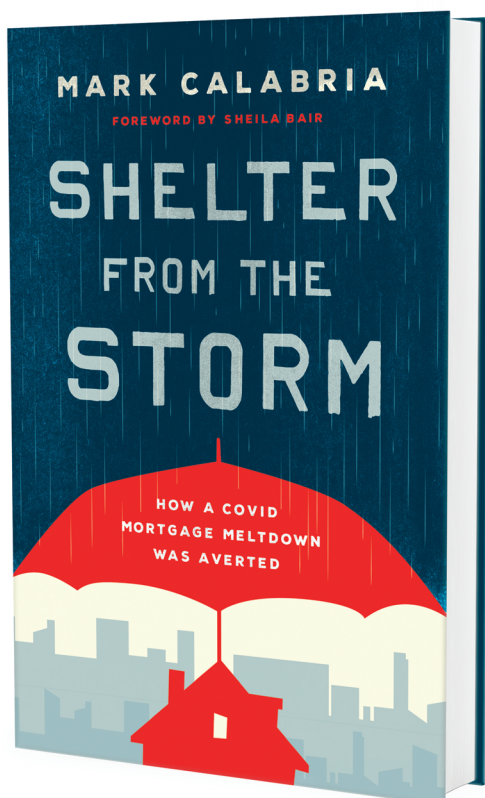
**MILTON FRIEDMAN PRIZE PRESENTATION DINNER**  
Washington  
National Building Museum  
May 18, 2023

**32ND BENEFACTOR SUMMIT**  
Washington • Cato Institute  
May 19–21, 2023

**SPHERE SUMMIT: THE FOUNDATIONS OF CIVIC CULTURE**  
Washington  
Cato Institute  
July 9–13, 2023

**SPHERE SUMMIT: INCORPORATING CIVIC CULTURE INTO ADVANCED STUDIES**  
Washington  
Cato Institute  
July 23–27, 2023

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



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—AARON KLEIN, MIRIAM K. CARLINER CHAIR IN ECONOMIC STUDIES, BROOKINGS INSTITUTION, AND FORMER DEPUTY ASSISTANT SECRETARY FOR ECONOMICS, U.S. TREASURY DEPARTMENT UNDER PRESIDENT OBAMA

The COVID-19 pandemic caused an unprecedented shock to our economy, including the mortgage and housing markets. While the primary focus of the federal response was on public health, a critical aspect of that response was the efforts to keep families in their homes. As the director of the Federal Housing Finance Agency (FHFA), Mark Calabria was responsible for leading that response. In *Shelter from the Storm*, he offers readers a peek behind the curtain of government decisionmaking in a crisis and shows how the FHFA managed to minimize housing disruptions at little to no cost to the taxpayer and resist repeated calls for industry bailouts and subsidies.

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“This was more than a policy debate.  
It is an example of how Cato’s research  
and analysis can lead to policy change—  
sometimes over many years, and  
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# Cato Scholarship on Electoral Count Act Helped Drive Big Win

## Fixing the law to avoid another January 6 confrontation

**O**n January 5, 2021, Cato research fellow Thomas Berry published a piece in *National Review* titled “GOP Senators’ Electoral College Stunt Is a Dead End.” A few days earlier, 11 Republican senators led by Ted Cruz (R-TX) had announced their plan to vote “to reject the electors from disputed states” when Congress convened to declare a winner of the 2020 presidential election, unless an “emergency 10-day audit” was completed. Berry explained how this plan was not just a terrible idea but also illegal under the Electoral Count Act (ECA) of 1887, passed as a belated response to the disputed Hayes-Tilden election in 1876. The article ended with Berry imploring senators to consider historical wisdom before “inviting a repeat of the chaos of 1876 today.”

The following day, it became apparent that they did not in fact consider historical wisdom.

Fast-forward to just shy of two years later, and Thomas Berry along with Cato senior fellow Walter Olson and staff writer Andy Craig were able to celebrate the work they did that helped lead to the passage of the first amendment to the ECA in over 130 years.

Throughout 2021, Cato repeatedly made the case for reforming the ECA, and as the first anniversary of the January 6 Capitol riot approached, many other journalists and scholars began to do the same. From the editorial board of the *Wall Street Journal* to David French at *The Dispatch* and Edward B. Foley in a *Washington Post* op-ed, all called on Congress to reform the ECA. With the stars aligning at last, we seized the moment.

As this subject had the potential to become an extremely polarized and partisan debate, it was important for Cato to use our unique voice to speak on it from a nonpartisan place. In a December 2021 blog post, Craig pointed out the “mess of ambiguities and contradictions” that were in the Electoral Count Act and how it

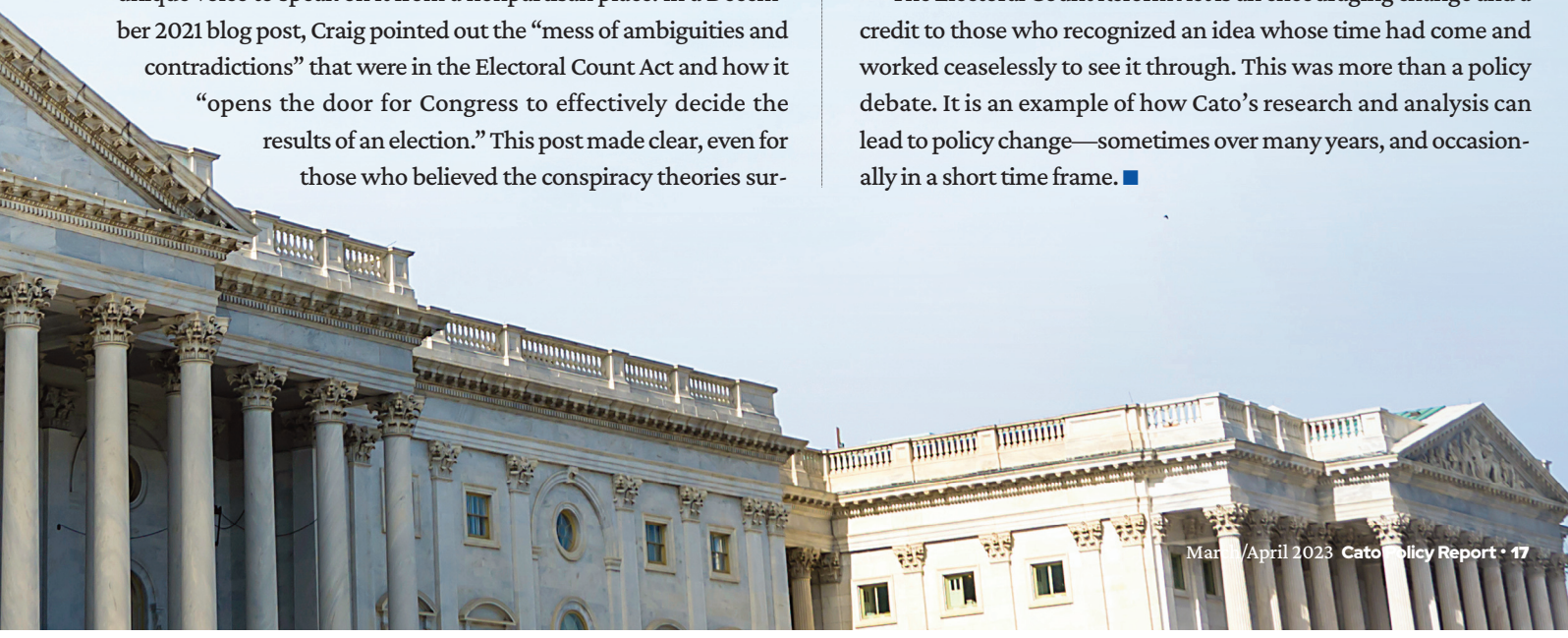
“opens the door for Congress to effectively decide the results of an election.” This post made clear, even for those who believed the conspiracy theories sur-

rounding the 2020 election, why they should support reforming and strengthening the ECA and that this was not simply a reaction from those who opposed Donald Trump. Berry followed Craig’s blog with a briefing paper entitled “The Legitimate Role of Congress in the Electoral Count.” All in all, Berry, Craig, and Olson published over 50 papers and articles on the need to reform the act.

With the momentum building, the strategy shifted, and then director of government affairs Jeff Vanderslice organized dozens of meetings with congressional offices to discuss the amendment. A coalition of supporters was formed, including the nonpartisan group Protect Democracy and a bipartisan Senate working group that authored the draft of the bill that would be known as the Electoral Count Reform and Presidential Transition Improvement Act of 2022, and eventually signed into law as part of the omnibus appropriations bill on December 29, 2022.

Berry saw that the key to success in getting this reform passed was emphasizing how the bill strengthened the Electoral College, and making clear the dangers of leaving ambiguities, whether real or alleged, that were the basis of legal schemes to throw the 2020 election results into doubt. The biggest victory in the new language, according to Berry, is raising the threshold to pause the count and trigger a debate from just a single member of each house to one-fifth of either house (87 representatives or 20 senators). None of the objections on January 6, 2021, came close to receiving the support now required. This simple change will go a long way toward ensuring that fringe theories supported by only a small fraction of either chamber or either party cannot be used to drag out the electoral count.

The Electoral Count Reform Act is an encouraging change and a credit to those who recognized an idea whose time had come and worked ceaselessly to see it through. This was more than a policy debate. It is an example of how Cato’s research and analysis can lead to policy change—sometimes over many years, and occasionally in a short time frame. ■





# Can't Afford to Live

Cato senior fellow Michael D. Tanner examined the causes and consequences of rising housing costs in North Carolina and offers policy recommendations to increase housing affordability in **“Keeping North Carolina’s Housing Affordable”** (Policy Analysis no. 938). Tanner shows that restrictive zoning policies, excessive regulation, and supply constraints have led to an inadequate supply of affordable housing.

**“Poll: 87 Percent of Americans Worry about the Cost of Housing; 69 Percent Worry Their Kids and Grandkids Won’t Be Able to Buy a Home”** (survey report). Vice



president and director of polling Emily Ekens presents the findings of a national survey that underscores the urgency of addressing the housing affordability crisis in the United States. A majority of those polled would support building more houses if they knew it could lower the cost of housing and make it easier for people they know to move in.

## LEGALIZE GUEST WORKERS

Associate director of immigration studies David J. Bier found that guest worker programs can be effective in reducing illegal immigration by providing legal channels for temporary labor migration, but that poorly designed programs have unintended consequences, such as exploiting guest workers. **“How Guest Workers Affect Illegal Immigration”** (Policy Analysis no. 937) concludes that government restrictions on migration cause illegal immigration, and a guest worker program is one way to relax those restrictions.

## DOWNSIDES OF SMART TECH

**“The Human Perils of Scaling Smart Technologies: Evidence from Field Experiments”** (Research Briefs in Economic Policy no. 312) found that although smart technologies can increase workplace efficiency, they can also result in negative outcomes, such as decreased motivation and reduced job satisfaction. The study highlights the importance of considering the human impacts of smart technology implementation and calls for further research on how to maximize the benefits and minimize the risks of such technologies.

## FATAL DRUG POLICY

Death rates from opioid poisoning tripled between 2000 and 2014 and the more recent surge in deaths has been attributed to illicit opioids, such as heroin and fentanyl. **“Behavioral Responses to Supply-Side Drug Policy during the Opioid Epidemic”** (Research Briefs in Economic Policy no. 313) by Simone Balestra, Helge Liebert, and Nicole Maestas is a comprehensive investigation of the direct and indirect effects of prescription drug monitoring programs. The study highlights the need for a comprehensive approach to drug policy that includes harm reduction strategies and prevention and treatment programs.

## CRYPTO CLARITY

Director of financial regulation studies Jennifer Schulp and policy analyst Jack Solowey argue that the lack of clear and consistent regulation has created uncertainty and hindered the growth of the cryptocurrency industry. In **“Regulatory Clarity for Crypto Marketplaces”** (Working Paper no. 71), they detail the challenges facing the cryptocurrency industry in the United States and recommend a principles-based approach to regulation that fosters innovation while

addressing the risks associated with cryptocurrency trading and investment.

## MORE DEMAND FOR SCHOOL CHOICE

**“Survey: 55 Percent of Private Schools See Enrollment Rise”** (survey report). A majority of private schools surveyed saw about a 5 percent increase in students in the 2022–2023 school year. Center for Educational Freedom director Neal McCluskey suggests that the COVID-19 pandemic has led to greater demand for private education, potentially due to concerns about the quality and safety of public school options.

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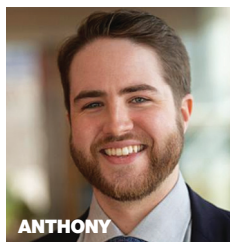
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## FANTASTIC FEDERAL FAILURE



ANTHONY

The Paycheck Protection Program (PPP) has been plagued with issues since its inception. In **“Fintech Fraud or Federal Failure?”** (Briefing

Paper no. 147), policy analyst Nicholas Anthony found that the issues in the PPP resulted from a failure of federal oversight for the government program. Anthony recommends that Congress should carefully consider what is at stake when crafting such bills rather than rush billions of dollars in taxpayer money out the door.

## AUTHORITARIANISM DOESN'T FIX CHAOS

The assumption that authoritarian regimes in the Middle East serve as the only bulwark against chaos is misguided and overlooks the political and social realities in the region. In **“A Shaky Foundation: The Myth of Authoritarian Stability in the Middle East”** (Policy Analysis no. 939), Jon Hoffman concludes that America should end its complicity in the crimes and atrocities committed by authoritarian governments and recognize the destructiveness of these partnerships by ending weapons sales to their regimes and removing the expansive U.S. military footprint in the region.

## MEDICAL LAW ENFORCEMENT

**“Cops Practicing Medicine”** (white paper) suggests that the increasing involvement of law enforcement in medical care is a symptom of broader systemic problems in the health care system and highlights the need for comprehensive, evidence-based solutions to the opioid crisis. Senior fellow Jeffrey Singer and former research fellow Trevor Burrus show that neither the practice of medicine nor the act of self-medication belongs in the realm of the criminal legal system.

## THE PART-TIME LOOPHOLE

Marcus Dillender, Carolyn Heinrich, and Susan Houseman found a significant increase in part-time employment following the implementation of the Affordable Care Act (ACA), particularly among industries with a high proportion of low-wage and low-skill workers. **“Effects of the Affordable Care Act on Part-Time Employment: Early Evidence”** (Research Briefs in Economic Policy no. 314), shows that this increase in part-time work was likely due to the ACA's employer mandate.

## ADVICE FOR CONGRESS



BOCCIA

Director of budget and entitlement policy Romina Boccia provides a set of policy recommendations for improving the federal government's fiscal

situation in **“Fiscal Agenda for the 118th Congress”** (Briefing Paper no. 144). Boccia suggests reducing government spending, implementing entitlement reform, reforming the tax code, and promoting economic growth through deregulation and trade.

## INVASION OF DIGITAL PRIVACY

**“Central Bank Digital Currency: The Risks and the Myths”** (Briefing Paper no. 145) examines the potential implementation of a central bank digital currency (CBDC) and its implications for monetary policy, financial stability, and privacy. Vice president and director of the center for monetary and financial alternatives Norbert Michel and policy analyst Nicholas Anthony caution that a CBDC poses substantial risks to financial privacy, financial freedom, free markets, and cybersecurity.

## SELF-SERVICE REDUCES COST OF GAS

In 2018, Oregon permitted citizens of rural counties to pump their own gas, ending a decades-long ban. This change provided a natural comparison for Vitor Melo in **“Self-**

**Service Bans and Gasoline Prices: The Effect of Allowing Consumers to Pump Their Own Gas”** (Research Briefs in Economic Policy no. 315), where he found the price of gas for Oregon's rural counties fell by 4.4 cents per gallon on average.

## ENSURING THE SUPPLY OF INFANT FORMULA

In **“Formula for a Crisis”** (Briefing Paper no. 146), Cato's Scott Lincicome, Gabriella Beaumont-Smith, and Alfredo Carrillo Obregon outline the risks of restoring protectionist regulations on baby food. They conclude that policymakers should eliminate all tariffs and quotas on infant formula, permit imports of foreign formula that is approved by competent regulators abroad, and streamline approval for new companies.

## WHO USES WELFARE?

Native-born Americans consume more welfare and entitlement benefits than immigrants, and this pattern has held for several years, according to director of economic and social policy studies Alex Nowrasteh and research associate Michael Howard. **“Immigrant and Native Consumption of Means-Tested Welfare and Entitlement Benefits in 2020”** (Briefing Paper no. 148) updates previous Cato policy briefs and found that immigrants consumed 27 percent less welfare and entitlement benefits in 2020 than native-born Americans.

## SEGREGATION UNDER WOODROW WILSON

Until the historical analysis of Abhay Aneja and Guo Xu in **“The Costs of Employment Segregation”** (Research Briefs in Economic Policy no. 316), the Woodrow Wilson administration's policy of resegregating the federal workforce had not been fully examined. Studying the careers of 1.3 million civil servants revealed that the wage gap between comparable black and white employees increased by 3.4–6.9 percentage points over the duration of Wilson's presidency. ■

## Cato Policy Report

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# “To Be Governed...”

## WE SHOULD JUST HAVE A FEDERAL DEPARTMENT OF UNINTENDED CONSEQUENCES

A new federal law requiring that sesame be listed as an allergen on food labels is having unintended consequences—increasing the number of products with the ingredient.

Food industry experts said the requirements are so stringent that many manufacturers, especially bakers, find it simpler and less expensive to add sesame to a product—and to label it—than to try to keep it away from other foods or equipment with sesame.

—*Los Angeles Times*, December 21, 2022

## WAS IT GOOD FOR THE COUNTRY?

Now, as [Rep. Steny] Hoyer prepares to step down as House majority leader, his colleagues and allies at the local level say he's leaving a legacy of using that clout to bring greater resources to his district and the state—or to bring major federal buildings, as he continues to aggressively pursue bringing the FBI headquarters to Maryland. He's advocated beefing up funding for federal institutions and military installations. He's evangelized other members about the value of bringing back earmarks—community project funding as they're now known—and secured millions of dollars in projects in his district over the years.

—*Washington Post*, December 29, 2022

## 16 ACCIDENTAL ADMINISTRATIVE OVERSIGHTS IN FOUR COUNTIES

As of Tuesday, 16 high schools in northern Virginia delayed notification to students of their national merit recognition. 7News reported Monday that there were 13 but the number has since jumped after Loudoun County added one additional school Tues-

day and Prince William County added two schools.

On Monday, two Prince William County high schools didn't notify students of their national merit recognition in time for important college scholarship and admissions deadlines, the school district told 7News.

The school system blames “accidental administrative oversight” for not telling students last September.

—*ABC7/WJLA*, January 16, 2023

## FEEDING THE HAND THAT BITES YOU

Sen. Amy Klobuchar (D-Minn.) one [of] the chief architects of last year's Senate push to rein in tech giants, is headed to Silicon Valley to raise money for her reelection tonight. . . .

Tickets start at \$1,000 for guests to get face time with Klobuchar, who chairs the Senate's antitrust subcommittee and has vowed to forge ahead with efforts to crack down on the dominance of tech companies like Apple, Meta, Amazon and Google.

—*Politico*, January 17, 2023

Gov. Ron DeSantis (R-Fla.) has built his national profile, and possibly a future presidential run, on challenging major companies on controversial social issues. But some of those same companies and their lobbyists bankrolled his inaugural festivities this month.

Two major fundraisers are lobbyists for Disney, the entertainment giant that DeSantis moved to punish for speaking out against his bill restricting classroom discussions of sexuality. Another inauguration co-chair lobbies for BlackRock, the investment powerhouse that DeSantis's administration divested of state funds in

retaliation for the firm's social impact standards. Additional listed sponsors included CVS Health and Walgreens, chain pharmacies that DeSantis criticized at a recent news conference on drug prices.

—*Washington Post*, January 18, 2023

## NOW WE CAN SAY “THIS REGULATION IS THE WORST THING SINCE THEY BANNED SLICED BREAD”

Eighty years ago today, on January 18, 1943, the United States banned pre-sliced bread. The automatic bread slicer had been invented 15 years earlier, and pre-sliced bread was wildly popular. However, in an effort to keep the price of bread down, to use steel for the war effort instead of for slicing blades, and to use less wax paper, the Secretary of Agriculture instituted the ban. Consumers and bakers were outraged, and the ban was rescinded after 49 days, on March 8.

—*Scott Rasmussen on Ballotpedia*, January 18, 2023

## BIPARTISANSHIP? HMMM

Beginning in late 2020, a bipartisan group of nine senators produced a framework for what became a \$900 billion pandemic relief package. By summer 2021, an evenly divided group of 20 senators paved the way for what turned into a more than \$1 trillion infrastructure package.

The final pieces of legislation designed to kick-start the domestic semiconductor industry came together through bipartisan talks among key rank-and-file senators. That came just after a group of two Republicans and two Democrats forged the first modest form of gun control legislation since 1994.

—*Washington Post*, January 21, 2023