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Freedom in the Fifty States

Randal O'Toole

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The Cato Institute released its assessment of freedom in each of the fifty states last week, and it generally does a good job of distinguishing between states that heavily restrict people's lives and ones that allow more freedom. But the Antiplanner has been concerned that the many different indices of freedom published by various groups don't seriously consider property rights, which most libertarians believe are the fundamental basis of freedom.

This year's report attributes about 11 percent of the score for each state to property rights. Most of that 11 percent comes from two factors: rent control (5.3 percent) and zoning (4.8 percent). Rent control is easy to identify but it is not a very good indicator of freedom because most states don't allow it or allow it only under special circumstances. Only four states allow it outright, and not surprisingly given the weighting these make up four of the five lowest-scoring states on property rights.

Zoning is much more difficult. The fifty-states report relies on the Wharton Business School's index of zoning, but that is more than a decade old and fails to accurately assess just how flexible zoning is in some states and inflexible in others. Even more than Wharton's index, the report relies on an index of court decisions on land-use issues, which seems more reliable as a guide to how litigious people are than to how restrictive their land-use rules are.

When judged based on property rights alone, the fifty-states report appears to be mostly right, but I have some quibbles. The ten freest states are Alabama (#1), South Carolina, Oklahoma, Tennessee, West Virginia, Kansas, Arkansas, Indiana, and Texas (#10). No problem there, though I would have ranked Indiana & Texas higher and South Carolina and Tennessee a lot lower.

The ten states judged to give least protection for property rights are New Jersey (#50), Maryland, Vermont, California, New York, Hawaii, Maine, Oregon, New Hampshire, and Washington (#41). Of these, Vermont, Maine, and New Hampshire should not have been in the bottom ten. Hawaii has the nation's worst property rights record followed closely by California, yet Vermont is rated worse than both. This is mainly because of the number of court cases in Vermont, but the reality is that California and Hawaii property owners are so beaten down by regulation that they don't often go to court. Massachusetts should replace Vermont in the top ten, Delaware should replace New Hampshire, and I would judge Rhode Island worse than Maine.

Nevada is rated #25, but there should be an asterisk beside that. Nevada probably does a better job of protecting private property rights than any state but Texas. The problem is that there is so little private property in Nevada, as 89 percent is owned by the federal government and at least a percent is owned by the state. This makes it an almost feudal society.

The final score, including all measures, ranks Florida, New Hampshire, Indiana, Colorado, and Nevada as the freest states while New York, Hawaii, California, New Jersey, and Vermont are least-free. Some of those sound right, but not Florida as the freest nor Vermont as fifth-least free.

The real purpose of reports like this, of course, is not to get the exact ranking right but to encourage legislators and policymakers to think about the impacts of their laws and regulations on personal freedom. While I might weight things a little differently, those are just quibbles. It is pretty clear that freedom has not been a prime consideration for much legislation in the past 60 years or so, and we can hope that this report helps turn that around.

Randal O'Toole is a Cato Institute Senior Fellow working on urban growth, public land, and transportation issues.