

Definition: **Lawfare** is the use of legal systems and institutions to damage or delegitimize an opponent by wasting their time and money; in the process perhaps destroying them financially.

Possible Strategies for Substantially Reducing Lawfare Risk:

Loser Pays

Expand applications of the Good Samaritan concept.

Simplify/repeal especially egregious lawsuit opportunities.

Examine lawsuit insurance policies.

Expose resistance to proposed reforms.

Especially key issues: 1) Complicated laws that apply to nearly everyone (e.g. IRS code) create a fearsome basis for tyranny. Nearly everyone is guilty of income tax compliance error; and 2) The high cost of justice.

Given the likely huge legal profession opposition to Loser Pays, the best opportunity to move forward in a financial crisis that demands much accelerated economic growth.

Lawsuit rule reform is one of the many likely productive crisis prep items. Please note that we're already in a formally declared: 1) K-12 school system ("Nation at Risk") performance crisis; and 2) Federal fiscal crisis that demands reforms that accelerate economic growth. We must prepare for a noteworthy worsening of the crisis symptoms. Severe symptoms change the politics of reform proposals.

Engage with IOPA to aid the ***preparation*** for crisis-driven reform. We can't miss the opportunities created by severe crises. We desperately need the silver lining of every storm cloud.

Compelling articles:

<https://www.wsj.com/articles/in-america-anyone-can-be-a-felon-60c06503>

<https://www.wsj.com/articles/supreme-court-hawaii-sunoco-v-city-and-county-of-honolulu-climate-oil-and-gas-a14e7731>

<https://www.wsj.com/articles/neil-gorsuch-and-the-laffer-curve-of-law-good-people-get-hit-by-too-much-regulation-d2373754>

“Today the federal government funds about a third of all state activities,” he [Gorsuch] says. “That’s new again, in my lifetime.” The book quotes then-Gov. Ben Nelson of Nebraska, testifying before a U.S. Senate committee in 1995 about doing his first state budget: “I honestly wondered if I was actually elected governor or just branch manager of the state of Nebraska for the federal government.”

“I love my libertarian friends, but I am not with them on anarchy, OK? Law is essential.” And yet: “Too much law actually winds up making people fear law rather than respect law, fear their institutions rather than love their institutions.”

James Madison, whose portrait hangs in his chambers, warned of the corrosiveness of too much law.

He thinks reinvigorating federalism shouldn’t be a partisan cause. Still, it seems to be pushing against broad trends to wonder aloud, as Justice Gorsuch does, about resetting the federal-state relationship. “I think it’s incumbent on all of us just to ask that question and to start thinking about it again.