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# The Failures of Constitutionalism

Logan Marie Glitterbomb

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The first time I heard the term libertarian outside of a leftist anarchist context, it was in reference to the kind of paleo-conservative constitutionalism of the early Tea Party and the Ron Paul "Rəvolution". While I was impressed by their strong anti-war stance, as well as their opposition to the bank bailouts among other things, I was always uneasy about the ways they couched it in the rhetoric of the united states constitution.

For one, I always found it rather odd and slightly humorous the way constitutionalists harp about the bill of rights, praising it endlessly, while failing to realize that the people who fought for the inclusion of the bill of rights only did so as a last ditch effort when they realized that they would not obtain their original goal: to oppose the creation of the new united states constitution, in favor of the more decentralized (but still just as colonialist) Articles of Confederation.

But deeper than that, I was concerned to see the growing alliance between libertarians of various stripes and these constitutional patriots. To be frank, the two are not compatible and it is

exactly their worship of the american constitution that holds this union back.

Whereas many constitutionalists hold that the founding of america was a glorious achievement of western civilization that brought democracy and freedom to the new world, radical libertarians know better. Instead, they recognize that the founding of america came at the expense of the original residents of Turtle Island and was by no means the bastion of freedom many claim it to be.

Whereas many constitutionalists will praise the 1st amendment, many of those same people claim that counter-protesters are violating the freedom of speech of others when they are not asking for anyone to be locked up for their speech but are merely engaging in counter-speech of their own.

Whereas many constitutionalists will praise the 2nd amendment, none have the courage to admit that the law clearly refers to militias, most of which likely were, or doubled as slave patrols and anti-indigenous frontier militias at the time, whereas radical libertarians don't need to justify their right to self-defense by pointing to a 200-year-old scrap of paper but instead point to the long history of marginalized and oppressed peoples protecting and liberating their communities with the help of firearms.

Whereas many constitutionalists hold that alcohol prohibition didn't work, thus necessitating the overturn of the 18th amendment by the 21st, and many will even agree with legalizing and regulating cannabis as well, radical libertarians are skeptical of the current cannabis legalization trends. They see it as being a capitalist scheme designed to make a few players wealthy at the expense of the millions who paved the way whose lives were ruined forever by the american legal system. Radical libertarians do not want legalization and regulation but rather favor complete decriminalization of all drugs, not just cannabis, as well as the immediate retroactive release of all drug war victims and/or expungement of their criminal records. Legalization means nothing if it does not address mass incarceration.



Whereas many constitutionalists believe that only congress has the power to declare war within the confines of constitutional law, radical libertarians call for the end of all wars of imperialism and the abolition of the state.

Whereas many constitutionalists view the only proper role of the state as one of criminal justice, radical libertarians realize the history of our police force which formed from slave patrols before being hired as armed thugs for what would become the largest mass incarceration system in the world. While the constitutionalists will claim that slavery ended with the 13th amendment, radical libertarians realize the language of the amendment is plain as day and recognize that prison slavery is alive and well.

Whereas many constitutionalists see national borders as a necessary form of defense and a proper function of government, radical libertarians believe in abolishing all state borders in favor of the free travel of human beings.

Whereas many constitutionalists will try and claim that "All men are created equal," many still refuse to fully accept that those words are as empty as they were when they were written in a time of slavery, genocide, and state-endorsed systematic bigotry. And the ones who do recognize this fact will downplay it or claim it's in the past. Radical libertarians, however, recognize that those words are still far from true today and that backpedaling to be closer to the visions of our founding fathers only means reversing much of the progress made in their wake.

Whereas many constitutionalists want to return america to a time and culture that only truly exists in fiction, radical libertarians realize that this project was flawed from the start and the only way to achieve true freedom is through abolishing the constitution and starting anew.