Constitutions: No Authority

Guest post by Butler Shaffer. Originally published in The Voluntaryist*, June 1987.*

I recently returned from a conference at which a participant took frenzied issue with me over the question of whether the Constitution is capable of protecting human liberty. I took the position that no Constitution can guarantee our freedoms, because it is impossible to create an institution of State power and then limit the exercise of that power in any meaningful way. Liberty is dependent upon a state of mind that continually questions, that maintains "eternal vigilance"; and efforts to institutionalize liberty – such as by drafting "bills of rights," etc. – necessarily reflect a relaxing of that constant state of awareness.

My mind was drawn to this conference as I read an article written by a self-avowed former leftist chastising his former compatriots for their position on America's policy toward Nicaragua. In his view, the Sandinista regime is a vicious and dehumanizing tyranny that justifies Reagan Administration efforts to subvert it. Running throughout this article was an unstated assumption that if, indeed a leftist regime is to be opposed, a rightist administration suddenly acquires a legitimacy previously denied.

My conference co-participant shared this sentiment. In the view of each man, the political State is a necessary evil, and one must opt for the lesser of two evils. In my criticism of the American nation-state, the conferee assumed that I must have been equating lack of freedom in America with that in the Soviet Union. In fact, this was the essence of his criticism of my position. "You're saying that Americans are as oppressed as are the citizens of Russia or Albania," he kept shouting at me.

If, of course, the political State *is* a necessary evil, this argument might have some merit. After all, when arrayed against the spectacle of such vicious regimes as Nazi Germany or Stalinist Russia, even the Reagan Administration offers a decidedly free alternative. If one is asked to choose between lung cancer and tuberculosis, most of us would opt tor the latter disease, given that cures are more readily available. But this is precisely the intellectual trap that the defenders of Statism set for us, and most of us fail to perceive. To bring my own position into this analogy, let us not allow others to restrict our choices to lung cancer and tuberculosis – both admitted diseases – but to opt for a state of *health*.

Of course America is a freer nation than the Soviet Union, Cuba, China, or Albania; *of course* I would rather live in America than any of these other tyrannical regimes; and *of course* I am more likely to prevail in a politically-motivated trial against me in America than in the Soviet Union. What does this obvious fact have to do with our understanding of what it means to be free? *Even if* the United States is the freest society in which to live today, ought that to relieve us of the task of *increasing* our liberties, of discovering how to

abandon the political institutions – including our constitutional form of government – that restrict our liberty? Even if we have come further than other nations along on the road to a truly free society, ought we to stop along the way and content ourselves with making favorable comparisons with those whose journeys have taken them along the paths to tyranny and oppression? It we can learn how to live without politics, without nation-states, without wars, without even the slightest restriction upon any of us, ought we to give up such a pursuit simply because others have chosen to remain locked in chains?

One must recognize, I think, that every political system is founded upon the presumed right of some men to forcibly impose their collective will upon those to be ruled. Once one accepts such an arrangement as either desirable or a "necessary evil," there is simply no way to assure that those given such power will restrain themselves in its exercise. If one acknowledges the right of men to assault women – and the concomitant obligation of women to submit thereto – there is no effective limit upon the attacks to which women must be subjected, other than the appetites of their attackers. One cannot acknowledge the right of some men to exercise force upon others without accepting that those enjoying such powers are the only – and the absolute – judges of the scope of that power. To fail to understand that basic fact is to be ignorant of the inherent nature of all political systems, a nature that has been abundantly demonstrated in every period of history and in every nation on earth.

If America is a freer nation than the Soviet Union, it is due to one cause – the relatively freer states of mind and expectations of American people, and *not* because of any words scribbled down on historic parchments. Bear in mind: The Soviet Union has a Constitution as well, and its basic framework – although not the same words – is patterned on the American model. Those who exercise political authority in Washington, or Sacramento, or Frostbite Falls, would like to be able to exercise as much absolute control over people as do any other tyrants in the world. Adolph Hitler was not an aberration confined to Germany, nor was Joseph Stalin a freak of Slavic history. The men who wrote our own Declaration of Independence were intensely aware of the propensity of all political institutions to tyrannize and tried their best to warn us thereof. While it is true that, in terms of the *severity* of this rule, the Soviet Union is far more vicious and tyrannical than the American government, in terms of the institutionalized insistence that their wills be obeyed, there is *no* distinction between these two nation-states – nor, for that matter, any other regimes.

And so, it is no more meaningful for men and women who would be free to content themselves with making choices between one brand of oppressive authority and another, any more than it was for earlier generations of Europeans to choose between the leftist politics of Stalin and the rightist politics of Hitler, or even of such tamer tyrants as Mussolini versus Franco, to accept such imposed limitations upon one's choices is to abandon one's interest in liberty in favor of embracing the security that comes from meeting the

expectations of those we have empowered as authorities over our lives and souls. Freedom means no more than this: understanding that each of us alone, has the power to either accept or not accept the limitations others would impose upon our choices. Men and women who do understand this basic truth do not, I can assure you, busy themselves with measuring the differences between kings, dictators, or senators or commissars.