

Socialist Vanguard

October 2020 Newsletter

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Edited by Dave Schall

Presenting Democratic Socialist Viewpoints

Freedom + Originalism = Rights and Supreme Court

We are witnessing the confirmation hearings for a new US Supreme Court Justice. Judge Amy Coney Barrett's appointment to the US Supreme Court was rushed through the US Senate. Barrett claims to be an *originalist* (someone who believes judges should only base their decisions on the original writing of a law or more importantly, the US Constitution. This sounds good as it implies that court decisions will always adhere to the written law and not an interpretation or a precedent set by judges or others implementing a government policy. After all legislatures should be writing laws, not judges or bureaucrats. (Most religions have *fundamentalists*, who believe that their religion's writings are the ultimate word. Thus we often hear the expression: The *Bible* (*Torah*, *Koran*, or other religion's work) tells me so.")

However, worthy, the original words might be, such interpretations ignore the fact that we live in a changing world, with new technologies developing, changes in living patterns, languages go through transformations, problems of today may not have existed years ago!

Do the following rules and laws impose a denial of freedoms and civil liberties?

1. In the USA motor vehicles must drive on the right side of the road.
2. There are restrictions on driving under the influence of drugs (including alcohol).
3. Stealing is a criminal act.
4. Vandalizing someone else's property is prohibited.
5. Gun ownership is only allowed, if there is a well-regulated Militia.
6. A woman has the right to control the reproductive functions of her own body.

According to a strict *originalist* interpretation of the Constitution, only the fifth point about gun ownership would be valid. In 1787, when the Constitution was drafted the country was in "horse and buggy" days, the steam engine was not invented, motorized vehicles did not exist. For lines 3 and 4 there are no provisions related to theft and vandalism. These date back to British Common Law (based on an interpretation of the *Bible*), which are not written except through judicial precedent.

As for #6, when the Constitution was written, the state of medicine was very rudimentary, sterilization (and the value of sanitation) techniques were unknown. While some abortions did occur, they were very hazardous to a woman's health and abortions were almost unheard of. It was only in the past 100 year that the value of sanitary

practices became an important part of medical treatments In 1973 in *Roe v Wade* the US Supreme Court ruled that women could under certain circumstances control their reproductive functions, thus allowing for legal abortions.

The US Supreme Court maintained that the right to bear arms was related to the functioning of a well-regulated militia, thus denying USA residents the right to *bear arms*. It wasn't until 2010 (*McDonald v Chicago*), that gun ownership became a right.

Both the Constitution and the Declaration of Independence focus on protecting liberty, but they do not provide protections for those trying to deny freedom and liberty to others.

The GOP and others promoting a right-wing agenda have made health restrictions an attack on one's individual liberties. The truth is that wearing a mask may protect a person from contracting a disease, but more importantly it protects our fellow citizens from contracting possible diseases that we may be carrying. **Refusing to wear a mask, or to follow other health protocols is just selfish and deplorable.** One might as well be driving on the wrong side of the road, there is nothing in the Constitution about this, but there are numerous statutes written by legislative bodies telling us to ride on the right side.

While we should protest various interpretations of the law, we should not expect laws to be interpreted the same over time. *Originalism* sounds nice and comforting, but in many situations, the world has changed.

Constitutions and written laws are most important for setting guidelines. The *Preamble* to the US Constitution does not contain any laws, but it does provide important guidance for writing laws and interpreting laws. Indeed it very concisely states:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The key words are in bold print and could have been written by any socialist government. It focuses on community, community safety, general welfare and liberty.

The *Declaration of Independence*, which is a list of grievances, not meant to be written law, reinforces this with the addition that *Governments . . . derive their powers from the consent of the governed*. This implies that it is the right and obligation of those governed to **throw off such Governments that fail to do this**. This is not law, but is an important guide (and a **SOCIALIST** one, too) to the American experience! DS

Words for thought

"But legitimate authority is not brute force; legitimate authority finds its weight in motivating and persuading people without the need to lift a bullying finger." By Eniola Anuoluwapo Soyemi is a Nigerian political theorist

Lessons From the November Elections!

No, we do not know who will be winners. One thing we do know is that US democracy is flawed and fragile. Many of our readers, for the first time in their lives, sucked it up, held their nose and voted for a major party presidential candidate, probably Joe Biden. Many others once upon a time practiced their dedication to third party candidates, but became discouraged. And some may have never considered voting for a third-party candidate, but have always been supportive of socialist ideals.

This year with the presence of Donald Trump, who will probably go down in history as the worst president the USA has ever had. Most of us opted to vote for the lesser of two evils. Circumstances will hopefully push Biden and the Democrats to champion some very necessary socialist programs, but the programs will probably be watered down, because the Democratic Party is very practical and does not want to offend rich donors. Biden’s health care program promises to offer a public health care option in which citizens can buy into some form of Medicare, thus lowering the cost of health insurance and health care. The current social security program will probably be saved and the financial base may be strengthened. Education may get some extra support, but no major improvements. Foreign policy will probably become more predictable, though overcoming the distrust created by Trump will be difficult. Biden will rejoin the world as it faces the issues of global warming and cleaning up pollution. There might be an effort to bring about police reform. Hopefully, Biden will demand that we find ways of eliminating discriminatory practices in education, employment and other segments of our social system. Biden probably will not lead the way to reform American democracy (this could include

eliminating the electoral college, campaign finance reform, ending gerrymandering, eliminating methods of voter suppression, and most importantly improving representation).



There is plenty to do, our work is just beginning. Biden will need a push on many of these topics, he is likely to just let things go along unless there is pressure to address each issue. For some there is a lot of public support that has to be focused on decision makers. For others there will need to be major efforts to bring about change.

The most important one, if we are to progress as a nation, is to be aggressive and push for major changes in our democracy, especially in our representation. **We cannot expect the 2-party system to work for the middle and working classes. It is designed to protect the privileged.** DS

Ban the Bomb!

From our friends at Nukewatch:

Dear nuclear abolitionist,

We would like to share some very exciting news from International Campaign to Abolish Nuclear in Luck, WI Weapons (ICAN).

Congratulations everyone!

WE banned the Bomb!

Please take a little time to celebrate and enjoy this overwhelming success.

In peace,

John LaForge, Kelly Lundeen and Christine Manwiller for **Nukewatch, Luck, WI**

The big moment is finally here: the UN Treaty on the Prohibition of Nuclear Weapons (TPNW) just reached the 50 ratifications needed for entry into force! Just now, Honduras ratified the treaty bringing about a historic milestone. In 90 days the TPNW will enter into force and become binding international law!

We congratulate and thank each and every one of you who stood with us to help make this moment happen. This is an incredible moment for our movement and we are so unbelievably proud of what we've all achieved together.

With the treaty now ready to enter into force, everything will change, but our work is not done. We are going to need to get even louder to make sure the treaty lives up to its full potential. In countries that have not joined (like the US), it is up to us to make sure that companies, governments and people know that nuclear weapons are illegal and that they need to stand on the right side of history. Watch for updates from Nukewatch (<https://nukewatchinfo.org/>) about how you can participate!

We want to thank you and celebrate this special moment with you and begin the countdown for entry into force.

Thank you for everything you do,
Beatrice Fihn, *Executive Director*

International Campaign to Abolish Nuclear Weapons (ICAN)

Socialist Vanguard (Voice Socialist Party of Wisconsin)

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Socialist Party of Wisconsin Meeting: Saturday, November 7, at 1:30 p.m. at 1001 East Keefe.

Words for thought

"No business which depends for existence on paying less than living wages to its workers has any right to continue in this country." Franklin Delano Roosevelt