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Libertarianism, Post 9/11

By [Wendy Kaminer](#)

"Freedom" has long been a right-wing rallying cry for self-identified patriots ranging from John Birchers to tea party protesters to increasingly extreme members of the Republican establishment. They're particularly passionate about the freedom to own and openly carry guns and freedom from federal taxation (but not necessarily federal benefits). Otherwise, their most consistent attachments to freedom tend to be rhetorical, unless freedom means restricting reproductive choice, same-sex relationships, medical marijuana, or sexually explicit speech and permitting discrimination against people who do not acknowledge Jesus as their savior. For some prominent conservatives -- like John McCain, Mitt Romney, Sarah Palin, and Dick Cheney -- freedom also entails the establishment of a national security state empowered to arrest and imprison summarily people suspected of terrorism and to spy on people suspected of nothing in particular, thanks to a ubiquitous but largely invisible surveillance system.

There are, of course, exceptions to this statism. The [CATO Institute](#), generally associated with the right because of its commitment to free markets, is equally, if less notoriously, committed to civil liberty. CATO is unusual in its consistent libertarianism, which means, however, that (like [Reason magazine](#)), it is a creature of neither the right nor the left. A recent [CATO report](#) estimates that some 14 percent of Americans also qualify as libertarian, meaning that they're fiscally conservative and socially liberal (although it's unclear if fiscal conservatives who believe "the less government the better" are willing to surrender their own government benefits, from Pell grants to Medicare).

Libertarians are labile voters, "torn between their aversion to the Republican's social conservatism and the Democrat's fiscal irresponsibility," CATO asserts; they shifted away from George Bush in 2004 and toward John McCain in '08. McCain was an odd choice for libertarians considering his abysmal record on civil liberty. "Straight talk for me but not for thee," might have been his motto (to paraphrase [Nat Hentoff](#)); he was [no friend](#) of the First Amendment, supporting a constitutional amendment banning flag burning, restrictions on indecency as well as political speech, and declaring America a Christian nation. That libertarians preferred him to Obama suggests that fiscal conservatism (or at least the image of it) was more important to them than social liberalism, or civil liberty. Before assuming the presidency and adopting key Bush-Cheney national security policies, Obama looked like a civil

libertarian; indeed his claim to civil libertarianism was a lot stronger than the claims of Bush-era Republicans to fiscal conservatism.

But libertarians focused on government spending are not likely to turn left. What if they focused on the increasingly powerful national security state? They'd find opposition to it (however ineffectual) from liberal Democrats, outnumbered by centrists in their own party as well as Republicans. Smeared as freedom hating socialists, Nazis, or terrorist sympathizers, liberals (and some Democrats) are generally more critical of the imperial presidency (even with a Democrat in the White House) than their opponents on the right.

Still, like pixie dust, a little libertarianism has been scattered over the right, landing most notably on Texas Congressman Ron Paul and sprinkling even the John Birch Society. Along with Paul, it opposes the post 9/11 security state -- not that many rational people would rely on the judgment of the John Birch Society, [which considers](#) the late William F. Buckley, a Trotskyite (in his successful campaign to revitalize American conservatism, Buckley denounced the JBS).

But, at least the JBS has [denounced](#) the "[Enemy Belligerent Interrogation, Detention and Prosecution Act](#);" (finally, an issue about which [Glenn Greenwald](#) and John Birchers can agree). Marc Ambinder raised the alarm about this bill [here](#). Introduced in the Senate by John McCain and Joe Lieberman and co-sponsored by (among others) freedom loving tea party pin-up, Scott Brown, it provides that anyone suspected of terrorism or material support for terrorism (including an American citizen on American soil) may be placed in military custody and labeled a "high-value detainee," for virtually any reason, including the detainee's "potential intelligence value," or for any "matters the President considers appropriate." High value detainees are subject to interrogation by a special "high value detainee interrogation group," which will determine if they are "Unprivileged Enemy Belligerents" to be imprisoned indefinitely, without charges or trials. The president has final approval power over that determination, which is subject to no judicial review.

Libertarians whose concerns are not limited to low taxes and free markets had better pay attention to dictatorial power grabs like this. For architects of the national security state, freedom is just another word for no rights left to lose.

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