Episode 1,364: True Conservatism Means Anarchism?

Guest: Alex Salter

WOODS: That's a pretty provocative title you've got there. As I told people, I'm linking to it on the show notes page. It's going to be hard to justify that for a lot of people. And I'll throw a couple objections at it just for fun.

SALTER: Sure.

WOODS: But you are echoing the exact thoughts I've had for so long in this piece, so when I saw this, I thought, well, I have to get this younger, more energetic version of me on the show to talk about this [laughing]. So let's explain how it's possible, then, for a conservative to be expected to consider the possibility of — well, we could say anarchism. That's going to be a scary word for them. I will say a couple of weeks ago, I had a fellow on and we talked about a guy named Frank Meyer, who in the 1960s wrote a book called *In Defense of Freedom*. And he was arguing that conservatives and libertarians were not nearly as far as part as the propagandists on both sides claim that they were, that Russell Kirk was wrong to be so hostile toward libertarians. We're not really that far apart at all. So, now, that's a controversial statement, but I could see somebody making that kind of statement also latching on to your argument. So what's the gist of your claim here?

SALTER: So I think the gist of my claim starts with the recognition that there is actually a very healthy anti-statist position even in traditionalist conservatism. Obviously, as you pointed out, the default perspective within traditionalist conservatism is that there is an important and necessary role for the state. But after going through these readings, after going through Kirk, after going through many of the traditionalist sources, even going all the way back to Burke, what I found is that conservatives don't really ratify or venerate any particular political order. And the state as we understand it, as a sort of unitary actor that monopolizes the creation and enforcement of formal social rules, when considered in the light of human history, it's actually a pretty new phenomenon. If you look historically, there are all sorts of other ways human societies can be governed. And so if you didn't have a state, it didn't seem really necessary that a conservative who believes in inherited traditions, who believes in slow and steady change would necessarily want to push for one. And if you do have one, I think, at best, you have to be ambivalent about it.

And so while I agree with traditionalist conservatives that violent revolution or insurrection is a no-no, I don't think it follows that we have to respect and ratify the institution of the state, especially when we have a very rich history of overlapping and sometimes even competitive legal orders to draw upon in justifying the argument that power needs to be centralized, power needs to be checked. And so I think that there actually is a lot of commensurability

between the traditionalist conservatism and political orders that libertarians or classical liberals found desirable, even going all the way to anarchism — which, again, I don't define that as an absence of law or an absence of institutions, but simply the rejection of the idea that these provisions need to be monopolized.

WOODS: If you're going to get a conservative to look seriously at a major institutional change, you're going to have to explain why the existing institutions are working badly. Why is the state as it's presently constituted serving conservatives badly in particular?

SALTER: That's definitely a crucial point of the argument. I would argue that it's actually the monopoly element of the state itself that renders the political and sometimes even the sociocultural playing field tilted against conservatives, because the idea is, if you have an organization that has that much power, once you capture it, you can tilt the playing field. So then you have to sort of ask: what sorts of movements, what sort of ideologies, political coalitions are going to have a comparative advantage of capturing the state? Well, it seems reasonable to suppose that the ones that can do that are going to be the ones that can promise wealth, power, and prestige to their followers. Since conservatives are usually chiefly concerned with preserving an inheritance and not engaging in radical change, they're simply not going to have access to the spoils of war to reward their political coalition supporters in the same way that, say, progressives are, who are constantly trying to use the state to advance some social goal or another. So I think it's actually inherent in these ideas themselves, when interacting in the specific environment when there's a state, that actually makes conservatism, frankly, lose, and lose for reasons other than the soundness of their ideas.

WOODS: I think this point can be taken farther. The kind of people who think it's meritorious to do these sorts of things in the public sector, and to make wild promises, and to bring about change through political means rather than through gradual evolution, but at the barrel of a gun try to reorder society, that's not going to be conservatives, that those aren't going to be the kind of people who will be drawn to this. And moreover, that likewise, in a further reason that you would see progressives more likely to be involved in the so-called public sector, is the disdain they have for the private sector, which is where they find greed, wickedness, exploitation, so they're less likely to be involved in working in the private sector and more likely trying to correct the private sector in the public. And whereas exactly the inverse is true for conservatives. So just from this surface analysis, conservatives are generally going to lose. They're not going to be dominating the state apparatus. And once they do get in, if they are successful acquiring power over society through the state, they tend to get comfortable there. They tend to want to justify their positions. They tend to want to preserve but simply guide better or staff with conservatives the very institutions they used to decry. So it all adds up to a disaster for these people, and yet they keep on doing it.

SALTER: I definitely think that there's something to that. It's a very Hayekian point about how these institutions can actually act as filters and draw the kind of people into them who are most likely to, as you said, agree with them. So it's kind of like, in a different context, it's kind of like the argument why there are no Milton Friedmans at the Fed, right? The kind of people who go to work for central banks are people who believe in the project of central banking. Likewise, people who go into the professional federal bureaucracy these days are people who believe in the bureaucratic, managerial, administrative state. And so that's another way that the playing field can be tilted.

WOODS: Can you then elaborate on what you mean when you say this isn't the only possible way society could be arranged and we're unnecessarily confining ourselves to this one option as if this is all we have?

SALTER: Right, so if you actually look at human history, the idea that there's one monopoly provider of law and order is actually pretty new. And so I think that the great alternative to use as a sort of ideal type for comparison and one that should be of obvious interest to traditionalist conservatives is the legal system — I should say legal systems, plural, that existed in Europe during the High Middle Ages. And so what you had there was numerous systems of overlapping, fractured, and concurrent sources of authority. You had courts that were run by the king. You had courts that were run by merchant guilds. You had church law. You had the law of the free cities. You even had governing relations between peasants and lords that actually did give peasants traditional rights to pass on their land.

And so when you consider all these overlapping sources of authority and the fact that individuals could frequently choose to go to the courts or choose the legal systems that would govern them on the basis of voluntary transactions, it turns out that, while you didn't have anything like a rationalist-derived philosophy of universal human rights from just sole axioms like you might get in the French Enlightenment or French Revolution, even though you didn't have that, there was actually quite a lot of freedom in terms of the actual liberties that people enjoyed in this era.

Now, it's important not to romanticize it. It's important not to note that it's perfect. It's certainly not perfect, right? There was a lot wrong with that system. But in terms of the architecture of the institutions, how the differing authorities overlap and often check the abuses of each other, I think that's something that we should really take another look at and we can really draw on, and frankly, that does resemble something that we should take seriously when we're thinking about what sorts of institutions can we look for in the future that don't force us to rely on this idea of a monopoly enforcer. Because once a monopoly enforcer gets captured by bad interests or special interests, that's the ball game. There is no other alternative. That's what it means to be a monopoly. Here, you have meaningful checks on power in a way that's not just words written on a piece of paper that we call it constitution. There are actual ways the abuses of power can be checked.

WOODS: What you're describing here comes from medieval and late medieval Europe and, to some degree, even probably early modern Europe. But the institutions that you have in mind, maybe the overall model is something we can draw from, but we're not going to get a hereditary aristocracy again. We're not going to get a church with any kind of political power, just speaking realistically.

SALTER: Right, right.

WOODS: So this will have to look different, as you're saying, in the here and now. So how would it be different? I mean, would it just be — are you just thinking of anarchocapitalism and private institutions providing these previously publicly provided services?

SALTER: I do think that something like an anarchocapitalist legal order could work. I'm not of the opinion that it's impossible or even undesirable. I don't think that's the only possibility, and I think in the short run, the only thing that we're going to see that's politically feasible is a radical devolution of political power. So I think at the margin, the way to get towards this

sort of overlapping, fractured, concurrent, competing social orders is in the direction of increasing federalism and increasing devolution of federal power. That's the only way that I can see it happening in the short run.

In the long run, you're right: we have a lot more options open to us, and we do need to seriously consider this balance-of-powers model as a model. We're not advocating integralism, where bishops wield actual political power. I'm not calling for a revival of trade guilds, by which various industries can be monopolized on the producer side. So those are all interesting examples that served a definite historical function in the past. Even a lot of economists don't like the guild system, because they saw it as a tragedy of the anticommons. But even then, if you take seriously the rational choice approach to social science, it's serving a purpose. So you have to explain what the institution's doing and what it's there for. But it's also equally in the state to generalize it outside of its context, so we don't want to "turn back the clock." There's simply no way that those institutions as they existed then would work in a contemporary setting. But you're right; we can use them as an ideal type to sort of think about what radical institutional reform would look like going forward. And going forward, especially in the very long run, I'm actually a fan of more private, decentralized legal systems, I think that that's sort of the tendency that we're going to have to see, as it becomes even more obvious that states are taking on, if nothing else, financial obligations that they simply can't possibly meet. There's going to be something that has to give. So short run, fortunately in the United States we do have a tradition of federalism and local government. And even though it's weak compared to what it's been historically, I think that that can be something that we explore and work towards in the short run. But in the long run, I think the institutional reform possibilities get a lot more interesting, and we should take them very seriously.

WOODS: One difficulty you may have is trying to persuade conservatives that this is the right strategy, because some of them, okay, they don't necessarily agree completely with Trump, but some of them have made their peace with him. And they say, for all his faults, he's out there smashing our enemies, and why would I want to decentralize at a time like this, especially when I know that if the left takes over, they're going to want to amass every last bit of power they can to lord it over us, and maybe the only real defense is a good offense, that we have to be ready to lord it over them when the time is right?

SALTER: Right, you have to amp up and get them while you can. It is a persuasive argument, and it certainly has a lot of rhetorical force. The chief problem with it is eventually you're going to lose an election. Eventually, there's going to be someone from the other party in both the White House and occupying both houses of Congress. And if you've removed any check on federal power to go after your enemies, when you're in power, they are going to revisit that to you a hundredfold the second they get an electoral advantage. So really, we're just fighting for short-run reprieves, but we're already sowing the seeds of our future destruction. It doesn't really make any sense to me to hold the line for four to eight years by changing institutions of governance, such that when the left comes back into power, they're just going to rain on you. It's just not going to work.

WOODS: Now, bear in mind, your article has the word "anarchy" in it, in the in the title and in the text. And then when I talk to you about it, you say, *Well* — and this isn't a put down; I just want to note. You say, *Well, okay, but right now, the closest we can come is decentralization*. All right, but you didn't say that in the headline of your article. And I know that oftentimes, we don't have control over the headlines that wind up appearing.

SALTER: Right.

WOODS: But that's a scary word to some people, and they would say that anarchism is not quite the word you would use to describe medieval Europe, because that would have come as a surprise to the early theorists of sovereignty, for example — although those people were relatively late in European history. But all the same, they might be willing to talk to you about the American tradition of decentralization, but anarchism, especially as conceived of, let's say, by the Rothbards of the world would look to conservatives like an untested novelty, which is the very opposite of what they favor.

SALTER: I think that that's a fair critique. I just think it happens to not be correct. I think that a true anarchocapitalist legal order of the kind envisioned by Rothbart or David Friedman or any one of the theorists who are sort of advancing the project of analytic anarchism, and the scholarly literature today demonstrates that there are a lot of instances historically and theoretically where we can rely on these decentralized mechanisms to actually solve really important social problems.

So there are really two questions here, right: what is the ideal kind of social order considered in the abstract, maybe divorcing from some of the relevant constraints that shape our institutions as they are right now? And the second one is: what path should we take to get there right now? So in my article for *The American Conservative*, I didn't really talk about the second question of, okay, what do we do with this right now? Instead, I was trying to convince conservatives that their own traditions of robust anti-statism and their own traditions drawn from situations of human experience before the rise of the modern centralized state does actually suggest that there are radical institutional possibilities out there that are currently being unexplored in terms of how we're actually governed.

And so the trouble with this is that sometimes people — well, not sometimes — very frequently, people use the word "anarchist" to mean different things. Sometimes, they also use the word "state" to mean different things. You do have a brand of anarchism that is against all forms of authority and all forms of, basically, institutions, and you saw a lot more of that in the 19th century than you do now. Nowadays, though, the person most likely to use the term "anarchist" is someone who's opposed to the Weberian state: the organization with a monopoly on force over a given geographic territory.

So although a lot of social thinkers in the past would not consider medieval Europe anarchic in that sense, given how the term is used now, I think it makes sense to adopt that terminology and seriously push the limits of what it can talk about and what it can define. Because we are talking about a system that most people don't have any experience with or any understanding of, and it is, for lack of a better word, radical. And again, since I'm defending these things on explicitly conservative grounds, there is a need to be extra careful, since conservatism and radicalism are uneasy allies at best. But I think the case can be made that, from what conservatives value, there are social orders out there that do not make use of a state that will do a better job of keeping sort of the true, the good, and the beautiful things in life that they value in the forefront of society.

WOODS: I'd like to ask you if you could comment on a paper that I guess is — I don't know if it's still forthcoming or if it's been released or not from *Social Science Quarterly* that we were talking about before we started recording. And it's called "Polycentric Sovereignty: The Medieval Constitution, Governance Quality, and the Wealth of Nations." Can you, because

that's somewhat relevant to this, but just because it has to do with examining period of history not many people know about and yet that might still have something important to teach us — can you start off by explaining what the thesis of the paper is and how it runs counter to the way these days scholars have started to think about these — I'm being extremely vague, because I want to let you explain what's going on in the paper.

SALTER: Yeah, I'm happy to. So this is the paper that I coauthored with my colleague here at Texas Tech, Andy Young, and it's one of a number of projects that we have on the political economy of medieval Europe. The thesis in brief is that if we want to understand the source of modern prosperity — both economic abundance and political liberalism in terms of human rights, checks on power — we need to actually go back before the rise of the modern state. The institutions that we enjoy, that we take for granted have their route in the balance of power that existed amongst the estates of the realm in the High Middle Ages. So I'll go on and explain what that means in a second.

Right now, I want to take a brief detour and talk about why we felt the need to write this paper. In scholarly economics and especially development economics, the economics of long-run economic growth, there's now this popular idea that the prosperity of the West especially is explainable in terms of an idea called state capacity. Basically, you need strong centralized states with a professional bureaucracy and all of the attendant things that go with that to administer the rule of law, to make tax collection efficient, etc.

So this is actually a rejection of an earlier trend in economic history and political economy that really started giving way in the '70s, that actually said, yeah, the reason that the West got rich is due to checks on arbitrary predation, by which they understood to mean arbitrary redistribution and seizure of property rights. And that itself is locatable to the institutions that existed in the medieval times. So the modern political economy and development literature is saying, nope, medieval times is why we're poor. To the extent that we're rich, it's because of states. Andy and I are coming along and saying: not so fast. We're overlooking some crucial things that even modern states inherited from medieval Europe. And the most important of those constructs is the idea of the rule of law itself.

Now, what was really interesting in medieval Europe is you didn't really have a formal abstract statement of the rule of law, of the kind that you would expect from modern political philosophy. But what you did have was a situation where the various estates of the realm — burgers, nobility, clergy, kings, even the free peasantry — all had the means to check abuses by the other. So no one authority could really say, hey, it's my way or the highway, I'm going to transform governance in this territory and make it look like what I want it to look like, and if you don't like it, tough. The ability just wasn't there. And so in recognition of the de facto dispersion of power and especially economic power among the estates of the realm, you have the rise of de jure institutional procedures that basically say, whenever there's going to be a big change in how the realm is governed, we have to make sure that all the interests that are represented in this realm are okay with it.

And really, that's also the source of representative government. The idea of government by representation arose in Europe and nowhere else. And this is one of the reasons for that, right? You had democracy elsewhere. Ancient Athens is the most frequent example. But only in medieval Europe did you have governance by consensus among the estates and interests of the realm. And because of that concurrence requirement, we have the idea of the rule of law. We have the idea that you cannot dispose of someone's property or person — self-

ownership, for example — you cannot dispose of a person's personal property or real property without due process of law. All these ideas that we take for granted and we think are attributable to modern states enforcing post-Enlightenment legal codes, it turns out, have their source in an older tradition of law and an older tradition of jurisprudence.

And so that paper, the one that Andy and I did on medieval Europe, is really pointing out: you guys are overlooking a whole bunch of the picture. If we just pretend that modern prosperity is due to the state, a lot of what the state did, it inherited from medieval Europe. And if you don't take account of that, you're going to have a skewed picture of the relationship between the state and economic development. And that's particularly important, because if you think that the state is the chief cause of economic development, you're probably not going to see any big problems with active state interference in the economy going forward. But of course, I and many others think that there is a problem with that going forward, especially when thinking about long-term economic development.

WOODS: I'm really glad to see young scholars like you. You're so young, it's just — I'm embarrassed for some reason. You're doing such important stuff —

SALTER: [laughing] You're making me blush.

WOODS: [laughing] But really, because this is a thesis that needs to be advanced, and the one that's currently dominant does need to be challenged. But let's get back to the main point of our conversation. I want to raise an objection that comes up a lot when you advocate decentralist solutions. The objection will be made that, a lot of times when you start off with a decentralist order like we had for a long time in the United States, for example, the local institutions can themselves be oppressive, and that's in large part how the central government gains its power. It points to genuine examples of bad behavior on the local level and says, we're going to emancipate you from this. We're going to liberate you from the oppressions of the local unit. So how do you respond to, *Okay, we decentralize and now I have local tyrant. How does this help me?*

SALTER: That's definitely a good objection. A political philosopher named Jacob Levy recently wrote a book called *Rationalism, Pluralism, and Freedom*, where he talks about the philosophy of freedom and liberalism itself and talks about how there are two strands within liberalism that talk about how best to advance human liberty. On the one hand, you have the pluralists, who tend to be decentralists. They advocate the kinds of orders that we've been talking about here. And then you have the rationalists, who make the exact argument that you just made: these decentralized orders can be oppressive, they can be overly tradition-bound, they can be intolerant, they can be parochial, etc., and so you need a centralized authority to make sure that all the decentralized units are playing by the rules. So it's an interesting tension that I don't think can be completely resolved ex ante within the freedom philosophy just by recourse to ideas.

I think that the way out of this dilemma is to recognize that, in a world of pluralism, in a world of decentralization, if you're being oppressed, which certainly can happen, you have more options to get out of it than in a centralized world, where you have one authority responsible for making sure that there's justice, freedom, liberty, equality everywhere. Because again, if you rely on a centralized, top-down approach to advancing liberty, if that goes bad, everything goes bad. Whereas in a decentralized system, if I'm being oppressed, if I'm being abused by any set of institutions or groups, that's awful and we should be concerned

about that. The solution is then to move from one decentralized system to another. The obvious example would be switching jurisdictions, voting with your feet, moving to the next county, moving to the next city. And generally, that's much easier than it is moving from country to country.

And so we should be concerned not just with the prospect of tyranny. That's definitely something we should be concerned about. But we should also ask the question: if this goes bad, what remedies do we have to fix this? And I think that ordinary people can make more easy use of existing remedies under decentralized than centralized systems. I can't think of any organization that it would be more difficult for an ordinary person to influence today than the national government of the United States. It's just not very responsive to individual demands. And so when voice doesn't work very well, it's important that we rely on mechanisms like exit. The idea there is at least some jurisdictional competition amongst local units, the idea that even over local units, you can have overlapping legal code, so if you have a dispute, you might be able to have some power over which system of laws governs you. In general, I think the decentralized system is going to be more robust to human frailty, and that's a point that needs to be independently emphasized from just the tyranny aspect.

WOODS: Can you tell us your website if people want to find out more about you and your work?

SALTER: Absolutely. It's www. AWSalter.com. I have all my academic and popular writings there. And if for some reason you want me to send you a copy of an article, to the extent that I have the ability to do that with copyright and all that, I'd be happy to do it. Just shoot me an email.

WOODS: Well, outstanding. I'll link to that and the article we talked about today at TomWoods.com/1364 so people can check it out for themselves. Very glad to get to know you, by the way. As I said, I followed some of your work, and then I talked to Bob Murphy about you; I wanted to get a little background. I didn't realize you were but a pup of 31.

SALTER: [laughing] I am young in my career, but I have big ambitions.

WOODS: That is terrific. That's terrific. Well, thanks so much for your time today. We'll have to talk again.

SALTER: It's been an absolute pleasure. Thank you so much.