

Originlists non originlists

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Originlists/non originlists

The Constitution is an important part of the democratic system. It is the very foundation that governs the conduct of men and directs the path that must be taken in enacting and implementing laws. The fact that the Constitution was enacted hundreds of years ago gives rise to certain situations wherein different viewpoints would also lead to as many interpretations. In this regard, Originalism and Non-originalism are the two primary positions in its interpretation. The originalists necessarily give focus on a puritan interpretation of the Constitution according to how it was formulated and a strict compliance on the original intent of its framers and its wording. The non-originalists on the other hand believe that there should be a leeway into stringent interpretation if the facts so warrant as dictated by the necessity of the time. I believe that the latter is favorable and the times unavoidably demand that the Constitution must be so construed to support the ultimate good of the people though this may mean an expansive construction. This area has developed tremendously over the years. Even among originalists there has been a debate over what their stand truly mean. There is now what is referred to as New Originalism and even New New Originalism which many argue is almost no different to Non-originalism. These newer schools of thought contend that there must be a discrepancy in constitutional interpretation because “ originalist interpretation alone simply cannot answer many difficult questions of constitutional law.” (Smith, 2011, p. 709). This by itself is in a way acceding as to the lapses of the originalist perspective in today’s world. The Constitution by itself was formulated by the founding fathers during a time when change was necessary to answer the

call of the times which needed much transformation. The intent and the spirit of the Constitution are still relevant today but there are instances when it must inevitably construe liberally to favor the changing times. This does not mean that the objective of the Constitution is defeated, on the contrary, the significance of life, liberty and equality is only amplified.

Bibliography

Smith, P. J. (2011). How Different Are Originalism and Non-Originalism? Hastings Law Journal, 707-735.