

HUMAN NATURE AND OUR CONSTITUTION

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But you know he's going to push it!

The charge is on to confirm the President's appointment of Brett Kavanaugh to the Supreme Court, and we hear both happiness and concern about how he might interpret the Constitution – conservatives hope he's an "originalist" and liberals bemoan that possibility. We hear about gridlock in Washington which is sometimes rationalized away by stating the founders wanted important transformative legislation to be difficult to achieve. And we are experiencing serious and painful polarization and political conflict. Those thoughts caused me to reexamine one of the most important assumptions influencing the development of our form of government: the purposeful tensions and created by our Constitution.

Just like Darth Vader, individuals have a dark side. Our Founders view of individuals was that while they were deserving of freedom and liberty, given the opportunity, and encouraged by temptation, those individuals are flawed and display many imperfections. Our form of government flows from that reality. Consider these words:

- *A fondness for power is implanted in most men, and it is natural to abuse it when acquired.* – Alexander Hamilton
- *There is a degree of depravity in mankind which requires a certain degree of circumspection and distrust.* – James Madison
- *If men were angels, no government would be necessary.* – James Madison

The Constitution describes a government constructed to deal with human nature. The Constitution did not grant rights to citizens – to the contrary, it enumerated the specific powers granted by the people to the Federal government. Remember that tyranny is committed by individuals upon other individuals! And in this new government, one priority was to set up a system of checks and balances to guard against tyranny. Three branches of government were conceived, and we often see inherent conflicts that were actually intentional – i.e. we have separate powers which create "checks and balances."

"Checks and balances" don't stop with the three branches. The Federal government was conceived at a gathering of the states' representatives – the Constitutional Convention. And remember that in the United States, power is invested in the people. Therefore, we can see that the concept of separation of powers also applies to the three vertical levels of influence – the people, state governments, and the Federal government. Voila! That gives us even more checks and balances. Three branches keep an eye on each other, and the three levels do likewise! Consider these words:

- *In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.* – Thomas Jefferson
- *The Constitution was made to guard the people against the dangers of good intentions.* – Daniel Webster

But that's not all. Here we sit with government branches functioning as a check on each other. And we have vertical checks as well. But there's more. Our Founders also carved out another important "check" on all of what's going on – freedom of the press was intended to ensure that objective information, good and bad, supportive or condemning, was always available to keep citizens informed and the government accountable. And the glue holding it all together, sometimes to the frustration of many, is the concept of the rule of law. This evolved system of laws governs individual and collective conduct.

Or at least that's the way it's supposed to work. We are often frustrated that there are few absolutes and often things don't go the way we, as individuals, think they should. And liberals and conservatives have very different ideas about the ideal working of the system I've just described. They are all quick to point out the other's faulty ideas and goals. So, there's "slippage" in the system when it comes to expectations vs. reality.

While we do our best to respect individuals, American institutions, and most foreign governments, we should also see the darkness they are capable of. Another way of stating this structural Constitutional power struggle would be: "Glorify individuals and institutions while keeping a wary eye on every one of them, because they are all potential rascals." That's kind of an early version of "trust but verify."