

Presumption Of Innocence

A Fading Principle

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Over the past several decades, as interested observers, we've watched this nation's founding principles suffer slow erosion as postmodern thought, deconstructionism, secularism and political progressivism have fought to undermine Western civilization and particularly of the U.S. Constitution. I'm happy to report that they have not been completely successful, because these people—many in politics, academia, and the media—have received quite a bit of pushback from regular Americans and conservative elements in society.

But on the other hand, they have made some very disturbing gains. Just look at what they have done to the concept of marriage and the family in this country. It's only taken a few decades, but now we have what we have, and it's not pretty. We can also add their horrible perversion of sexuality; their slicing of the populace into minority victim sectors by playing identity politics; and their pushing of religion to the fringes of society.

They've also done terrible damage to the notion of the rule of law, playing fast and loose with both the Constitution and the nation's laws to topple their political enemies and to push their agendas. I mean, just look at what we see, in the asinine Russian collusion case against President Trump. They are manufacturing accusations, and there has really not been any progress on that. All the so-called progress has been catching people under what are called "process crimes"; that is, lying or saying something false to the FBI rather than actually having done something. They can catch you for that for just about anything; it doesn't have to do with the case. If you lie to them, they will catch you for that and therefore make the President look bad.

Which brings me to the recent confirmation hearings for Judge Brett Kavanaugh. Through the machinations of Dianne Feinstein and Chuck Schumer, they brought forward three women: Christine Blazey Ford, Deborah Ramirez, and Julie Swetnick. These women accused the Supreme Court nominee of sexually assaulting them in the early 1980s, when he was in high school and in his early college days. Judge Kavanaugh—now Justice Kavanaugh—categorically and vehemently denied all those charges.

Everything that we know for certain about the man is honorable. We know he drinks beer...and that's such a bad thing. But you know, his entire career has been set up to

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get him to this point, and he's been very careful about things like that. The FBI has done six—now seven—investigations of the man and found nothing.

Behind all the accusations was nothing. Absolutely nothing. Christine Blazey Ford not only cannot recall the year she was allegedly traumatized, where it happened, and who threw the party, she can't remember even how many were in attendance during her claimed assault, how she got there and how she left. She actually knows nothing about it, because it seems to have been pretty much fabricated. We do not know how much of that was fabricated, but she can't give any details and has no proof.

It came out just days after she made the accusation that Ramirez had told friends that she was unsure if it was Brett Kavanaugh, and not one of the dozens of Swetnick's friends had any knowledge that such an incident as she accused him of had occurred. It was all just air. It was just accusations. That's all it was.

All they had were accusations, which we were admonished as the public to take seriously because of the "gravity of the charges." Because they were so serious, we should take them seriously, they said. I mean, you could do that for anybody over anything. Just because you level something at somebody that is "serious" doesn't mean that anybody has to take you seriously if you do not have any proof of it.

We are told that in this era of #MeToo that we should respond to all such claims from women with the phrase, "I believe you." We should not discount their stories, because women do not lie about horrible things like that. And we were given this statistic that only 2% of sexual assault stories—accusations—are later found to be false. But smart people went and checked out the research that has been done by various ones about this particular subject, and it turns out that that 2% idea is an absolute myth. All of the peer-reviewed studies that have been done about this find that the statistic turns out to be somewhere between 8% and as high as 41% of all sexual claims are false depending on the study. Some found more, some found less, but it's between eight and forty one percent. Police officers all over the country will affirm that, rather than being rare, false allegations of sexual assault are common. And in some places, almost half of them are.

The underlying message that the politicians and the media were pushing is that Judge Kavanaugh was guilty—no proof necessary. It was up to him, the accused, to prove his innocence, flipping over the tried and true standard in our country, the judicial principle of "innocent until proven guilty," which has been around as long as this country has existed. And actually, we will see, a lot longer than that.

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By definition, the presumption of innocence is, "a fundamental protection for a person accused of a crime, which requires the prosecution [that is, the government] to prove its case against the defendant beyond a reasonable doubt." In fact, we could call this part of our the judicial system a sacred principle of American justice, one that sets our system of jurisprudence apart from many nations who still have a "guilty until proven innocent" standard. Many of the Western nations followed us when we made it part of our rule of law. France had a "guilty until proven innocent" statute or principle, and they have flipped it after several decades.

Our Founders were steeped in classical literature and history, and they got this idea mostly from Roman law. There is a well known Latin maxim that the burden of proof is on the one who declares, not on one who denies. So the burden of proof is on the accuser, not on the defendant.

But it goes further back than the Romans. The presumption of innocence is a biblical principle, part of the legal system that God gave to the children of Israel. The basis for understanding that it's part of God's legal system is in the well known principle found in several places in Scripture, that is, "by the mouth of two or three witnesses, the matter shall be established." That is out of Deuteronomy 19:15. But the same principle, maybe worded a little bit differently, is found in Numbers 35:30; Deuteronomy 17:6; Matthew 18:16 (spoken by Jesus Himself); He also said it in John 8:17, and the apostle Paul said it in II Corinthians 13:1; I Timothy 5:19; and the author of Hebrews (who may very well have been Paul himself)—Hebrews 10:28. Eight times it's listed in the Bible as a principle of godly justice. So, we could say that it is not just a principle; it's a well established and emphasized principle of godly justice, divine justice.

We have to think of this. The necessity of a truthful witness in biblical times was critical in their justice system, because things like forensic evidence and detectives were rare or non-existent in those days. The finding of guilt or acquittal was based on the testimony of multiple witnesses. If witnesses could not be found, or the witnesses were proven to be liars, the accused party was considered innocent by society. There was no case. The person was innocent because there was not proof against him.

This is how it was in the trial of Jesus, or it should have been. There was no case because they could find no witnesses, and the witnesses were found to be false. So they changed the charge to blasphemy, and they did not understand that, either. Under the law—under the law that God had given them, and they were supposedly using at the trial—the false accusers and the false witnesses should have been put to death. Why? Because Deuteronomy 19:16-19 goes on to instruct that if the accuser or witness is found to have made a false accusation or given false testimony, they were to receive

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the punishment that would have happened to the accused if he had been found guilty. So, they were trying to bring a capital charge against Jesus; their false accusation and their false testimony should have resulted in a capital charge against them.

Thankfully, getting back to the present, there were enough votes to confirm Justice Kavanaugh, despite the slander of his reputation. But it was a close thing. What if it had leaned the other way? What would that have meant to us going forward?

But even so, hundreds of thousands or millions of Americans believe he is guilty despite the lack of evidence, on the hearsay—or, may I go so far as to say the false accusations—of three politically motivated women and the politicians behind them. I think a dangerous precedent has been set. It remains to be seen how much this fiasco will undermine the integrity and respect for American jurisprudence. But it has already been burned into many people's minds, that innocent until proven guilty doesn't apply under certain accusations.