Do you really believe judges apply neutral principles?

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There have been 113 Justices of the U.S. Supreme Court and 107 have been white men. We are told that the latest white man to be nominated is smart, thoughtful, hard-working and civil to others. We are told that he is a strict constructionist, who believes that the Constitution "speaks in the same words, with the same meaning and intent, with which it spoke when it came from the hands of its framers, and was voted on and adopted by the people of the United States. Any other rule of construction would abrogate the judicial character of this Court, and make it the mere reflex of the popular opinion or passion of the day. This Court was not created by the Constitution for such purposes. Higher and graver trusts have been confided to it; and it must not falter in the path of duty." Furthermore, "It is not the province of the court to decide upon the justice or injustice, the policy or impolicy, of these laws ... The duty of the court is to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning when it was adopted.

These quotes may sound like the words of Justice Antonin Scalia or Brett Kavanaugh or any other originalist of our day, but they are not. The quotes are taken from Chief Justice Roger Taney's opinion in Dred Scott v. Sandford, in which Chief Justice Taney describes slaves as belonging to an inferior race who could not be U.S. citizens, and thus had no right to raise their grievances in court.

In an 1865 commentary in The Atlantic, Charles Ellis wrote 'He did worse than torture and pervert language: he reversed its meaning. He denied the undoubted facts of history. He denied the settled truths of science. He slandered the memory of the founders of the government and framers of the Declaration. He was ready to cover the most glorious page of the history of his country with infamy, and insulted the intelligence and virtue of the civilized world.' Ellis concludes with this: "But this question of Slavery towers above all others that Taney ever had to consider; America professed a loftier standard of justice than England ever adopted; the question of the liberty of a race is more important, the question whether the State is founded on might or on right is more vital, than those of warrants and ship-money, benevolences and loans; and Roger Brooke Taney sinks below all these tools of Tyranny."
Brett Kavanaugh, Samuel Alito and Neil Gorsuch and so many other judges are self-righteous about the high road of neutral principles and the original intent of the Constitution, but all they are doing is using their intellect to perpetuate an existing power structure while suppressing others. There is a long history of white male judges doing just that and, as much as they may claim to be mere interpreters of the law, there are few cases more activist than Bush v. Gore, in which Justice Scalia was as much a political animal as Hugo Black in Korematsu or Roger Taney in Dred Scott. Does anyone believe that the justices' religious views do not have any role in abortion decisions, that William Rehnquist suppressed the African-American vote in Arizona and served in the corrupt Nixon Justice Department and suddenly became a pristine impartial jurist on the Supreme Court, that it did not matter that Justice Scalia and Vice-President Dick Cheney hung out together while Cheney's case was pending before the Supreme Court?

If you do not think those things affect Supreme Court decisions and that each of the nine justices approaches each case with a blank slate, applying neutral principles, so be it. If you believe that, then it does not matter that prior to his appointment to the bench, Kavanaugh worked on the Clinton impeachment, Bush v. Gore, and other contentious issues in the Bush White House. As a judge, he has waded into highly political areas, always deciding in favor of gun rights, always in favor of religion's right to exclude, and always in favor of business, always opposed to the right of government to protect its citizens through regulation. He has done so with intellect and civility, but we can predict his decision before he writes a single word or hears a single argument. He is a political ideologue, and the intellect and civility are sad substitute for humanity. As rights disappear, as unscrupulous business practices are uncontrolled, as workers and immigrants and women become increasingly oppressed, I do not think we will find much solace in the fact that Brett Kavanaugh let this happen with civility and intellect.