

# Federalist 2.0 – Chapter 1 – Article 03

## By Publius in 2010

Article 03 – Passionate mankind will have struggles (Ultimately Leads to War)

*In the souls of its citizens will be found the likeness of the state which if they be unjust and tyrannical, then will it reflect their vice, but if they be lovers of righteousness, confident in their liberties, so will it be clean in justice, bold in freedom.*

— Carving in the entrance hall of the Oregon State Capital

As we have discussed in the previous two articles the importance of the concept of “Freewill” and the fact that governments should implement laws and regulations that support and maximize the amount of “Freewill” an individual can express (Chapter 1, Article 01), as well as the government should implement political structures that limit the temptation for an individual to treat their position of power as their own property with the intention of using their power to bring advantages to their own selves or their own factions (Chapter 1, Article 02), we now turn to the general natural understanding that mankind will have struggles to maintain their existence throughout their lifetime and those struggles lead to conflict. Since we inherently are a species that at times are content with conflict and at times we search for a “fight” to satisfy the warrior that resides deep inside all of us, resulting in the need for an individual to exist which provides them motivation to “fight” to survive. Whether that fight is a noble cause such as a doctor solving deadly diseases, or an executive engulfed in a competitive business market, or a sports fan choosing their favorite team based on their birthplace and experiences, or a mother staying up late to help convince their child that studying for a test tomorrow is an important effort, all of us find causes to relate and reasons to “drive” us to want to wake up and go into the world with purpose. With this natural desire to “win” or have purpose combined with the desire to maximize our own freewill along with the alluring possibility of political power or market-based power that can be controlled to meet our needs and our faction’s needs, we can find the truest and rawest form of what we can call “conflict”.

But what is conflict? The following is a point of view describing conflict from the perspective of the founding fathers; “...when two or more parties, with perceived incompatible goals, seek to undermine each other’s goal-seeking capability...”<sup>1</sup> which, if not properly addressed, will lead to the subversion of one party or the next or will result in an expression of violence that may be passive or aggressive in nature. This leads to one party or the other being on the receiving end of an oppressive act. This oppressive act ultimately will result in the party suffering at some level since they are not free to pursue their goals. From a constitutional perspective we originally concerned ourselves with the mechanics of justice in the face of conflict and never sought to explicitly touch upon the type of conflict we as the founding fathers thought to be most applicable in our efforts to create a better union. The idea that we had to clearly define what was conflict and how it can be managed within a society was “a given” from our perspective since our republic assumed that ultimately societal resolution of conflict, or civil justice, was to be the states responsibility.

None the less, it is now critical to define “Conflict” as we understood as founding fathers for the purposes of creating a governance model that minimizes suffering within the different groups that make up a population within the boundaries of a state within the nation, which is a republic. Specifically, we need to define that the premise of conflict between groups is not something that needs to be legislated out of existence, but it is something that is inevitable and must be properly addressed to ensure the widest freedom for all with the least amount of suffering by those involved in the conflict. Where, from the founding father’s perspective, this process of addressing conflict to ensure freedom and minimize suffering is the essence of “Justice”. This brings us to our first principle of conflict and its resulting Justice, “The process by which conflict is resolved such that freedom is preserved for society while the natural laws of mankind are upheld, is called Justice. Where Justice is NOT acting upon the subjective perceptions of mankind’s desire to ensure an element of fairness occurs for those who would be governed.” The best test used for this principle is the adage, “Justice

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<sup>1</sup> <http://en.wikipedia.org/wiki/Conflict> (Jan 19th, 2010)

has been served.” One can look no further than to local judicial decisions to determine if Justice has been served, or not, within the context of enforcing freedom.

*Find out just what the people will submit to and you have found out the exact amount of injustice and wrong which will be imposed upon them; and these will continue until they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress.*

— Frederick Douglass, civil rights activist, Aug. 4, 1857

So, if mankind is prone to “conflict” what are the needs that drive conflict? There are many things that can be defined as conflict within a society, but the most important aspect of this discussion should remain in the understanding that humans have needs that range from avoiding hunger and the cold, to developing friends and family and to eventually developing self actualization.<sup>2</sup> From this hierarchy, which has been known to be called Maslow’s hierarchy of needs, we have witnessed over time that when the human condition is starved of opportunities to satisfy these needs through whatever events push these circumstances, conflict will exist between groups and individuals that are competing to meet their needs. It can also be observed that there is an opportunity for conflict to decrease as the conflict rises up the pyramid of needs as defined by Maslow’s Hierarchy of needs theory. Which brings us to the second principle of “Conflict and Justice”, “Types of conflict can be broken into five different categories, physiological, safety, belonging, esteem, self-actualization where the probability of conflict between groups and individuals decreases as the type of conflict moves from the lowest need [physiological] to the highest need [self-actualization].”

Since we now can view conflict within the context of human needs, as a general understanding, it would make sense that all humans would engage in a mutually agreeable efforts to trade without conflict. But, as a generality, this is almost never the case for all events. For example, there will always be someone who does not hold up their end of a contract, or someone that steals from a company or from a store. So evidently, the nature of mankind is to behave with some relevant moderation such that one can trade for their needs without conflict becoming an important factor, but this rule is broken regularly. From the founding father’s perspective, the defining attribute for understanding the true nature of conflict is within the previous discussion on mankind’s struggles with Passion. This struggle with the passions of men have guaranteed a mechanism that forces mankind to always live with the truth that these passions of mankind will force people to make erroneous decisions that negatively impact others. Such as the individual that is driven by greed such that they make decisions that impacts their friends or family’s needs in a negative fashion. The individual that is consumed by gluttony will force others and their family to endure larger than normal grocery bills as another example. This leads us to the third principle of “Conflict and Justice”, “Passions of mankind will put an individual or group on a disproportionate collision course with other groups or individuals in their pursuit of their needs where no easy trading option exists; where the events of this conflict will lead to passive violence or direct violence, resulting in one party losing to the ‘stronger’ group or individual, which may have the most resources to continue the violence, so that the losing group is put into a position to have their freedoms and liberties negatively compromised.”

*Experience should teach us to be most on our guard to protect liberty when the Government’s purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.*

— Justice Louis D. Brandeis dissenting, *Olmstead v. United States*

If this principle is true at the civil level, how is it possible that a nation can confront the passions of mankind that threaten to cause war? The question of national defense was the primary concern of the Founding Fathers in the formation of the nation during the writing of the constitution. We can reference you to the first set of Federalist Papers #2, #3, #4 and #5 on the subject of “Concerning Dangers from Foreign Force and Influence”, where we outlined the need to ban the colonies together to share the responsibility of defending the rights of all citizens from outside forces that might look to destroy or overpower existing governance to rule those citizens within the colony’s boundaries. We outlined the need for a strong military to defend the

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<sup>2</sup> [http://en.wikipedia.org/wiki/Maslow%27s\\_hierarchy\\_of\\_needs](http://en.wikipedia.org/wiki/Maslow%27s_hierarchy_of_needs)

colony's interest against direct aggressive actions from other nations. Where we did not focus, was on how the passions of mankind might bring a nation to the brink of war, since we focused on the "defense" of aggression from the outside forces. As this is a new world and the United States of America now faces the real possibility of being the aggressor, we should warn those that govern the United States of America that they should be guarded against making decisions to go to war in defense of mankind's passions. Whether it is for economic stability that is real or driven by greed, or a focus on the fear that terrorists will attack the nation that is driven by an honest defense, or a motivation driven by national anger, there are passions that can grow larger than an individual to bring a nation to engage in war like activities. These passions at a national level can unleash oppressive behaviors onto other nations, violating the first set of principles we have outlined in defense of "Freewill". So, we come to the fourth principle of "Conflict and Justice", "The government should be organized in such a manner to ensure that conflicts between nations have a clear path of negotiations as a primary line of defense. With the governing body focusing on a right mindedness decision to go to war in 'defense' of the nation with an assurance to minimizing the desire to fan the passions of mankind such that war would be an inevitable choice."

*...the people don't want war... That is understood. But... it's always a simple matter to drag the people along whether it's a democracy, a fascist dictatorship, a parliament, or a communist dictatorship. Voice or no voice, the people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked, and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same in any country.*

— Hermann Goering at the Nuremberg trials, 1946 from Nuremberg Diary, by G. M. Gilbert.

So, if war is possible through the passions of mankind, is it not reasonable that war could be avoided by enforcing control over man's passions? We must remember that Justice is a result of natural laws, and that mankind is challenged to not only create the process by which conflict is resolved, the judicial system, but to enact laws that most closely represent the natural laws that exist. This concept is relevant to the concerns of conflicts that are civil in nature but are potentially not relevant to those items that are national in nature with respect to how a nation deals with other nations within the context of conflict. The Constitution is very clear in this respect that it is the responsibility for the Executive Branch to protect the people of the United States of America. Within this context, we assumed the position of control to declare war was the full responsibility of the Congress, with the Executive Branch, specifically the President, with responsibility for leading the troops to a successful campaign. Ultimately, we must then focus on two approaches to this kind of conflict, the first, the direct and deliberate proof that the United States of America was attacked, such as the day of peril harbor or the day of September 11<sup>th</sup>, 2001. These direct attacks are clear proof of an external entity in pursuit of the goal to harm and kill American Citizens. It is the duty of the Congress and the President to fully implement the might of the United States to extinguish the threat. The second approach is the situation where the United States of America utilizes it's might without a clear provocation. Within this limited space we cannot treat this subject to its fullest extent where others have dedicated their life to debating this subject. But what we can surmise from our previous two principles is this, that the ultimate goal of a national defense is to support the principles of "Freewill" while enforcing through force, if necessary, a check on the natural tendency of mankind to capture and grow their own power over other men and woman. Such that, for this second issue, we must protect against the use of force to advance the political and financial goals that can be held by some individuals. Thus, we come to our fifth principle of "Conflict and Justice", "The government must be prepared to utilize force, in a reasonable manner, to protect the citizens of its nation against other nations if a direct threat is presented to the people. This power of force must be checked by a governing body of people that can ensure that the passions of mankind are not fanned to engage in war like activities for those who hold power where their factions benefit from the war like activities. Additionally, war like activities, which come from outside the boundaries of the nation, should be addressed as such and not viewed as police like actions."

Now that we understand the premise of the Constitution, that we built several hundred years ago, to defend the nation against external forces, had within it the mechanisms to allow the citizenry to monitor and manage those who would govern themselves to make the prudent choices on their behave at the international level on matters of war and negotiations with external nations and entities. We should then turn to the internal question that we addressed within the Federalist Papers, "How should justice be levied within the boundaries of the United States of America?" This question was of critical importance for each of the states since they wanted to manage their own affairs internally. The general understanding so many years ago was first

applied to the concept of who would have the ability to hand out justice. Or in short, how do you define a system that would result in a fair result between two parties such that hostilities would be reduced or eliminated. This is where we turned to the concept that it was the responsibility of the citizenry to live their own lives as they saw fit and to provide the mechanism for two parties to come to a government entity to have their conflict arbitrated. We also believed that Justice in of itself has its basis in natural law. The following are quotes that support this concept of Justice as taken from Wikipedia:

*"For advocates of the theory that justice is part of natural law (e.g. John Locke), it involves the system of consequences which naturally derives from any action or choice. In this, it is similar to the laws of physics: in the same way as the Third of Newton's laws of Motion requires that for every action there must be an equal and opposite reaction, justice requires according individuals or groups what they actually deserve, merit, or are entitled to. Justice, on this account, is a universal and absolute concept: laws, principles, religions, etc., are merely attempts to codify that concept, sometimes with results that entirely contradict the true nature of justice.<sup>3</sup> [John Locke](#) incorporated natural law into many of his theories and philosophy, especially in [Two Treatises of Government](#). There is considerable debate about whether his conception of natural law was more akin to that of [Aquinas](#) (filtered through [Richard Hooker](#)) or [Hobbes'](#) radical reinterpretation, though the effect of Locke's understanding is usually phrased in terms of a revision of Hobbes upon Hobbesean [contractualist](#) grounds. Locke turned Hobbes' prescription around, saying that if the ruler went against natural law and failed to protect "life, liberty, and property," people could justifiably overthrow the existing state and create a new one."<sup>4</sup>*

Where we now come to the sixth principle of "Conflict and Justice", "Justice is properly preserved within a state or nation when the life, the liberty and the property of an individual is protected. While if these things are not protected by the state, natural law would reveal itself by the efforts of individuals actively seeking to overthrow the government or behaving in ways counter intuitive to the intended restrictive law's purpose." Thus, it is fair to say that if Justice is not being served to quell and tame the passions of mankind through a fair and consistent judicial system, conflicts and potential strife will be exasperated, as there is no other outlet for the people, specifically for those citizenries who DO NOT harbor excessive desires driven by unreasoned and irrational passions.

As we understood as the founding fathers, the intentions of those who govern as elected by the people would reflect the moral character of the people. If the people are led to act on passions of mankind, then they will elect those who would leverage those passions of the people to their own advantage to gain and remain in power (Principles of Chapter 1, Article 02). Where the people will find over time that their freedoms and liberties will be slowly restricted and taken away thus would impact their ability to express their own freewill (Principles of Chapter 1, Article 01). Therefore, through this understanding it is imperative that we ask the question, "How can Government organize to ensure Justice is applied uniformly?" To answer this question, we will look at the following discussion in the Federalist Paper #78 on the Judicial Branch of the United States of America:

*This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. Though I trust the friends of the proposed Constitution will never concur with its enemies, in questioning that fundamental principle of republican government, which admits the right of the people to alter or abolish the established Constitution, whenever they find it inconsistent with their happiness, yet it is not to be inferred from this principle, that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constituents, incompatible with the provisions in the existing Constitution, would, on that account, be justifiable in a violation of those provisions; or that the courts would be under a greater obligation to connive at infractions in this shape, than when they had proceeded wholly from the cabals of the representative body. Until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiments, can warrant their representatives in a departure from it, prior to such an act. But it is easy to see, that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the Constitution, where legislative invasions of it had been instigated by the major voice of the community.<sup>5</sup>*

<sup>3</sup> <http://en.wikipedia.org/wiki/Justice> (Jan 19th, 2010)

<sup>4</sup> [http://en.wikipedia.org/wiki/Natural\\_law](http://en.wikipedia.org/wiki/Natural_law) (Jan 19th, 2010)

<sup>5</sup> <http://www.constitution.org/fed/federa78.htm>

*But it is not with a view to infractions of the Constitution only, that the independence of the judges may be an essential safeguard against the effects of occasional ill humors in the society. These sometimes extend no farther than to the injury of the private rights of particular classes of citizens, by unjust and partial laws. Here also the firmness of the judicial magistracy is of vast importance in mitigating the severity and confining the operation of such laws. It not only serves to moderate the immediate mischiefs of those which may have been passed, but it operates as a check upon the legislative body in passing them; who, perceiving that obstacles to the success of iniquitous intention are to be expected from the scruples of the courts, are in a manner compelled, by the very motives of the injustice they meditate, to qualify their attempts. This is a circumstance calculated to have more influence upon the character of our governments, than but few may be aware of. The benefits of the integrity and moderation of the judiciary have already been felt in more States than one; and though they may have displeased those whose sinister expectations they may have disappointed, they must have commanded the esteem and applause of all the virtuous and disinterested. Considerate men, of every description, ought to prize whatever will tend to beget or fortify that temper in the courts: as no man can be sure that he may not be to-morrow the victim of a spirit of injustice, by which he may be a gainer to-day. And every man must now feel, that the inevitable tendency of such a spirit is to sap the foundations of public and private confidence, and to introduce in its stead universal distrust and distress.<sup>6</sup>*

So, we come now to the final Principle of “Conflict and Justice”, where in this case there are two, one that demonstrates the failure of the government to hold to these principles and the second is the recipe to immunize a nation from this disease of broken character. Principle seven is, “As a Nation descends into a confused lawless landscape with little to no effective Justice, so will the population be put into compromised positions, such that, those that are elected to office will have a more prone character to enflame the passions of the masses in support of war like activities which would inflict harm onto individuals, groups and other nations.” Where the eighth principle is, “As a Nation upholds the love for righteousness in Justice and solidifies their confidence in their liberties to preserve an individual’s right to life, liberty, and pursuit of happiness, through the possession of property, will the Nation keep a clean and uniform delivery of justice, which in the end will ensure Freedom. Where this path is only achievable if the Justices themselves are beholden to the preservation of these facts of Justice, and they resist the whims of those who would govern the citizenry.”

*Illustrious examples are displayed to our view, that we may imitate as well as admire. Before we can be distinguished by the same honors, we must be distinguished by the same virtues. What are those virtues? They are chiefly the same virtues, which we have already seen to be descriptive of the American character — the love of liberty, and the love of law.*

*James Wilson, Of the Study of the Law in the United States, Circa 1790*

Again, we the founding fathers believed that there is hope for mankind, that one can set up a government in such a way that freedom and liberty can be achieved over time and that oppression and the relentless pursuit of an individual’s wealth of those who would govern can be stopped. And the cycle of the rise of governments that harbor liberty resulting in freedom and the inevitable destruction of those governments over time to the vices of those who govern can be stopped. Thus, as a Federalist, we can pose the following third set of principles of conflict and justice:

### **Principles of Conflict and Justice**

#### **#1 – Justice is the result of Natural Laws**

The process by which conflict is resolved such that freedom is preserved for society while the natural laws of mankind are upheld, is called Justice. Where Justice is NOT acting upon the subjective perceptions of mankind’s desire to ensure an element of fairness occurs for those who would be governed.

#### **#2 – Conflicts are a result of Individual Needs**

Types of conflict can be broken into five different categories, physiological, safety, belonging, esteem, self-actualization where the probability of conflict between groups and individuals decreases as the type of conflict moves from the lowest need [physiological] to the highest need [self-actualization].

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<sup>6</sup> <http://www.constitution.org/fed/federa78.htm>

#3 – Government without Justice Leads to Limits on Freedom and Liberty

Passions of mankind will put an individual or group on a disproportionate collision course with other groups or individuals in their pursuit of their needs where no easy trading option exists; where the events of this conflict will lead to passive violence or direct violence, resulting in one party losing to the 'stronger' group or individual, which has the most resources to continue the violence, so that the losing group is put into a position to have their freedoms and liberties negatively compromised.

#4 – Governments defend their Citizenry to Ensure Liberty

The government should be organized in such a manner to ensure that conflicts between nations have a clear path of negotiations as a primary line of defense. With the governing body focusing on a right mindedness decision to go to war in 'defense' of the nation with an assurance to minimizing the desire to fan the passions of mankind such that war would be an inevitable choice.

#5 – The Utilization of Force is the only deterrent against External Force as a Last Resort

The government must be prepared to utilize force, in a reasonable manner, to protect the citizens of its nation against other nations if a direct threat is presented to the people. This power of force must be checked by a governing body of people that can ensure that the passions of mankind are not fanned to engage in war like activities for those who hold power where their factions benefit from the war like activities. Additionally, war like activities, which come from outside the boundaries of the nation, should be addressed as such and not viewed as police like actions.

#6 – The Violation of the Natural Laws of Justice Result in Passive or Active Descent

Justice is properly preserved within a state or nation when the life, the liberty and the property of an individual is protected. While if these things are not protected by the state, natural law would reveal itself by the efforts of individuals actively seeking to overthrow the government or behaving in ways counter intuitive to the intended restrictive law's purpose.

#7 – The Nation's Character will determine the Cycle of Violence relative to the Effective Justice

As a Nation descends into a confused lawless landscape with little to no effective Justice, so will the population be put into compromised positions, such that, those that are elected to office will have a more prone character to enflame the passions of the masses in support of war like activities which would inflict harm onto individuals, groups and other nations.

#8 – The Nation's Character can be independent to the Delivery of Justice to Preserve Liberty

As a Nation upholds the love for righteousness in Justice and solidifies their confidence in their liberties to preserve an individual's right to life, liberty, and pursuit of happiness, through the possession of property, will the Nation keep a clean and uniform delivery of justice, which in the end will ensure Freedom. Where this path is only achievable if the Justices themselves are beholden to the preservation of these facts of Justice, and they resist the whims of those who would govern the citizenry.

As these Principles of Conflict and Justice helped guide us, the Founding Fathers, through our time of change and conflict, these too will help our efforts to bring the United States of America back into alignment with true intent of the Founding Fathers, to create a great nation where mankind could live with liberty and freedom such that they would spend their time on this planet with the hopes of pursuing the achievement of happiness. Thus, as the next articles appear, if you are not able to accept these principles as written here on Conflict and Justice, you will most likely not agree to the remaining principles the next articles will define.

*It is certainly true that a popular government cannot flourish without virtue in the people.*

*Richard Henry Lee, letter to Colonel Martin Pickett, March 5, 1786*