

The Obligation to Speak Up

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The Unitarian Church in Summit

December 2, 2001

Opening Words

Ralph Waldo Emerson, February 1861:

"Do the duty of the day. Just now, the supreme public duty of all thinking men is to assert freedom. Go where it is threatened, and say, 'I am for it, and do not wish to live in the world a moment longer than it exists.' "

Reading

Ralph Waldo Emerson, November 1862:

"War is a realist, [it] shatters everything flimsy and shifty, sets aside all false issues, and breaks through all that is not real as itself ... This is the task before us, to accept the benefit of War; it has not created our false relations, [we] have created [them]. It simply demonstrates the rottenness it found. ... This time, no compromises, no concealments, no crimes that cannot be called by name shall be tucked in under another name."

Sermon

I remember when I went to the Holocaust museum in Washington. So many things struck me and stayed with me in this museum, so brilliantly designed and executed. There were the winding paths of exhibits that grew narrower and narrower, with fewer and fewer choices about where you were allowed to go, and that at one point forced you to enter and walk through a boxcar -- a sign that your freedom was no more. Recently, when re-reading the diary of a young girl, Etty Hillesum, who was Dutch and Jewish and who eventually died at Auschwitz, I was struck with how gradually her rights and those of other Jews were taken from them. At one point, their right to have and to ride bicycles was taken from them. Each loss was a little loss, but what is so frightening about reading those losses through the lens of hindsight is knowing and seeing how each made the next loss possible. It was a brilliant assessment of the human desire to avoid conflict and endure -- a classic case of the frog that peaceably boils in a pot when the temperature is gradually raised.

I must also confess that I am not one to look out for political causes. It is sad, perhaps, as in my veins runs the blood of heroes and martyrs. Benjamin Rush, after whom I am named, ran the risk, after all, of being disemboweled for his crime of treason against the British -- as did all the other signers of the Declaration of Independence. Somewhere

back on the Southern line, there was a man who died at the Alamo. But I wasn't raised in a family of activists. We weren't blind patriots, either. We just were not activists or politically active. And my general outlook is passive. All else being equal, I tend to assume things are going as they should.

Which reminds me of another thing about the Holocaust museum that struck me and stuck with me. At a couple points in the exhibit, there were 4-foot-high, circular walls in the center of a room. And if you walked by and didn't make an effort to look in, you would just see these walls and hear and see nothing in particular. But if you looked inside, you saw television screens that ran film showing the quality of life in the Jewish ghettos or the experiments that were done on human beings in Nazi hospitals. The walls were brilliant in that sense. They did the practical work of protecting little children from seeing the most horrific parts of the exhibit. But really they were meant to remind us of something else -- that we can walk ignorant past the worst abuses in our nation or in the world, if we so wish, but that they go on, and to see them and to stop them requires courage and initiative on our parts.

Well, I had the sense a couple of weeks ago that there were some abuses going on over a wall that was erected to give us the excuse not to look. There were men and women who had disappeared off our streets, held on minor charges, or perhaps none at all, people whose names were not being released, whose ambassadors or attorneys were not allowed to see them, all in the name of national security. I didn't really want to look, but talk of civil rights abuses, Alan Dershowitz mentioning on NPR that the CIA or FBI had hinted that torture might be required in some circumstances -- well, it made me think of that wall in the Holocaust museum and the price of walking by without looking over.

Then this week, a kind of miracle happened. Things seemed to spill out over the wall. President Bush didn't just try to take away the bicycles of the men and women in the ghetto, he took for himself the right to try and execute them, without a jury, hidden from view, behind military walls -- and instead of people walking by without looking, his actions, going against our system of justice, our beloved Constitution, attracted attention. Even the most reticent of viewers, I hope, have seen this news come across their screens between talk of bombings and Enron's troubles and football scores. The heat, it seemed, got turned up a little too fast, and we frogs (for we are all frogs in this scenario) started getting nervous. Rightly so.

What we face is a complicated set of issues. I don't want to detail them here, but perhaps we must.

This week the President issued an executive order that established military tribunals to prosecute terrorists and the arrests and detentions of hundreds of Middle Eastern men. "The enemy has declared war on us," Bush said, "and we must not let foreign enemies use the forums of liberty to destroy liberty itself." The order takes non-U.S. citizens accused of criminal activity and treats them as combatants in a war. Although the trials may be open to the public, they also can be closed at any time and the records sealed if information that is classified surfaces.

The supporters of military tribunals argue that such tribunals are necessary to expedite justice, to protect national security, and to protect civilians who would have to serve on these juries. A State Department spokeswoman compared these tribunals and their functioning to that of the war crimes tribunal at The Hague. However, the defendants in U.S. tribunals will have neither independent judges nor lawyers of their own choosing, and with the death penalty as an option, these tribunals are far less humane or just than those at The Hague.

Tribunals have existed in American history before. During World War II, they were used to try eight Nazi saboteurs who landed on U.S. territory and were turned in by one of their own. One of the U.S. attorneys, Col. Kenneth Royall, assigned to defend the accused, mounted a spirited defense. He did so by challenging the legality of the tribunals themselves when federal civil courts were operating. Congress, to avert a confrontation, acknowledged the extra-judicial powers of a nation at war. Royall thus lost his fight. Six of the eight were convicted and executed. But late in his career, when he was head of one of New York's great law firms, Royall told friend and mentee William Safire that losing the fight to secure a fair American trial for some Nazi terrorists was the high point of his career. [See William Safire, "Kangaroo Courts," *New York Times*, 11/26/01.]

Royall fought for a fair trial and respect for the U.S. system of law, even for Nazis. The extreme cases, not the obvious ones, is where our system is always tested and proved (or disproved). And that fair trial concerns me also. Yet there is one equally grave concern Bush's action raises for me: Bush does not have the congressional declaration of war that would justify the tribunals, yet he seems to exercise the extra-judicial powers anyhow. In so doing, he has, by issuance of such an executive order, usurped the legislative branch's right and duty -- and with it, the balance of power so carefully written into our Constitution. It is, at best, dangerous precedent to allow without uproar. 2

The affronts against our rights and principles did not begin with this last act. There have been a number of legislative and executive acts in the last few months that have raised eyebrows. There was the arrest of 1,200 people, and the continued detention of about 600 of those on a variety of charges, none of which is terrorism. And until this week, none of their names or charges was released. Moreover, these men and women were held without access to lawyers or their ambassadors.

Next, 5,000 men of Arab descent of a certain age who had come into the country within a certain recent period are to be questioned in the coming months. The University of Michigan this week announced it would join the thin but growing ranks of those who would not cooperate with the interviewing. That group includes the police departments of Detroit; Portland and Corvallis, Oregon; Austin and Richardson, Texas; and San Francisco and San Jose, California. The rationale given by the university is that it always cooperates fully with police investigations of suspected criminal activity, but that these men and women are not suspected of or associated with criminal activity. Visions of Japanese-Americans classified as "4-C" -- enemy aliens -- dance through my head.

The so-called Patriot's Law broadened the government's rights to surveillance. Attorney General John Ashcroft claimed the power to detain non-citizens even when immigration judges order them released. He announced this week plans to relax restrictions on the FBI's spying on religious and political organizations in the United States. And every week (and every day *this* week), another one of our liberties or rights has been compromised without our consent.

These "modifications" to our civil liberties are being done in the name of defending the nation against terrorism. Security bartered for freedom and rights. That's the barter that is being foisted upon us and that we accept if we sit quietly.

We are being asked to trust others to not abuse the power we yield to them. To this I say, let us remember that we are a nation of laws, not men. We trust our rights to laws, not the goodness or character of a person. That's why we gave up monarchy, isn't it? And certainly we don't let fear drive us to snip away at the edges of our Constitution.

Finally, when some cried foul this week, the justification that came back again and again was that none of us should worry, because those targeted by legislation and executive orders that have been issued and passed in these last six weeks are *non-citizens*. It is as if it is assumed that we are going to be (and should be) fully willing to surrender the rights of those who don't have citizenship -- 20 million people who live in this country. As if what we really care about as Americans is not *human* rights, but just our own.

Was Washington right to think we are really so provincial and narcissistic as this? Did our forefathers and foremothers fight for independence, and civil rights activists march, simply to secure greater liberties and protections for themselves? The nation we inherit, the religion we here inherit, is of men and women who lived and died committed to a world that drew the circle of rights and freedoms always larger to include greater and greater numbers of people. To ask us to betray that inheritance in exchange for security for ourselves or out of a disregard for those who are not citizens is to make us traitors to what we, as Americans, hold most dear.

"Those who deny freedom to others," said Abraham Lincoln, "deserve it not for themselves, and cannot long retain it." Indeed, giving up liberties and compromising justice is a slippery slope and always has been.

I don't know exactly what to do about it, but I have seen over the wall, and don't like what I see. I can feel the water boiling and I know what that means. The liberties others handed us are being taken away in a barter I want no part of. And so it is time to speak up and speak out for the nation I love and the legacy I have been trusted to keep and pass on. It is time, I am afraid, to pay back an old debt to those who guarded liberty before us.

Benediction

Emerson:

"Do the duty of the day. Just now, the supreme public duty of all thinking men is to assert freedom. Go where it is threatened, and say, 'I am for it, and do not wish to live in the world a moment longer than it exists.' "

Amen.

The sermon in a Unitarian Universalist setting is never the last word on any subject, but rather an invitation to further dialog.