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WE WHO BELIEVE . . . CANNOT REST

Martha M. Ertman*

“We who believe in freedom cannot rest until it comes.”

– Bernice Johnson Regon, Sweet Honey in the Rock

The day after the United States inaugurated its 45th president, I found myself with generations of women – and men – marching in crowds so thick that they overflowed the official route onto satellite streets. Like thousands of others, I made my sign the evening before, pulling many of the same images off the web. We gathered around the kitchen and dining room tables and spread out onto the floor. Friends and family came from far and wide – in our case from Pennsylvania, Colorado, and Holland as well as down the street and across-town. The youngest were barely walking but up for scribbling their signs, and the oldest was a grandmother whose Statute of Liberty poster read, “I’m with her.” It was my 58-year-old sister’s first march.

My sign read, “We who believe in freedom cannot rest,” and would have included the rest of the line—“...until it comes”—from *Ella’s Song* by Sweet Honey in the Rock¹ had I had room. Down on the National Mall in Washington, D.C., we had plenty of time to check out the many signs that mirrored our own hand-lettered calls for resistance, solidarity, and our common humanity. Many featured the woman symbol with a fist and images by Shepard Fairey, the artist responsible for the iconic red, white, and blue poster of Barack Obama that is captioned “hope.”² My wife spotted a man with his own sign that mirrored mine exactly – a complete stranger whose outrage also called him to the civil rights song by the Grammy-winning acapella ensemble, Sweet Honey in the Rock, coupled with the fist-filled woman symbol.

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¹ SWEET HONEY IN THE ROCK, *ELLA’S SONG* (1988).

² James Dempsey, *Creator of Obama’s “Hope” Poster Designs Three New Anti-Trump Images*, NEWSTALK (Jan. 19, 2017, 1:32 PM), <http://www.newstalk.com/Creator-of-Obamas-Hope-poster-creates-three-new-antiTrump-images>.



I never learned his name. But the snapshot lives on in the calendar hanging in my office, at home, and in the homes of our friends who marched with us. Our Dutch friend directs a feminist archive in Amsterdam,³ so it will be preserved as an artifact of the unprecedented protests across the globe against the inauguration of an American president who rejects foundational aspects of democracy like freedom of the press, an independent judiciary, and the distinction between truth and fiction in political debate.

Right after the election, I wrote in the Huffington Post that “Wednesday was not Weimar,”⁴ in large part because the two million federal career employees across the nation (a good half of whom must have voted with the majority for Hillary Clinton) vastly outnumber the four thousand political appointees who come on board with a new president. Moreover, the brontosaurus-like speed of federal bureaucracy (required to comply with constraints imposed by laws, regulations, and the Constitution, as well as protocols and constituents) acts like molasses gumming up an authoritarian delivering on extreme campaign promises. Even Republicans are finding they support the Affordable Care Act more than they

³ ATRIA, <https://www.atria.nl/en> (last visited Apr. 19, 2017). Atria is an institute on gender equality and women’s history. *Id.*

⁴ Martha Ertman, *The Id, the Ego and the Election*, HUFFINGTON POST (Nov. 11, 2016), http://www.huffingtonpost.com/entry/the-id-the-ego-and-the-election_us_582633f5e4b02b1f5257a183.

themselves guessed.⁵ I still stand by my concluding statement of faith in the rule of law in my Huffington Post article: “No amount of bluster can blow down the house that the founders built because the rule of law at its foundation was designed to withstand just this kind of storm.”⁶

So far, others agree. The Ninth Circuit, and many lower courts, struck down the executive order banning immigrants from seven predominantly Muslim countries, and rejected the new Department of Justice’s extraordinary claim that executive orders on national security are not reviewable.⁷ The role of Russian influence in the election is under investigation.⁸ A second travel ban was also struck down.⁹

Yet the prospect of our 45th president implementing policies that could be described as a Fourth Reich remains. Congressional Democrats worry that the House investigation will cover up, instead of reveal, ties between the president and his campaign staff to Russia.¹⁰ In early March, the Washington Post adopted a masthead slogan for the first time in its 140 year history: Democracy Dies in Darkness.¹¹ Yale historian Timothy Snyder, a scholar of 20th century fascism, provides

⁵ Robert Pear & Reed Abelson, *G.O.P. Campaign to Repeal Obamacare Stalls on the Details*, N.Y. TIMES (Feb. 2, 2017), https://www.nytimes.com/2017/02/02/us/politics/the-campaign-to-destroy-obamacare-hits-a-wall.html?_r=0.

⁶ Ertman, *supra* note 4.

⁷ Adam Liptak, *Court Refuses to Reinstate Travel Ban, Dealing Trump Another Loss*, N.Y. TIMES (Feb. 9, 2017), https://www.nytimes.com/2017/02/09/us/politics/appeals-court-trump-travel-ban.html?_r=0.

⁸ Byron Tau, *House Intelligence Panel to Hold Hearing on Russian Election Interference*, WALL ST. J. (Mar. 7, 2017, 7:57 PM), <https://www.wsj.com/articles/house-intelligence-panel-to-hold-hearing-on-russian-election-interference-1488926685>.

⁹ Euan McKirdy, *Trump’s New Travel Ban Blocked: What You Need to Know*, CNN (Mar. 16, 2017, 8:06 AM), <http://www.cnn.com/2017/03/16/politics/trump-travel-ban-order-explainer>.

¹⁰ Emmarie Huetteman, *If Russia Inquiry is Not “Legitimate,” Democrats May Abandon It*, N.Y. TIMES (Mar. 11, 2017), <https://www.nytimes.com/2017/03/11/us/politics/house-intelligence-committee-russia-investigation.html>.

¹¹ Willa Frej, *The Washington Post Stresses Its Mission to Defend Democracy with New Slogan*, HUFFINGTON POST (Feb. 22, 2017), http://www.huffingtonpost.com/entry/washington-post-new-slogan_us_58ad915ae4b03d80af70e0c5.

twenty tips for protecting our imperiled democracy, published first on his Facebook page and then in a quickly published book titled *On Tyranny*.¹² Snyder's first instruction is "do not obey in advance," and his last is to urge every American who contests the federal government's move toward tyranny to "be a patriot" by setting a good example of what America means for the generations to come.¹³

Two of Professor Snyder's lessons stand out as relevant to those of us who believe in freedom: defend an institution and practice corporeal politics.

DEFEND AN INSTITUTION

Postcards provide a cheap and easy way to express your view to a public official. Organizers of the women's march movement provided easy-to-print cards and post-card writing parties as a social venue to speak up.¹⁴ Progressives across the country plan to deluge the White House with cards stating what troubles them about the president's words, actions, and policies on March 15th, an event dubbed "The Ides of Trump."¹⁵ The White House website states its preference for email,¹⁶ perhaps because handling mountains of snail mail requires more time and effort, let alone space.

The cards can also thank others who defend democratic institutions. Courts are run by human beings who appreciate a thank you as much as anyone, yet get more criticism than fan mail. People whom I have written to include the Washington federal District Court judge, James Robart, thanking him for enjoining the executive order banning immigration and also to Attorney General Jeff Sessions for recusing himself from investigating presidential ties to Russia given his own engagement with Russia during the campaign. Grade school neighbors have come over to write colorful notes urging the Homeland

¹² TIMOTHY SNYDER, *ON TYRANNY: TWENTY LESSONS FROM THE TWENTIETH CENTURY* (2017).

¹³ Timothy Snyder, *Be a Patriot: Twenty Lessons for Citizens of an Imperiled Democracy*, *UU WORLD* (Feb. 20, 2017), <http://www.uuworld.org/articles/be-patriot>.

¹⁴ WOMEN'S MARCH ON WASHINGTON, <https://www.womensmarch.com/100/action1> (last visited Apr. 19, 2017).

¹⁵ See, e.g., The Ides of Trump (#theidesoftrump), *TWITTER* (last visited Apr. 19, 2017), <https://twitter.com/hashtag/theidesoftrump?lang=en>.

¹⁶ *Contact the White House*, *THE WHITE HOUSE*, <https://www.whitehouse.gov/contact/write-or-call> (last visited Apr. 19, 2017).

Security Secretary to lift the ban for an Afghani family for whom their church community had rented and furnished an apartment and was prepared to provide groceries about navigating life in the U.S.

I bought a subscription to the daily New York Times to defend the institutions of free press and high-quality investigative reporting.

To defend other institutions inherent to representative democracy, many people are mobilizing to support state and federal candidates who oppose the tyrannical tendencies of the current presidency. “Swing left” connects people to elections where Democrats could displace Republicans,¹⁷ and the on-line publication known as “Indivisible,” provides concrete tips for ways that constituents can influence representatives to protect democratic institutions.¹⁸ Looking out to the longer-term, an organization called “Elect Her” urges college women to run for office with the idea that some may then enter public life and land on school boards, state houses, and perhaps eventually in federal office.¹⁹

PRACTICE CORPOREAL POLITICS

Another lesson provided by Professor Snyder is that “[p]ower wants your body softening in your chair and your emotions dissipating on the screen,” so we should “[g]et outside. Put [our] body in unfamiliar places with unfamiliar people. Make new friends and march with them.”²⁰

Writing post-cards to officials elected and appointed at my kitchen counter with neighbors is a new hobby of mine. Calling Maryland’s Republican governor to urge him to dissuade his colleagues in Congress from repealing the Affordable Care Act was likewise a first.²¹ But each new effort is easier, and makes me feel connected to my country in ways I never have before. A line from

¹⁷ *Swing Left*, FACEBOOK, <https://www.facebook.com/swingleftorg> (last visited Apr. 19, 2017).

¹⁸ INDIVISIBLE, <https://www.indivisibleguide.com> (last visited Apr. 19, 2017).

¹⁹ *Elect Her*, RUNNING START (last visited Apr. 19, 2017), <http://runningstartonline.org/programs/elect-her>.

²⁰ Snyder, *supra* note 13.

²¹ *Contact the Governor’s Office*, OFF. OF GOV. LARRY HOGAN, <http://governor.maryland.gov/contact-the-governors-office> (last visited Apr. 19, 2017).

Lorraine Hansberry's 1959 play, *A Raisin in the Sun*, keeps coming to mind.²² The mother of a family is teaching her daughter about love, about how to love a brother who has just lost the family's home through an unwise investment.²³ The mother chides:

Child, when do you think is the time to love somebody the most? When they done good and made things easy for everybody? Well then, you ain't through learning - because that ain't the time at all. It's when he's at his lowest and can't believe in hisself 'cause the world done whipped him so! When you starts measuring somebody, measure him right, child, measure him right. Make sure you done taken into account what hills and valleys he come through before he got to wherever he is.²⁴

Our 45th president is not a cause of the threat to democracy, powerful though he and his cronies may take themselves to be. He—and their breath-taking grab for centralizing power—is an effect of the dizzying speed of contemporary life, of the evisceration of manufacturing jobs and resulting collapse of rural cultures and livelihoods, of the terrifying specter of an ever-warming planet and accompanying floods, famines, and fires.

Remember that the 45th president cannot change the rules of government with lies and tantrums. That powerful forces like corporations—and well-heeled billionaires who seem to support the president—need the rule of law to protect their property. That law is as slow as it is powerful, which may be why we call it magisterial.

We who believe in freedom cannot rest, but we can sing while we do the hard and crucial work of defending democracy and its foundations in the rule of law.

²² LORRAINE HANSBERRY, *A RAISIN IN THE SUN* (1959).

²³ *Id.* at act 3, sc. 1, ln. 113.

²⁴ *Id.*