

## *The* FOUNDERS *and the* FRAGILITY *of* DEMOCRACY

*But a constitution of government, once changed from freedom,  
can never be restored. Liberty, once lost, is lost forever.*

JOHN ADAMS,

*letter to Abigail Adams, July 7, 1775*

**T**o U. S. citizens in the year 2007, the very title of this book should be absurd. It is unthinkable to most of us that there could ever be an “end of America” in the metaphorical sense. But it is when memories are faint about coercive tactics that worked to control people in the past that people can be more easily controlled in the present.

When I say that the Bush administration has used tactics that echo certain tactics from the past, I am making a conservative argument. You will have to look at the echoes I note and decide for yourself what to make of them. We know that Karl Rove seeks the goal of a permanent majority. A permanent majority is easier to solidify for the future if democracy’s traditional challenges to power are weakened or silenced.

I won’t insult Republicans by calling this goal a “permanent Republican majority,” although Rove calls it by that name. Most Americans—Republican, Independent, or Democrat—are patriots and believe in the Founders’ vision. I have to assume that one reason for this assault on democracy is to secure the “permanent majority” status of a far smaller group, or rather of several smaller groups, driven by motives of power and money: the great power represented by access to an executive that is driving an agenda unthreatened by the people’s will and the vast amount of money

that has begun to flow from a condition of uninterrupted domestic surveillance and open-ended foreign hostilities.

## AUTHORITARIANISM, FASCISM, TOTALITARIANISM: SOME DEFINITIONS

Are any of these terms legitimate for this discussion?

I have made a deliberate choice in using the terms *fascist tactics* and *fascist shift* when I describe some events in America now. I stand by my choice. I am not being heated or even rhetorical; I am being technical.

Americans tend to see democracy and fascism as all-or-nothing categories. But it isn't the case that there is a pure, static "democracy" in the white squares of a chessboard and a pure, static "fascism" in the black squares. Rather, there is a range of authoritarian regimes, dictatorships, and varieties of Fascist state, just as there are stronger and weaker democracies—and waxing and waning democracies. There are many shades of gray on the spectrum from an open to a closed society.

Totalitarianism, of course, is the blackest state. Mussolini adopted the term *totalitarian* to describe his own regime.<sup>1</sup> Political philosopher Hannah Arendt writes of the post-World War I era and the "undermining of parliamentary government," succeeded by "all sorts of new tyrannies, Fascist and semi-Fascist, one-party and military dictatorships," and culminating at last in "the seemingly firm establishment of totalitarian governments resting on mass support" in Russia and in Germany.

Arendt sees Germany and Italy as variations on the same model of totalitarianism. She defines *totalitarianism* as a mass movement with a leadership that requires "total domination of the individual." A totalitarian leader, in her view, faces no opposition—it has gone quiet—and he can unleash terror without himself being afraid.<sup>2</sup>

*Fascism* is a word on whose definition political scientists (and even fascists themselves) do not entirely agree. Though Mussolini coined this term (from the dual rods, or *fasces*, carried by officials in ancient Rome), some Nazis did not see the Italians as being tough enough to qualify as true fascists. Umberto Eco wrote of latter-day “Ur-Fascists” and other critics have described “neo-Fascists” or “subfascists” when they refer to more recent violent dictatorships that use state terror and other kinds of control to subordinate the population and crush democratic impulses—notably in Latin America.<sup>3</sup> The *Columbia Encyclopedia* defines fascism as a “philosophy of government that glorifies the state and nation and assigns to the state control over every aspect of national life. . . . Its essentially vague and emotional nature facilitates the development of unique national varieties, whose leaders often deny indignantly that they are fascists at all.”<sup>4</sup>

Throughout this letter of warning, I will use the term *fascist shift*. It is a wording that describes a process. Both Italian and German fascisms came to power legally and incrementally in functioning democracies; both used legislation, cultural pressure, and baseless imprisonment and torture to progressively consolidate power. Both directed state terror to subordinate and control the individual, whether the individual supported the regime inwardly or not. Both were rabidly antidemocratic, not as a side sentiment but as the basis of their ideologies; and yet both aggressively used the law to pervert and subvert the law.

This process is what I mean when I refer to “fascist shift.” Two aspects of most definitions of fascism are relevant here: *Fascist* refers to a militaristic system that is opposed to democracy and seeks, ideologically and practically, to crush it. And fascism uses state terror against the individual to do this. When I talk about a “fascist shift” in America, I am talking about an antidemocratic ideology that uses the threat of violence against the individual to subdue the institutions of civil society so that they in turn can be subordinated to the power of the state.

This fascist shift has proven compact, effective, and exportable, long after these two regimes met their end in World War II. If it is too emotionally overwhelming to think of Italy and Germany, you can consider the more recent fates of Indonesia, Nicaragua, Chile, Uruguay, Paraguay, and Guatemala, all of which suffered widespread state terror and the activation of many of the ten steps that I describe as leaders sought to subdue the people. A fascist shift brings about a violent dictatorship in a context where democracy could have taken the nation toward freedom.

Some critics responding to an essay I wrote laying out the spine of this argument were more comfortable with the term *authoritarian* than with *fascist*. A number of U.S. writers have used “authoritarian” to describe the Bush administration. Authoritarian, in contrast—the term Joe Conason uses, for example, in his prescient book *It Can Happen Here*—means that one branch of government has seized power from the others.<sup>5</sup> (The *Concise Oxford Dictionary* defines it as “favouring, encouraging, or enforcing strict obedience to authority, as opposed to individual freedom. . . .”)<sup>6</sup> Conason’s argument is entirely right for where we are at this point: In July of 2007, America actually already *has* an executive who is disregarding the restraints of the two other branches of government.

But authoritarianism has many guises, and some are relatively livable for most people. For instance, you can have a military leadership in an authoritarian system, but you can have fairly independent courts and a fairly independent press. Indeed, people can see authoritarianism as rather attractive in what they understand to be a time of national emergency. Authoritarianism can be downright cozy compared to some alternatives. The grave danger in America is that events are not stopping here.

When I refer to other societies, I use the terms *totalitarianism*, *fascism*, and *authoritarianism* where they are appropriate.

State terror directed against the individual is the difference between a fairly stable American authoritarianism and the fascist shift I am writing to you about. Theorists such as Arendt and

Zbigniew Brzezinski saw top-down terror to be at the heart of both Nazi and Soviet regimes. They argue that it was the overwhelming power of the secret police agencies such as the Gestapo and the KGB that led to the fear that blanketed these societies.<sup>7</sup> More recent historians focus on how populations in fascist or totalitarian systems adapt to fear through complicity: In this view, when a minority of citizens is terrorized and persecuted, a majority live out fairly normal lives by stifling dissent within themselves and going along quietly with the state's acts of violent repression. The authors of an oral history of Nazi Germany point out that, though it may sound shocking, fascist regimes can be "quite popular" for the people who are not being terrorized.<sup>8</sup>

Both perspectives are relevant here: Top-down edicts generate fear, but when citizens turn a blind eye to state-sanctioned atrocities committed against others, so long as they believe themselves to be safe, a fascist reality has fertile ground in which to take root.

#### AMERICAN FASCISM?

*When America gets fascism it will be called anti-fascism.*

ATTRIBUTED TO HUEY LONG

America has flirted with fascism before. In the 1920s, a number of newspaper editors in the United States were impressed with the way that fascism coordinated with capitalism.<sup>9</sup> In the 1930s, when Americans were suffering from economic depression and labor unrest, some U.S. leaders looked at the apparent order that Mussolini and Hitler had imposed on their own previously chaotic, desperate nations and wondered if a "strong man" approach would serve the nation better than our own battered system. As historian Myra MacPherson puts it, "In the thirties there was alarming support for Hitler [in America], with American-style brownshirts proliferating."<sup>10</sup> Nineteen-thirties American fascism boasted many followers, nationally known

demagogues, and even its own celebrities, such as aviator Charles Lindbergh, one of the most famous Americans of the day.

Some commentators of the era speculated that demagogues might spearhead an extreme patriotic movement such as those in Italy and Germany. In 1935, crusading journalist I. F. Stone compared Huey Long's dismantling of democracy in Louisiana to Hitler's legislation dissolving local self-government.

In 1939 author James Wechsler wrote, "There was genuine fear that a fascist movement had finally taken root in New York," where reactionary hooligans were staging anti-Semitic street fights modeled on the German youth actions.<sup>11</sup> Other U.S. intellectuals thought the time was right to develop an American fascist mystique themselves and began to do so.

American interest in fascism was prevalent enough for popular writer Sinclair Lewis to satirize it in his 1935 classic, *It Can't Happen Here*. Lewis, as Conason eloquently notes, showed step by step the ways in which it—a fascist coup—*could* theoretically "happen here." Though many mocked Sinclair's premise in 1935, many others read his fable of warning and thought more seriously about the dangers that American fascism really represented. It was healthy for Americans at that time to imagine the worst that could unfold if the nation chose to follow the seductions of fascism any further.

## WHAT IS FREEDOM?

"It's a free country," any American child will say, a comfortable assurance that this same American carries as he or she grows up. We scarcely consider that that sentence descends to that child from arguments for liberty that date back through generations of Enlightenment-era English and French philosophers, who were trying to work out what "a free country" could possibly look like—even as they themselves lived though or looked back on reigns of violently abusive and capricious monarchs.

We tend to think of American democracy as being somehow eternal, ever-renewable, and capable of withstanding all assaults. But the Founders would have thought we were dangerously naïve, not to mention lazy, in thinking of democracy in this way. This view—which we see as patriotic—is the very opposite of the view that they held. They would not have considered our attitude patriotic—or even American: The Founders thought, in contrast, that it was *tyranny* that was eternal, ever-renewable, and capable of withstanding all assaults, whereas *democracy* was difficult, personally exacting, and vanishingly fragile. The Founders did not see Americans as being special in any way: They saw America—that is, the process of liberty—as special.

In fact, the men who risked hanging to found our nation, and the women who risked their own lives to support this experiment in freedom and who did what they could to advance it, were terrified of exactly what we call dictatorship. They called it “tyranny” or “despotism.” It was the specter at their backs—and they all knew it—as Americans debated the Constitution and argued about the shape of the Bill of Rights.

The framing of the documents upon which the new national government rested did not take place as we were taught it did—in a sunny glow of confident assertiveness about freedom. That scenario is a Hallmark-card rewrite of the real mood of the era and the tenor that surrounded the discussions of the day. The mood as early Americans debated the proposed Constitution and the Bill of Rights was, rather, one of grave apprehension.

For the Founders shared with the rest of the people awaiting the outcome of their labors a dread of what nearly all of them—Federalist or anti-Federalist—saw as the real prospect of a tyrannical force rising up in America. This repressive force could take many forms: the form of a rapacious Congress oppressing the people; the form of an out-of-control executive; or even the form of the people themselves, cruelly oppressing a minority.<sup>12</sup> The Constitution and the Bill of Rights were set forth not as a flag flying

merrily but as a bulwark: a set of barriers against what the Founders and their fellow countrymen and women saw as people's natural tendency to oppress others if their power is unchecked.

What recurred regularly in various arguments as the Constitution and the Bill of Rights took shape was the widespread fear of an unchecked executive.<sup>13</sup> It's not surprising that these patriots would so deeply fear a single man invested with too much power. They had just freed themselves from being subjugated to George III, an abusive, not to mention mentally ill, monarch.

The Founders had fled repressive societies themselves, or were children or grandchildren of those who had done so. The North American colonies were settled by people—Puritans, Quakers and others—who had fled countries in which they had been imprisoned and even tortured for such acts as assembling in groups to pray; or for attending certain churches; or for publishing pamphlets critical of the king or of Parliament. The Founders knew from their own experience how the Crown treated those who talked about democracy (that is, “sedition”). They knew about criminalized speech, arbitrary arrest, and even show trials. They had personally to reckon with the risk of state-sanctioned torture and murder: Each of the men who signed the Declaration of Independence could have been hanged if the colonies had lost the Revolutionary War.

When Thomas Paine wrote *Common Sense*, the little book that helped start the big revolution, he risked being hanged by the British Crown for treason. Indeed, the Crown did charge Paine with sedition for having written another book, *The Rights of Man*. He was tried by a jury hand-chosen by the government that he had attacked—a jury sure to condemn him. The proceedings were a mockery of the rule of law. In spite of his lawyer's brilliant defense, as one witness put it, “the venal jury . . . without waiting for any answer, or any summing up by the Judge, pronounced [Paine] guilty. Such an instance of infernal corruption is scarcely upon record.” Paine's publisher was dragged off to prison in chains.<sup>14</sup>

Arbitrary arrest, state intimidation, and torture were the tactics

of the tyrannical monarchs of eighteenth-century Europe—tactics that the Founders sought to banish from American soil forever. The Founders’ rebellion on this continent intended systematically to open a nation up to freedom—meaning, fundamentally, freedom from these evils.

In colleges with progressive curricula, the Founders are often portrayed as “dead white men,” whose vision was imperfect, who denied women and the poor civil rights, and who defined an African slave in America as being three-fifths of a person; old guys in wigs who wrote documents that are now dusty in language that seems to us to be either arcane or to offer sentiments that are so obvious now they have become clichés (“. . . life, liberty, and the pursuit of happiness . . .”).

Here’s what we’re not taught: Those words at the time they were written were blazingly, electrifyingly subversive. If you understand them truly now, they still are. These men and the women who supported their work were walking further out into the unknown—betting on ordinary people’s capacities—than anyone had ever walked in the history of the human race. You are not taught—and it is a disgrace that you aren’t—that these men and women were radicals for liberty; that they had a vision of equality that was a slap in the face of what the rest of their world understood to be the unchanging, God-given order of nations; and that they were willing to die to make that desperate vision into a reality for people like us, whom they would never live to see.

You weren’t taught that the way they brought the freest nation in the world into being was by reading passionately about fledgling democracies of the past; by positioning their imaginations directly against the violent repressions they had fled; and by carefully, delicately crafting a mechanism of checks and balances, and a bill of rights, that would protect these extreme manifestations of freedom. The Founders set out to prove that ordinary people could be entrusted with governing themselves in a state where no one could arbitrarily arrest them, lock them up, or torture them.

Living against the backdrop of violent repression, these men and women saw the democracy they were seeking to establish, and the checks and balances that protected it, as being in need of continual rededication against potential tyrants *in America* who would want to subjugate *Americans*.

Thomas Jefferson's initial reaction to the proposed Constitution was negative, for, as he wrote to James Madison, he feared the possibility of the rise of an American tyrant: ". . . Roman emperors, popes, German emperors, deys of the Ottoman dependencies, and Polish kings—all were elective in some sense." Indeed, historian Bernard Bailyn sees that "[T]he fear of power—the very heart of the original Revolutionary ideology—was an animating spirit behind all of [Jefferson's] thinking."<sup>15</sup>

Jefferson wasn't alone in the Revolutionary generation in fearing an American despot. After the publication of the proposed Constitution in 1787, critics shared his apprehension. They feared a president's treaty-making power, because they were worried he might make deals in secret. They worried about his power to make certain decisions without a two-thirds majority, because they feared he might do anything he wanted with that power. They argued that an American executive would not be immune to despotic temptations, just as an unchecked Congress would not be immune.<sup>16</sup>

The authors of *The Federalist Papers*—Alexander Hamilton, James Madison, and John Jay—wrote that series of essays to help reassure their fellow Americans. They did so by explaining that the complex web of tensions they were proposing—these "checks and balances"—would prevent a person or a group united in "a common interest or passion" from depriving others of their rights. Hamilton, Madison, and Jay did not think that this web was self-sustaining. They thought that the delicate mechanism of the interdependent executive, legislative, and judiciary branches was only as reliable as the character of the people who were either protecting or abandoning it. They saw all people as corruptible and so set up the system to keep *anyone* from having unconfined power.<sup>17</sup>

It was a truism to the Revolutionary generation that if the fragile mechanism became unbalanced, American leaders too—*of course*—would revert to brutality. We are so removed from the tyranny that the nation's first patriots experienced personally that we have not only forgotten this crucial insight, we have even forgotten to consider how obvious it was to the fathers and mothers of our country.

The Founders never expected us to fall asleep or get lazy. They counted on us to keep the web of the precious system intact so that an American despot could never arise. They trusted us to cherish liberty as they did.

The price of liberty, the generation that debated and created the Constitution understood, is eternal vigilance.

#### THE STRENGTH AND EASE OF DICTATORSHIP

There is also a reverse process that systematically closes down freedom.

Many Americans have an impressionistic sense that Mussolini and Hitler came to power through violence alone. But each came to power legally in a working democracy; each made use of the parliamentary system itself to subvert and reorder the rule of law; and each then, quickly, *legally* aggregated state power overwhelmingly in his own person. Both leaders were supported by sophisticated intellectuals and political theorists who made the case to the people that democratic processes weakened the nation in a time of crisis.

All dictators invoke an external threat; develop a paramilitary force; create a secret prison system; surveil ordinary citizens; arbitrarily detain and release them; harass citizens' groups; target writers, entertainers, and other key individuals for dissenting; intimidate the press; recast dissent as "treason" and criticism as "espionage"; and eventually subvert the rule of law.

Unfortunately, while it is very difficult to sustain an open society, history shows that it is fairly simple to close one down.

The same ten steps have shut down democracies all over the world at many different times. And these steps are no secret: After all, Mussolini studied Lenin;<sup>18</sup> Hitler studied Mussolini;<sup>19</sup> Stalin studied Hitler;<sup>20</sup> Chinese communist leaders studied Stalin; and so on. Indeed the United States has helped develop a training center, the School of the Americas (now renamed the Western Hemisphere Institute for Security Cooperation), to train various procapitalist Latin American leaders in the theory and practice of violent dictatorship.<sup>21</sup>

Is the United States in 2007 parallel to Italy in 1922, Germany in 1933, Czechoslovakia in 1968, Chile in 1973, or China in 1989? No. But over the past six years we have been watching the United States move closer to becoming a more closed society.

#### THE APPEARANCE OF NORMALCY IN AN EARLY FASCIST SHIFT

It's easy to look around at America in 2007 and choose to believe that this warning is overheated: After all, we are for the most part doing what we have routinely done. We are going online into a vibrant Internet world; clicking through hundreds of TV channels; enjoying Hollywood films; reading best sellers that present views across the political spectrum. The courts are ruling, newspapers are publishing exposés, protest marches are being planned about the war; a presidential race is underway.

But there are plenty of examples of a shift into a dictatorial reality in which, for several years, while the basic institutions of freedom are targeted and rights are eroding, daily life still looks very normal—even, for many people, pleasant.

Americans tend to think of the shift to fascism in scary set pieces: the boots on the stairs, the knock in the middle of the night, the marching columns, the massive banners waving over city streets; a Leni Riefenstahl film all the time or an unrelieved scene of citizen

terror with crematoria smoking in the distance. We are so used to seeing depictions of the most sensational aspects of totalitarian societies—the gulag, the death camps—that we don't pay much attention to the fact that there is often an incremental process that led those societies to become places where such things could happen.

The view that fascism looks from the start like a nationwide prison camp rather than a fairly normal society can be comforting when facing an argument like mine. It's natural to wish that the two realities were so categorically different that, of course, "It couldn't happen here."

But as would-be dictators consolidate power, if they are training their sights on a democracy, things proceed fairly routinely in many areas in the earliest years. In the beginning, the horror, as W. H. Auden put it, is usually elsewhere, taking place while other people are going about their normal daily round. Peasants in Italy celebrated their harvest festivals in 1919 in Naples when Mussolini's *arditi* were beating bloody the local communists in Milan.<sup>22</sup> Journalist Joseph Roth, the star columnist for the *Frankfurter Zeitung*, filed glitzy reports on urban style and nightlife, on architecture and the avant-garde; he and his colleagues dwelt on the latest fashions and described the trendiest watering holes. As Roth rebutted rising anti-Semitism in print, Hitler was consolidating power around himself.<sup>23</sup> Victor Klemperer, a Jewish professor of French literature who kept a diary throughout the rise and fall of the Third Reich, cared for his garden, did repairs on his car, chatted with his Nazi neighbors, went to the movies with his wife, even as he became increasingly aware of persecution, arrests, theft of property, and new discriminatory laws; even as he was certain of an inevitable catastrophe.<sup>24</sup> That's what people do.

The neon lights were flashing outside nightclubs in Vienna right through the *Anschluss*. British travelogues for Italy and Germany from the 1930s depict jolly fascists sharing a nice Marsala with the writers in an *osteria*. More recently, the day after the 2006 military coup in Thailand, tourists were posing for snapshots next to armed

guards; sunbathers were still at the beach.<sup>25</sup> Most of the tourists didn't bother to go home even after martial law was declared. Such scenes show that contemporaries often experience a brighter picture of what is going on than what the history to be written in the future will reveal. It's as if societies continue to party upstairs while the foundations of the house crumble beneath them.

At first, Nazi Germany would not have looked, on the surface, so unrecognizable to us: Germans still, for a time, saw an independent judiciary; lawyers—even human rights lawyers; working journalists—even political satirists; criticism of Nazis in cabarets and theatre; and professors still teaching critical thinking. There were hundreds of newspapers of all political colors; there were feminist organizations, abortion rights activists, sex education institutes, even gay rights organizations. These kinds of civil society organizations would become “coordinated” with Nazi ideology or simply disemboweled—but as the shift was first taking place, things looked in many ways, superficially, like an open modern society.<sup>26</sup>

Even later in the game, violent dictatorships keep many of the trappings of a civil society. It is a point of pride to do so. What they do not have—and everyone who works in the press, the judiciary, the universities, the theater, the electoral system, and so on understands the rules about this—is freedom.

Americans don't get this at all, but other countries who have experienced dictatorships either near them or over them do get it: Journalists in Brazil and Argentina know exactly what the difference is between publishing a newspaper in freedom and publishing the same newspaper while looking over one's shoulder. The fact that we are unaware that a dictatorship can be incremental leaves us terribly vulnerable right now. Even educated American people think that if the press is publishing and Congress is legislating, all is well; but those things are often still happening right up to the point of no return in a closing democracy—and they keep happening, in neutered form, even after a violent dictatorship has been established.

A shift toward violent dictatorship does not need to look like people being fed into ovens; historically, it looked like that exactly once, and that was less than a decade after the Nazis gained power. A violent dictatorship almost never looks like that. At first, it can simply look like people weighing their words. At its turning point, it can simply look like a high-profile arrest for “treason” or a handful of arrests for “espionage”—even as tourists still flock to monuments and celebrities are still being photographed at clubs.

We are not in danger of a military coup. But homegrown American versions of the same steps that all dictators have advanced may yet create an America in which all our institutions are intact—but functioning weakly; in which citizens have in theory the right to dissent, and some may do so mutedly, but most are afraid to exercise that right robustly; in which the press is subdued, the opposition is pulling its punches, and people are worried about expressing their true opinions because it may cost them their jobs, or worse. This would not be Munich in 1938, but it would be an America with another kind of culture than the one we have taken as our birthright: a culture in which the pendulum still exists, but the people’s will cannot move it more than slightly.

We still have time to turn back the tide. What we do not have is leisure. Movements of citizens on the left and right have both begun to build what is essentially a democracy movement in America: The American Freedom Agenda and the American Freedom Campaign are trying to awaken the nation to these dangers and turn citizens into those leading the charge to defend the nation. The AFA created a legislative package to repeal or modify restrictive laws and restore liberty. We must roll back the laws that are associated with the opening of the door into darkness.

If we fail to act, we could face an America in which we still have Friday night football games and Fourth of July fireworks, Wal-Mart and the Food Network and the Statue of Liberty—but an America in which people who publish classified documents might go to jail, and people who go to jail might not come out the same; an America

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with the same TV shows and video games and even the same schedule of elections—but one in which you can lose your job if you say to a colleague that you voted against the grain; an America that looks much the same on the surface—but in which we no longer have real freedom.

It could easily become an America that is quieter and more frightened. And a quiet, frightened American citizenry does mean the end of the America the Founders created.

For a little while, we still have the power to stop that from happening.