



Awakening the Sleeping Giant

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As Americans head off to Independence Day celebrations, it is hard to ignore that the United States, like much of the world, is experiencing significant upheaval when it comes to the Rule of Law, and the norms, principles, and values that underlie it

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All is not well in the Union, such that developments that a couple years ago would have been unthinkable now appear on the front pages of American newspapers almost daily.

Despite this fact, and the challenges posed to some of the most bedrock principles upon which our Republic was founded - that the governance of the human endeavor should be on the basis of laws not of men - many Americans seem generally unperturbed.

The bill of particulars with regard to affronts to the rule of law is significant and encompasses actions from across the political spectrum. It includes the politicization, and at times denigration, of our justice system, from the FBI and the Department of Justice to the judiciary and even individual judges. It includes sustained attacks on our constitutionally protected free press. It includes concerted efforts to blur the distinction between fact and falsehood. With increasing frequency, powers of the state - which the founders wisely distributed amongst three co-equal branches of government - are being misused and abused, often in the service of the political or personal objectives of some of our elected leaders.

It does not feel much like the United States, this ill-fitting approach to governance we are trying on. It does not feel like the United States because it is contrary to the principles and governing ideals that were the basis of our declaration of independence and joining together as a country in the first place.

Nevertheless, the so-called "sleeping giant" of the American public has yet to be roused to defend one of our culture's greatest creations and contributions to the world, our rule of law and the system of democratic governance it underpins.

The erosions to the rule of law we are experiencing raise deeply concerning threats to our society in their own right, so much so that we must consider what it will take to invigorate the populace to defend and restore our constitutional values, notwithstanding our dissatisfactions. Must we experience a catalytic event that would galvanize public opinion to defend the rule of law and provoke change? One would hope not, but somehow we must avert the risk of becoming accustomed to a very different, starkly hollowed out vision of governance in our country.

During the Watergate era, actions taken by elected officials that served to undermine the rule of law left a majority of Americans indifferent for quite some time. While efforts taken by the Nixon administration to undermine the Watergate investigation deeply disturbed some Americans, most citizens remained uninterested. Indeed, President Nixon was reelected by a landslide less than six months after Bob Woodward began reporting on the Watergate arrests in the Washington Post.

It wasn't until the "Saturday Night Massacre" - when Nixon ordered his Attorney General to fire the Special Prosecutor

investigating Watergate, only to have him and his successor resign in protest before the third-in-line ultimately complied - that the sleeping giant finally awoke. This led not only to Nixon's impeachment, but, more importantly, to considerable governing and legislative reforms that helped to strengthen the rule of law in the United States, including changes to ethics rules, imposition of financial disclosure requirements on elected officials, limits on political contributions, and passage of a new special prosecutor law in direct response to the firing of Archibald Cox. These ultimately served to invigorate democratic governance and the constitutional order in the United States.

In the present moment, what will it take to awaken the sleeping giant? If we wish to avoid reliving the traumatic political convulsions of the Watergate era, we must awaken people to the consequences for our country if the steady erosion of the rule of law currently taking place continues for years to come. On this Independence Day, we must hope that Americans of all political persuasions will stand up in defense of our most basic values, and call for the re-invigoration of the rule of law in the United States. Absent this, we may very well wake up several years from now and wonder what happened to our country.

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