Dialogue, Respect, and Inclusion: What Moses Seixas and George Washington Can Teach Us Today

Martha Minow¹

Sadly, the annual reading of President George Washington’s letter to the Hebrew Congregation in Newport is vital at this moment. The whole nation, including the current President, the holder of our public trust, needs to remember and reclaim the founders’ vigilance against bigotry. A bigot, says the dictionary, is “one who regards or treats the members of a group (such as a racial or ethnic group) with hatred and intolerance.”²

A week ago, the march of white supremacists in Charlottesville, Virginia, erupted in violence, and the car terrorism killing one and injuring 19 others. Thankfully, next came explicit condemnation of the white nationalists, Ku Klux Klan, and Neo-Nazis by leaders across the political spectrum, including the Vice-President, and the President’s daughter-advisor, but not from President Trump, who instead offered general condemnation of bigotry “on all sides.” Mayor Michael Signer of Charlottesville criticized this false equivalence of white supremacists and largely peaceful counterprotesters, and stressed the encouragement and affiliation of white supremacists by members of President Trump’s team. After public demands, two days later, President Trump condemned “racist violence.” But then he recanted, to the dismay of business, military, and civic leaders, and the celebration of white supremacists.

¹ Carter Professor of General Jurisprudence, Harvard Law School.
So I don’t know about you, but I am especially grateful for this day and truly honored to share this meaningful ritual for all who care about religious liberty, democracy, and the relationships between elected officials and the community. I am honored to be invited, especially, to follow last year’s speaker, my friend Wesley Fastiff, who sadly passed away this summer. Leave it to Wes to find a brilliant, fresh reading of the letter. I don’t think anyone else has ever before commented on Washington’s reference to useful vocations and the happiness they provide as one of the liberties to be cherished. Wes was a great reader, and great lawyer, building one of the best employment law firms in the world.3

Another recent speaker, my former student and former boss, Justice Elena Kagan, drew on her remarks here in 2013 in her eloquent dissent when the Supreme Court permitted the town of Greece, N.Y. to begin legislative sessions with sectarian prayers. She argued that this practice violated the Establishment Clause of the First Amendment, and Justice Kagan noted how George Washington traveled to Newport, Rhode Island, in 1790, which she described as “a longtime bastion of religious liberty and the home of one of the first communities of American Jews.” She commended the exchange between Washington and Moses Mendes Seixas [SAYSHUS], one of that congregation’s lay officials for conveying “the promise this country makes to members of every religion.”

We here know that Seixas wrote first, welcoming Washington to Newport and expressing thanks for the new American Government. It was Seixas who first wrote of this Government, which to

3 Regards to his daughter Pam and all who mourn the loss of this great man.
bigotry gives no sanction, to persecution no assistance -- but generously affording to all liberty of conscience, and immunities of Citizenship: deeming every one, of whatever Nation, tongue, or language, equal parts of the great governmental Machine.’ Unprecedented was this government that, beyond not aiding persecution, granted ‘immunities of citizenship’ to the Christian and the Jew alike, and makes them ‘equal parts’ of the whole country.⁴

Washington embraced, word for word, Seixas’s phrase about neither sanctioning bigotry nor assisting persecution.⁵ Washington went further. His reply stressed that the liberty and

---


⁵Her dissent continues: “But he no less embraced the point Seixas had made about equality of citizenship. “It is now no more,” Washington said, “that toleration is spoken of, as if it was by the indulgence of one class of people” to another, lesser one. For “[a]ll possess alike . . . immunities of citizenship.” Letter to Newport Hebrew Congregation (Aug. 18, 1790), in 6 PGW 285. That is America’s promise in the First Amendment: full and equal membership in the polity for members of every religious group, assuming only that they, like anyone “who live[s] under [the Government’s] protection[,] should demean themselves as good citizens.” *Ibid.*

“For me, that remarkable guarantee means at least this much: When the citizens of this country approach their government, they do so only as Americans, not as members of one faith or another. And that means that even in a partly legislative body, they should not confront government-sponsored worship that divides them along religious lines. I believe, for all the reasons I have given, that the Town of Greece betrayed that promise. I therefore respectfully dissent from the Court's decision.” [https://www.law.cornell.edu/supct/pdf/12-696.pdf](https://www.law.cornell.edu/supct/pdf/12-696.pdf); Town of Greece v. Galloway, 572 U.S. --- (2014)(Kagan, J., dissenting).
immunities of Citizenship apply to members of the Jewish community not due to the generosity of others, but as a matter of right ensured to all.\textsuperscript{6}

That these ideas arose in dialogue between the President of the United States and members of the community is especially noteworthy. Others wrote Washington; indeed, Jews of Savannah, New York, Philadelphia, Charleston, and Richmond wrote Washington even before Seixas wrote.\textsuperscript{7} But it was the letter from Rhode Island that prompted the presidential response. That’s when the states were deciding whether or not to replace the Articles of Confederation with the Constitution. Rhode Island was a hold-out. Even after enough states ratified to bind the non-ratifying states. Washington wanted all the states to approve, to help all feel part of the experiment and to make it legitimate. Washington made clear he would not visit Rhode Island until it ratified. As if in dialogue with him, Rhode Island ratified the Constitution in May of 1790—before passage of the Bill of Rights and guarantee of freedom of religion—and then the President agreed to come visit.\textsuperscript{8}

The ceremony to greet the President included statements from dignitaries representing the town, the Christian clergy, the Masonic order, and the Hebrew Congregation. Seixas, a civic leader and an organizer of the Bank of Rhode Island, actually played double duty, providing welcome

\textsuperscript{6} Id. See also Jonathan D. Sarna, George Washington’s Correspondence with the Jews of Newport, in Adam Strom, Dan Eshet, and Michael Feldberg, eds., Washington’s Rebuke to Bigotry: Reflections on Our First President’s Famous 1790 Letter to the Hebrew Congregation in Newport, Rhode Island 73, 76 (Facing History and Ourselves 2015).

\textsuperscript{7} Sarna, supra, at 74.

\textsuperscript{8} Id.
messages as both president of the Jewish congregation and as grand master of Rhode Island’s Masonic order.  

There was no other nation at that time where Jews could speak and be greeted as “fellow citizens.” To assemble, to speak, to be heard, and to be engaged with: these were and are crucial elements of membership in a democracy. Washington’s reply and visit demonstrated how much he understood the mutual need of elected officials and citizens. Even if technically, Washington did not need Rhode Island, symbolically and over time he knew that participation by all mattered. And while the eloquence and modes of communication (face-to-face, and handwritten letters) may change, the kind of respect shown between George Washington and Moses Seixas offers an example particularly instructive right now.

It’s not that we have any shortage of ways to connect as community members with officials. Now we have not only assemblies, marches, and written letters, we also have telephone, email, Twitter, Instagram, and YouTube. So-called “Smart Cities” use digital and hi-tech solutions letting officials see how residents travel, use energy, and identify priorities—and assemble data and metrics to aid accountability to the community. “Predictive analytics”—a fancy phrase for data and sleuthing—help identify restaurants’ health hazards and risks of fires. Sensors in water

__________

9 Id., at 75.
10 Id.
11 See http://smartcitiescouncil.com/article/about-us-global
pipes, asthma inhalers, and parking meters inform city leaders of problems; smart-phones enable residents to marshal data on neighborhood blight, environmental harms, and police brutality.\textsuperscript{13} Some of these developments raise new risks to personal privacy. Some may promote passivity rather than active engagement by citizens. Some raise new questions about the reach of the First Amendment. Although the Internet and social media as private entities have seemed outside the First Amendment, a public official who tried to block a particular user from accessing her Facebook page violated the free speech requirement, as a federal judge in Virginia ruled earlier this year?\textsuperscript{14} But the combination of the First Amendment and the new tools for two-way and multiple-way communication may actually make democracy—self-government—more possible now than ever before.

And yet, and yet. Abetted by the possibilities of anonymity and the audacity of crowds, new communication technologies permit and spread demeaning, abusive, and hateful messages. Some are spurred by the promise of money, linked to numbers of viewers, who engage in electronic rubber-necking or dare-you-to-be-outrageous games.\textsuperscript{15} Sometimes the abuse is a


response to perceived slights or wrongs, reflecting the escalation of tit-for-tat abusiveness.¹⁶

Sometimes the abusive or hateful communication is produced by private individuals, sometimes by public officials.

Here, once again, George Washington’s letter offers an important message. Echoing Moses Seixas, Washington wrote: “For happily the Government of the United States gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support.”¹⁷ The government should give no support to intolerant opinions and prejudices, especially toward a group lacking power; in return, those protected by the government should conduct ourselves as good citizens.

In 2017, neither the government nor the people live up to this standard. Do we need new rules to help? New resolve? I think we each could take steps to stand up against hatred and abuse, while ensuring room for debate and disagreement among members of the community and with our officials.

---


¹⁷ Emphasis added.
Free speech does not mean freedom from accountability. This week, we have seen how face-recognition enables for those who disagree with the Charlottesville white nationalist marchers to respond. Free speech does not mean anything goes; it limits what governments can curb private speech, but consequences from other speakers, from employers, from peer pressure, these are all possible.  

Response is required in the face of bigotry. We know the word, “bystander,” which means a person who is near but does not take part in what is happening. Yet we lack a word, at least in English, for its opposite. Actually, a new word has been invented. “Upstander” is the word; it does not yet seem to have translations in other languages. I first heard it from Samantha Power, who was at the time a human rights advocate and scholar, before she assumed (until this past January) the role as U.S. Ambassador to the United Nations. The term, “upstander” gives recognition and approval to people who stand up for their beliefs, even if they are alone; it means not being a bystander. Two students recently petitioned the Oxford English Dictionary to include the word. Perhaps by naming it, the concept can become a practice. In the United

---

18 The Internet is private, and its uses depend on what providers demand, and what consumers and users ask for and monitor.


20 Other words identify overlapping concepts. For example, “activist” identifies advocates for a cause; heroes display courage in the face of adversity; whistle-blowers expose secret misconduct; rescuers come to the aid of individuals in danger. None of these words though specifically identifies rejecting the temptations of silently observing oppression and maltreatment of others.

21 See New Jersey Students Petition to Add “Upstander” to Oxford English Dictionary, FACING HISTORY AND OURSELVES (Nov. 11, 2014), https://www.facinghistory.org/get-to-know-us/news/new-jersey-students-petition-add-upstander-oxford-english-dictionary (“Two Facing History and Ourselves alumnae Monica Mahal and Sarah Decker are petitioning the Oxford University Press to add the word “upstander” to its English dictionary. The word “upstander” is a term frequently used in Facing History resources and classrooms to describe people that take action on behalf of others – the opposite of the more commonly-used bystander, which is included in the dictionary.”).
States, the word has been embraced by those campaigning against domestic violence and against bullying children as well as human rights advocates.  

An upstander may speak out publicly against bigotry and injustice. An upstander may be a whistle-blower, exposing wrongdoing in the hope of stopping it. An upstander may resist the temptations of silence with support given directly to victims of bigotry and injustice. Over 24,000 individuals assisted Jews during the Second World War. Whether aspeaking out publicly or may instead engaging in secret resistance, upstanders face danger. The danger may be disapproval by others; costs of time, money, and emotion; or even more dire risks to personal safety. And it is of course easier to be passive, to feel overwhelmed, fearful, or to be in denial about the risks to us all from the abuse leveled against others.

The challenges of citizenship include not just developing ideas but also developing practices—practices that make passivity no easier than taking action against hatred and violence. This means creating cultures and institutions to help individuals empathize with those who are oppressed. Pick your targets of abuse: Muslims, African-Americans, Trump-voters, people with

22 On domestic violence, see MAYOR’S FUND TO ADVANCE NEW YORK CITY, http://www.nyc.gov/html/fund/html/news/upstander.shtml (last visited Jan. 1, 2015) (“We all play a role in combatting intimate partner violence, and New York City is launching a campaign to ensure that no one is a bystander. The City of New York, the Office to Combat Domestic Violence (OCDV) and New Yorkers from all five boroughs are teaming up to put an end to intimate partner violence. Join them in being an #UpStander.”). On anti-bullying, see 10 Ways to Be an Upstander, BULLYBUST: PROMOTING A COMMUNITY OF UPSTANDERS, http://www.bullybust.org/students/upstander/ (last visited Jan. 1, 2015); Cheryl Jackson, The Rise of the Upstander, BULLYING EPIDEMIC: MAKE EVERY DAY BULLYING PREVENTION DAY (July 26, 2013), http://bullyingepidemic.com/upstanders. Holocaust education groups have started using the term. See, e.g., Upstanders, HOLOCAUST MEMORIAL RESOURCE & EDUCATION CENTER OF FLORIDA, http://www.holocaustedu.org/education/upstanders (last visited Jan. 1, 2015).
disabilities, colleges, experts, truck drivers, women, healthcare companies, immigrants, the elderly, Jews,… there are more than enough to go around.

That is why we each need to find ways to stand up, to speak out, and to engage with public officials, and with one another. We need to build practices to help individuals resist peer pressure to do nothing and to strengthen peer support for standing up against suffering and injustice. That includes demanding that our leaders do the same. We must address genuine fears, sources of denial, and feelings of being overwhelmed so often experienced by those who do nothing in the face of oppression. Standing up includes “liking” and praising those who stand up; it can include shunning those who engage in hate. The role of upstander should not be confined to remarkable heroes but taken up by responsible communities, resisting inaction and the assumption that these are other people’s problems.

Many gathered here today are Jewish. We remember the oppression of our people and celebrate the recognition of equal rights and protections manifest by Washington’s letter. Many here have other stories to tell about exclusion and discrimination. Commenting on Washington’s letter, American civic leader, Eboo Patel, a Muslim, powerfully noted, “Registering your story in the narrative of American discrimination offers opportunities for commiseration, but more importantly, it gives your community a dramatically expanded set of responsibilities. …. You quickly realize that other people’s struggles have secured your rights.” We each can secure the
rights of others. Indeed, that’s how rights work. As Walt Whitman wrote, “Whoever degrades another degrades me”.  

George Washington, flawed, slaveholder, control-freak, nonetheless was an upstander, and so was Moses Seixas. Let’s see how we each can engage in respectful discussion and stand up for the values exemplified in their exchange.

---

23 Eboo Patel, The Most American Thing You Can Do, in Adam Strom, Dan Eshet, and Michael Feldberg, eds., Washington’s Rebuke to Bigotry: Reflections on Our First President’s Famous 1790 Letter to the Hebrew Congregation in Newport, Rhode Island 199, 210 (Facing History and Ourselves 2015).