

DG McIntyre - Reflections on September 11, 2001

On this anniversary of 9-11-01, a day that is burned in my mind, a day that has brought about so much change in our beloved country, and around the world, I have been reflecting.

There are so many things about the United States that reflect the Zoroastrian principles that I love - the freedom to choose, the quest for truth and what is right, the rule of law (that no one is above the law) which reminds me of asha. The idea that we are all equal in the eyes of the law. The friendliness and generosity of neighbor helping neighbor. All very Zarathushtrian. All very American.

Has 9-11 changed us?

I miss the freedom from security concerns that we so enjoyed in the pre-9-11 days. Will we ever get back to them? I wonder. Thinking about it made me realize that our "enemies" (the terrorists and fanatics) have changed us by their actions, without our consent. How do we deal with that in a way that does not allow them to define us. Because if we allow them to define us, they will have won.

To me, the rule of law is very dear. In the Middle Ages, in Europe, Kings could do whatever they wanted. They could do no "wrong" from a legal point of view. What they said and did, was the law, however unjust, and folks had no say about it.

Then came the Magna Carta. A document which the Barons in England made the King sign, which gave them certain basic rights, like the Writ of Habeas Corpus, whereby the Courts could require the King to produce someone he was holding in prison, so that the Courts could determine by what right the person was being imprisoned. Thus was established a break from the old way of thinking that the King was the law and could do what he wanted.

In about the 16th century, the people of England got the idea that they should be able to elect representatives who would have some authority to pass laws, mostly the right to tax, at that time - requiring a sharing of power between the king and a parliament of elected representatives.

In the reign of King James I, in England, a famous lawyer and counselor had the courage to articulate what the Magna Carta and the concept of an elected parliament had started -- the principle that the King was not above the law.

And in 1776 and the years following, the American Revolution took a chance on a great experiment - a constitutional form of government that was elected by the people. Not many folks are aware of it, but the Constitution gives the government specified limited powers, and reserves all other powers to the people. It also put in place a system of checks and balances, allocating governmental power between the Executive (President), the Legislature and the Judiciary -- each an independent branch of government -- and the nation adopted a Bill of Rights as an amendment to the Constitution, which guaranteed certain basic freedoms to individuals which could not be taken away by majority rule.

Our system of laws is not perfect, (what human endeavor is!) but the United States Constitution, and the Constitutions of the various states in the United States, established the principle that we are a nation of laws. That no person is above the law. And no person is outside the protection of the law.

In Nazi Germany, Jews were declared to be outside the protection of the law. They could not enforce leases. They could not enforce contracts. They could not enforce personal rights or property rights. They had no legal standing in the Courts. The Courts were closed to them. At first, the German Courts tried to maintain some degree of independence, and apply the law equally, but when the Gestapo started to "correct" the Court's decisions it had a very demoralizing effect on the Courts, until finally, in a case decided in 1936, the Reichsgericht, the highest German Court, (whose judges well may have been stacked by Hitler), refused to recognize the Jews living in Germany as "persons" in the legal sense. It held that only Aryans i.e. persons of German origin, and persons who by law were declared equal to them, could enjoy all legal rights and privileges. (See Fraenkel, The Dual State (1941), page 39, and pages 93 - 96).

I hope that we do not allow the terrorists to change the fact that we are a nation of laws. That no one is above the law and that no one is beyond the protection of the law. We need to balance legitimate and necessary security

interests in our fight against terrorism, with a commitment to preserve and protect the rule of law. For if we don't, the terrorists will surely have won.

But it isn't enough to protect and preserve the rule of law here in the United States. If we are ever to defeat terrorism, we need to think about how we can shrink their recruiting base. There is only one way in which I can think of doing that. With *asha* and *vohu mano* -- backed up with a lot of *xshathra*.

Every act of injustice that we subsidize is the best recruiting device that the terrorists have. We need to find ways to stop subsidizing injustice, and adopt policies that give people in the Middle East a chance to live good lives - raise children, earn livings, own homes, own businesses, enjoy recreations, have some say in the rules that govern their lives, give them an interest in preserving what they have, instead of blowing things up because they have nothing to lose.

I cannot think of a single major religion that does not have a fanatic element -- except Buddhism. Fanatics will always be with us. But at least we can use our minds and hearts to shrink their influence amongst average people. How do we do that if not by changing minds? by delivering what is wrong into the hands of what is right (as Zarathushtra said)? by promoting "what fits" (*asha*) with good thinking, good words and good actions?

The values that we cherish are not free. Each generation has its own challenges. Each generation has to win these values over and over, create them, and re-create them, with our (lawful) choices in thoughts, words and actions. Even the failure to choose is a choice.