

# THE DAILY ASTORIAN

Founded in 1873



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## OUR VIEW

# Small newspaper takes on bully in records fight

In an age of transparency the nexus of education, democracy and technology should be creating an environment in which public information is widely available.

But for some governmental entities, the age remains more opaque than transparent. As conspiracy theory websites grow in popularity and are given credence despite an absence of fact, traditional media is increasingly denied access to the hard data that reliable reports are based on. And sensing the upper hand, government has become more aggressive about shutting down public record releases and whistleblowers.

A perfect example of this obstructionist behavior by a governmental board came up in Eastern Oregon last week after a small weekly paper was denied public records and then faced a lawsuit from the board it had requested the records from. Fortunately, it ended this week in favor of the newspaper and the public, but it's a lesson in needed reform.

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The Malheur Enterprise, a weekly newspaper in Vale with a circulation of about 1,300, published a detailed report about a con man who avoided prison time by feigning insanity in a 1996 kidnapping case. The Oregon Psychiatric Security Review Board, a 10-member independent board that supervises people who have asserted “guilty except for insanity” defenses in criminal cases, discharged Anthony Montwheeler last year, even though medical officials said he was dangerous. Less than a month later he was accused of kidnapping and killing his ex-wife, fleeing police and crashing into a married couple on their way to work, killing the husband.

The newspaper’s in-depth story is the kind of reporting that brings real insight to the way the criminal justice system operates. It’s an incredible tale, one supported by facts and evidence, research and the reputation of those sourced by journalists.

What would have made the report more complete is documentation detailing Montwheeler’s mental evaluations — documents that were used as evidence at hearings of the Security Review Board. When the board refused to release the records to the Enterprise, the paper appealed the decision to Attorney General Ellen Rosenblum’s office, which ruled last month that the documents should be turned over.

The board had said it was worried that releasing medical records publicly would violate laws intended to protect patient privacy, and instead of complying, it sued the paper to keep the records secret. The board said it filed suit because the law required a state agency that has “legal concerns” about an AG’s public records order to sue the requester to get a judge’s opinion. To that end, the agency filed suit and hired a \$400-an-hour attorney on the taxpayers’ dime to argue the case in court.

Gov. Kate Brown intervened on Tuesday and called the circumstances “extraordinary.” She said the board agreed to drop the lawsuit and release the records immediately. “I believe the public is best served by bringing this matter to an end now, rather than after a lengthy and costly litigation,” Brown said.

Brown also said the situation showed where the state’s public records law needs improvement.

“This is plain wrong,” Brown said. “I have directed my staff to explore solutions that would provide for swift judicial resolution without filing a lawsuit against a requester.”

The specific records provision certainly needs changing as the case exemplifies, but the entire law should be subject to an overhaul that favors more transparency and openness.

The owners of the Enterprise, Scotta Callister and Les Zaitz, have deep backgrounds in rural journalism and weren’t intimidated by bureaucracy or obstinance. Zaitz, a former Oregonian reporter, says the paper received an outpouring of support from people “offended by the legal mismatch.”

Zaitz said the case underscored the importance of public access into what the government is doing. And he is hopeful it will cultivate an environment in which real reform is possible.

“We appreciate the governor sparing the taxpayers and our supporters a lengthy, costly legal battle,” Zaitz said. “This has always been a matter of holding the state accountable, not aimlessly wandering through private medical files.”



# In search of a good emperor

By ROSS DOUTHAT  
*New York Times News Service*

One of the hard truths of human affairs is that diversity and democracy do not go easily together. In the Middle East



today as in Europe’s not-so-distant past, the transition from authoritarianism to popular sovereignty seems to run through ethnic or religious purges. Worldwide, many of the models of successful democratic government are effectively ethno-states, built on past cleansings or partitions or splendid isolation. And in the West in recent years, both mass immigration and cultural fragmentation have brought authoritarian temptations back to life.

This pattern runs deep in our species’ history. A new paper from the economists Oded Galor and Marc Klemp finds a strong correlation between diversity and autocracy in pre-colonial societies, with a legacy that extends to today’s institutions as well. The authors suggest that authoritarianism emerges from both bottom-up and top-down pressures: A diverse society seeks strong central institutions for the sake of cohesion and productivity, and internal division, stratification and mistrust increase “the scope for domination” by powerful elites.

Here in the United States we like to think of ourselves as exceptions to this rule — and, notwithstanding the fate of the Native American tribes and the legacy of chattel slavery, we have been more successful at combining republican self-government with racial and religious diversity.

But at the same time we aren’t exactly governing ourselves via New England town meeting anymore. As America has become larger, more diverse and lately more fragmented, power has grown ever more centralized in Washington, and the face of that central government, the presidency, has accrued more and more authority. The caudillo-from-Queens style of Donald Trump is unique to the man himself, but it’s also an outgrowth of trends that go back generations. We still have republican forms in place, but we also have a kind of elected emperor who presides over our enduring color lines, our not-always-melted immigrants, our increasing mistrustful sects and tribes and classes.

The European Union doesn’t have so singular a leader, but its ruling class is in a similar situation — they’re the custodians of a diverse imperium, trying to preside over Greeks and Germans, Scandinavians and Sicilians, Christian natives and Muslim immigrants, while wielding powers that are at least one remove from democratic accountability.

This means that in understanding the challenge facing Western leadership, it’s worth pondering the ways in which the world’s authoritarian regimes interact with ethnic and religious diversity — exploiting it, managing it, or both.

In one common pattern, authoritarian rule evolves as a way for a majority or plurality group to hold power against the claims of diverse minorities, and to impose a kind of uniformity on weaker ethnic or religious groups. The Erdogan regime in Turkey and the Saudi monarchy’s Sunni authoritarianism offer obvious examples; so does the Han-Chinese chauvinism of the Chinese Politburo, the Orthodox-Christian Russian nationalism of Putin, and many more.

In another pattern, an authoritarian leader — sometimes from a minority



AP Photo/Andrew Harnik  
 President Donald Trump and Jordan’s King Abdullah II leave their news conference in the Rose Garden of the White House on Wednesday.

group himself — casts himself as a protector of diversity, promising to shield minorities who would be threatened should a majoritarian populism take power. This is the pattern of the Assad family’s rule in Syria, which has drawn support from its own Alawite sect as well as Syrian Christians and others fearful of what Sunni rule might mean for them. The Egyptian military regime, likewise, promises to protect urbanites and Coptic Christians from the Islamist order that democracy might usher in.

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These patterns have echoes in our own imperial — er, presidential politics. The coalition that Barack Obama built across two presidential elections united minority constituencies with the upper-class intelligentsia and promised to champion their diverse interests against the remains of the country’s white Christian heartland core. The Trump reaction was more Erdoganian or Putinesque, promising to protect a once-dominant majority, to restore its privileges and reverse its sense of cultural decline.

In Europe, meanwhile, the European Union often seems to be run for the benefit of Germans at the center and ethnic minorities at the periphery, favoring separatists and immigrants over old national majorities. The present populist surge is, in its turn, an attempt to establish a different dynamic between the Continent’s diverse factions, in which Germany has less power, more immigrants are turned away, and the old nations reassert themselves as centers of influence once more.

Neither continent is poised for a real slide into autocracy — I think! But on both, paradoxically, the cause of liberal order might be better served by leaders who took a slightly more imperial perspective — not in the

sense of imposing policy at sword point, but in the sense of realizing that their societies are so diverse as to require a more disinterested kind of vision from their rulers.

Such a disinterested ruler — a good emperor, let’s call him — would see a crucial part of his role as reassurance, recognizing that in a diverse, fragmented and distrustful landscape, any governing coalition is going to look dangerous to those who aren’t included in it. If he comes from a historically dominant group and speaks on their behalf, he needs to go out of his way to address the anxieties of minorities and newcomers. If he’s building a coalition of minority groups, he needs to reassure the former majority that the country of the future still has a place for them. Whatever the basis of his power, he needs to be constantly attuned to the ways that diversity, difference and distrust can make political conflict seem far more existential than it should.

Our last two chief executives recognized that they needed to make efforts along these lines, but with exceptions — George W. Bush after Sept. 11, Obama in his 2008 campaign — they were not particularly successful. In Obama’s case, his White House failed to grasp the feeling of abandonment and crisis in the white heartland, and the extent to which that feeling was creating a new identity-based voting bloc. He failed to grasp, too, how threatening the regulatory state’s enforcement of liberal sexual norms was to religious conservatives, how much it made them feel like strangers in their own country.

From that alienation and fear came Trump, who is barely even trying to reach out and reassure, to make his nationalism seem larger than just white identity politics, to make the groups who feel afraid of his administration sense that he has their anxieties in mind. There might be a form of nationalism that helps bind a diverse society together, but Trump’s seems more likely to bind a “real American” ex-majority in opposition to every other race and faith and group.

His eventual successor, liberal or conservative, should not seek to learn from Assad or Erdogan or Putin. But he (or she) might learn something from an earlier age’s custodians of diverse, fragmented societies — from monarchies like that of the Austrian Hapsburgs, in particular, that worked to contain and balance religious and ethnic divisions, to prevent disintegration and forestall totalitarianism, and might have succeeded longer absent the folly of 1914.

If we’re going to have an imperial presidency, we should want a president who thinks less like a party leader and more like a good emperor — who doesn’t just divide and conquer, but who tries to make all his empire’s many peoples feel like they’re safe and recognized and home.