

# EXPECTING LEGISLATORS TO LEAD THE RESISTANCE IS A CATEGORY ERROR

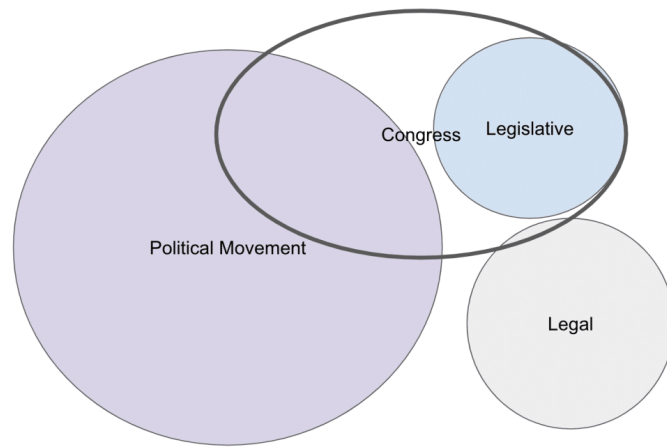
On podcasts and in this post, I've been trying to make a point about how you resist fascism.

Americans have at least three tools to resist fascism: legal, legislative, and via political movement. A great many people have conflated legislative opposition with movement opposition, and based on that conflation, assumed that Chuck Schumer and Hakeem Jeffries must be leaders of The Opposition.

But that's a category error.

While there are a lot of things Schumer, especially, could do better, you shouldn't *want* either Schumer or Jeffries to be the leader of the resistance. You shouldn't want that because the goals of the movement and of an opposition party in Congress are not the same. You shouldn't want that because having a Black guy and a Jew from New York leading your resistance will likely make it harder to do what you need to do, which is (in significant part) to build a political movement big enough to undermine if not overthrow fascism.

I'm sure I'll need to tweak this illustration and table, but here's how I think about it: Democrats in Congress are part of the political movement, but that is different than their legislative role.



	Legal	Legislative	Political Movement
Participants	Those with standing	Elected Representatives Constituents	Democrats Antifa Never Trumpers Independents Converts
Tactics	Lawsuits Criminal defense	Legislation Oversight Make news Midterms Impeachment	Protests Town halls Messaging Witness Mutual aid
Timing	Immediate	18 months	Three months
Possible outcome	Delay or reverse illegal actions	Impeach Trump	Oust Trump

Start from the end goal: according to a contested theory from Erica Chenoweth, if a popular nonviolent movement comes to incorporate 3.5% of the population, you can achieve political change. G. Elliott Morris estimates that around 4 to 6 million people participated in the No Kings protests, so about 1.4 to 1.8% of the population (but that's a one-time protest and you need to sustain such numbers). If you buy this theory, you need to at least double the popular opposition to Trump willing to take to the streets.

While it's possible you could get rid of Trump via other means (maybe right wingers get sick of him and support impeachment in two years; maybe a Democrat beats him or his chosen successor in 2028; maybe he dies a natural death and JD Vance takes over, with less charisma to get things done), doing so would not be enough to reverse a number of institutional things, starting with the right wing majority on SCOTUS, that serve to protect the trappings of Christian nationalism anyway.

To do a lot of things people rightly believe are necessary – such as holding the ICE goons

accountable – you'd need to do far more than just win an election, because unless something more happens, the goons will be protected by qualified immunity.

Now go back to how opposition to Trump's fascism has grown.

The first things that happened were lawsuits, a flood of them (which continue unabated). While Democratic-led states have brought a number of important lawsuits, members of Congress have little standing to do so. Unions have brought many key lawsuits, as have Democratic groups, as have other members of civil society, including the law firms and universities targeted. I keep noting that some of the key lawsuits challenging tariffs have come from Koch or CATO-aligned non-profits (and the Chamber just filed an amicus), a fact that may get them a more favorable hearing at SCOTUS.

The courts help to buy time. They can provide transparency otherwise unavailable. They force the Trump administration to go on the record, resulting in damaging contradictions. Trump has, thus far, selected his targets very poorly, and so his persecution has and will create some leaders or political martyrs.

But the courts will not save us.

The courts won't save us because, after some initial pushback on Stephen Miller's deportation gulag, SCOTUS seems to have fallen into line, repeatedly intervening to allow Trump to proceed with his damaging policies even as challenges continue. The courts won't save us because we fully expect SCOTUS to bless a lot of what Trump is doing, including firing everyone short of Jerome Powell.

Protests and loud opposition at town halls have been growing since the beginning. But these protests weren't affiliated with the Democratic Party. That's useful for several reasons. You're going to find it a lot quicker and easier to target a well-funded corporate entity like Tesla without such affiliation. And protests will be

more likely to attract defectors – former Republican voters or apolitical independents – in the numbers that would be necessary if they're not branded as Democratic entities.

Plus, movement activities include far more than protests, and there are a number of things being done by people who want no tie to the Democratic Party. Some of the smarter pushback to ICE in Los Angeles, for example, comes from Antifa activists who are far to the left of the Democratic Party and have been doing this work even under Democratic Administrations. Some of the witnessing of abuse of immigrants comes from the Catholic Church, and I would hope other faiths might join in. Some of the political activism is focused on particular interest groups, like Veterans or scientists, which don't and should not derive their energy from the party.

The political movement is and should remain a big tent because it affords more flexibility and provides more entrance points for people.

And so, even if Jeffries or Schumer were better at messaging, you wouldn't want them to lead it.

Which brings us to what we should expect from them. A lot of the hostility to both of them derives from the Continuing Resolution in March, in which Jeffries kept all but one (Jared Golden) of his members unified in opposition, but then Schumer flipflopped on whether to oppose cloture. In my experience, the vast majority of people who know they're supposed to be angry at Schumer for that don't know what the vote was, don't know the terms of government shutdown (for example, that Trump would get to decide who was expendable), and can't distinguish between the cloture vote and the final passage (in which just Angus King and Jeanne Shaheen voted to pass the bill). They sure as hell have not considered whether keeping the government open resulted in things – like the emergency filings that prevented wholesale use of Alien Enemies Act to deport Venezuelans to CECOT – that really were a net good, to say

nothing of Kilmar Abrego Garcia's challenge to his deportation.

The point being, much of the frustration with Jeffries and Schumer comes without a sophisticated understanding of their day job. For example, many people were complaining that Schumer was messaging about the Big Ugly bill when they wanted him to be messaging about immigration, and then, once *they* understood the import, started complaining that there hasn't been enough coverage of the healthcare cuts in the Big Ugly (in my opinion both he and lefty journalists should have been focusing on the dragnet funded by it, as both David Dayen and I did, and as other journalists are only belatedly doing). But they often ignored the efforts made to thwart the bill with Byrd Rule exclusions, which in some cases excluded really toxic things from the bill (like restrictions on judicial contempt).

Jeffries and Schumer will continue to disappoint people wanting them to lead the resistance, because to do their day job – to try to win majorities in 2026 so they can do more to hold Trump accountable and, in the interim, to try – however fruitlessly – to coax their Republican colleagues to stop rubber stamping Trump's authoritarianism, they have to do things like recruit challengers and help them raise money. There's a lot one can explain – such as why, in the wake of the crypto industry flooding the Sherrod Brown race with funding, too many Democrats would support a bill the crypto industry wants – without endorsing.

But there's a great deal that Jeffries or Schumer do that doesn't get seen; each week of the last five, for example, one of the people whining about one or both Minority Leaders non-stop has falsely claimed they hadn't done or said something they actually had; they were, in fact, whining because what Jeffries and Schumer did wasn't easy for them to see without their having to work for it. An expert on parliamentary procedure just showed that Dems

have made their colleagues work *far more* hours than in recent memory; Democrats have been using tools to stall, often with no notice, much less anyone mining their public comments for good attack footage.

More importantly, though, there's a great deal that other legislators are doing that serves both political and legislative opposition. Hearings with Trump's cabinet members, for example, are astounding, both in terms of content and conflict. While lefties don't understand the potential use of Congressional letters like right wingers do, some of the ones Democrats have sent lay necessary foundation for ongoing pressure on the Administration, whether on immigration or Epstein or DOD waste. I've seen multiple people assume that members of Congress only attempt to do oversight of ICE detention if they get arrested, but far more members have tried; I would like Democrats to have already sued regarding DHS' serial efforts to change the law on how they do that oversight, but I hope that will happen soon.

There's a great deal of content for adversarial messaging. The failure – and this is only partly a failure of Congress itself – is in doing that messaging, in using what is out there. If a Minority Leader said something powerful but pundits were too lazy to watch CSPAN, did it really happen?

Therein lies the rub – and the area where the complaints at least identify the correct problem (while often lacking the mirror necessary to identify the cure).

There is broad and growing opposition to Trump's actions. For privileged white people, at least, most still have courage to step up in both easy and more challenging ways. All around the country Americans are standing up for their migrant neighbors.

Leaders are stepping up to do the most powerful work, the political movement. And Leaders in Congress, as well as rank-and-file members, are

doing a lot that's getting ignored.

What is missing, in my opinion, is the kind of online messaging to make stuff resonate, yoked with an understanding of what Congress can and should do and what activists are better suited to do.

We – and I include myself in that we – are part of the problem.

What is missing is, to a large extent, the same thing that was missing last year, during the election, and was missing before that where Joe Biden's son was destroyed with no pushback. What is missing is a feedback mechanism that can mobilize shame and accountability, so all the outrage can have some effect, both political and electoral.