

The legacy of US Attorney General Eric Holder

Tom Carter**29 September 2014**

On Thursday, US Attorney General Eric Holder announced that he would resign from his post in the Obama administration after six years in office. His departure was greeted with a chorus of praise in the establishment media, in which he was acclaimed as a “defender of civil rights.”

Announcing Holder’s resignation, Obama said, “Through it all he’s shown a deep and abiding fidelity to one of our cherished ideals as a people, and that is equal justice under the law.” At a joint press conference to announce the resignation, Obama and Holder made repeated reference to the country’s founding documents, civil rights, equal justice and so forth.

The *New York Times* editorial board, which was likely notified in advance, immediately issued a statement praising “Eric Holder’s Legacy.” The newspaper wrote: “As the first African-American to serve as the nation’s top law enforcement official, Mr. Holder broke ground the moment he took office... Mr. Holder has continued to stake out strong and laudable legal positions on many of the most contested issues of our time.”

While conceding that Holder’s legacy was “marred” by the targeted killing of civilians, the failure to prosecute Wall Street criminals and other “failures to act,” the *Times* waxed lyrical about Holder’s accomplishments in the field of same-sex marriage, voting rights and criminal justice.

Similar praise for Holder echoed throughout the Democratic Party establishment and its supporters in the “civil rights” milieu. Al Sharpton declared, “No attorney general has demonstrated a civil rights record that is similar to Eric Holder’s.”

Calling Holder a “defender of civil rights” is like calling a rampaging bull a “defender of fine china.” During his six-year term, Holder, as the head of the Obama administration’s Department of Justice, has presided over the most comprehensive and aggressive trampling of democratic rights in US history, as well as the buildup of the infrastructure of a police state.

Holder’s real legacy includes, without making a complete list: providing pseudo-legal sanction for assassination of US

citizens, military commissions, and incommunicado detention; shielding war criminals, corporate criminals, and Bush-era officials from prosecution; persecuting whistleblowers and journalists; targeting protesters and antiwar activists under antiterror laws; asserting unlimited executive powers; justifying government secrecy; deporting immigrants en masse; abetting the expansion of illegal domestic spying; slashing wages and benefits for workers; and infiltrating authoritarian and fascistic legal doctrines into American jurisprudence.

Holder’s first significant act in office was to make clear that the Bush-era criminals, including those that had conspired to carry out illegal torture and surveillance, would not be investigated or prosecuted under President Obama’s mantra of “looking forward not backward.” Holder declared in 2009 that “it would be unfair to prosecute dedicated men and women working to protect America for conduct that was sanctioned in advance by the Justice Department.”

In addition to shielding Bush-era war criminals, Holder also worked to provide *de facto* immunity to all the individuals and institutions that crashed the economy in 2008. Instead, the corrupt flow of “bailout” funds from the public treasury into the hands of select banks and individual billionaires continued unabated. To date, under Holder’s watch, not a single prominent figure has been prosecuted.

Justifying the decision to let banks get off scot-free in Congressional testimony in 2013, Holder said that he was “concerned that the size of some of these institutions becomes so large that...if we do prosecute—if we do bring a criminal charge—it will have a negative impact on the national economy, perhaps even the world economy.”

Holder will perhaps be best remembered for his role as the chief legal theorist in developing the pseudo-legal justifications for presidential dictatorship, particularly in relationship to the assassination of American citizens without due process. Holder memorably and menacingly asserted on March 4, 2013 that the president “has the power to authorize lethal force, such as a drone strike, against a US citizen on US soil, and without a trial.” That is, American

citizens can be assassinated within the United States on the say-so of the president.

In 2010-11, as the US government expanded its “targeted killing program,” Holder was the go-to man for cobbling together half-serious arguments to justify what was, in fact, expressly prohibited by the US Constitution. In crafting these theories, Holder and his staff took as their starting point the authoritarian doctrines introduced under the Bush administration, and then expanded them dramatically.

Holder’s name, for example, will forever be linked in American jurisprudence with his claim that “‘Due process’ and ‘judicial process’ are not one and the same, particularly when it comes to national security. The Constitution guarantees due process, not judicial process.” This theory renders the Fifth Amendment’s guarantee of due process—“No person. .. shall be deprived of life, liberty or property, without due process of law”—into a meaningless nullity. According to Holder, a secret meeting between the president and his intelligence chiefs satisfies “due process.” (See: “Military tribunals and assassination”)

Holder’s six years in office witnessed exposures of widespread government criminality by figures such as Julian Assange, Bradley (Chelsea) Manning and Edward Snowden. The Obama administration responded to these exposures not by prosecuting the criminals who were exposed, but by persecuting those who had told the public the truth. Under Holder, the US government prosecuted more whistleblowers under the Espionage Act than all previous administrations combined. Today, Manning is in prison, Assange is still trapped in the Ecuadorian embassy in London and Snowden has been forced into exile in Russia.

When Director of National Security James R. Clapper was caught committing perjury before Congress in 2013 about the extent of domestic surveillance, however, Holder did not prosecute.

This year, a major constitutional scandal erupted over revelations that the Central Intelligence Agency had conspired to cover up its record of torture, and that it had actually spied on the very congressional committee charged with overseeing it. The matter was referred to Holder, who announced that nobody would be prosecuted. (See: “The CIA spying scandal and the disintegration of American democracy”)

During the recent military-police crackdown on protests in Ferguson, Holder personally intervened to help bring the situation back under control, touting his identity as a “black man.” This has been touted by the *Times* and other publications as one of his great “civil rights” accomplishments. (See: “Attorney General Holder backs police-military siege in visit to Ferguson, Missouri”)

Holder’s other significant “accomplishments” include a

record numbers of deportations of immigrants; helping to prevent significant consequences for BP after it caused a massive ecological disaster in the Gulf of Mexico; assisting in the restructuring of the auto industry by slashing wages for workers; shielding GM in the wake of its ignition defect scandal; delivering slaps on the wrist to other corporate criminals or letting them off scot-free; personally approving search warrants for journalists; asserting the president’s power to launch wars of aggression without Congressional approval in Libya and Syria; working to codify military commissions as permanent features of the American judicial system; and intervening repeatedly in the Supreme Court to take the side of big business, the police and the intelligence agencies. The Department of Justice under Holder also intervened to facilitate the bankruptcy of Detroit.

To the extent that Holder presided over token measures, for example, to address America’s outrageously large prison population, the results have been meager at best. According to the International Centre for Prison Studies, the United States still has the highest percentage of prisoners in the world. America’s prisons are filthy, dangerous and overcrowded, with murders, beatings and every form of degradation a matter of routine.

One’s mouth hangs open when reading descriptions of Holder as a “defender of civil rights.” But in the final analysis, the praise for Holder issuing from certain quarters speaks volumes about the attitudes of the upper-middle-class and pseudo-left layers who provide the social base for identity politics. For these layers, issues such as war, the destruction of democratic rights and the drive to dictatorship take a back seat to their own far narrower concerns. If Holder announces that he favors same-sex marriage, for example, then these layers are more than willing to forgive him for the rest.

In his actions, he has been a faithful representative of the Obama administration, a government of, by and for the corporate and financial aristocracy and the military-intelligence apparatus. He should be remembered as the most right-wing attorney general in US history thus far, a crusader for dictatorship and an enemy of the working class. For his role in the numerous conspiracies to subvert democratic rights, including with respect to the illegal assassinations of civilians, he deserves to be arrested, indicted and prosecuted.



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