

Justice in America. Falling Short of the Mark: The Eric Holder Dossier

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The file is packed, and weighed down by layers of history that unfolded over almost six years of the Obama administration. Eric Holder Jr. may be going, vacating the position of Attorney-General once a replacement is found, but he last left a patchwork legacy for what is one of the country's most onerous yet powerful positions.

With Holder putting in his marching notice, the reaction from such individuals as Josh Earnest, White House Press Secretary, seemed to resemble a diagnosis of bowel trouble.

"The president accepted his decision without putting up much of a fight simply because it's clear to anybody who's been paying attention that General Holder has confronted a large number of issues, many of them complicated, some of them even controversial, over the course of the last five and a half years." Naturally, such troubles were met in "a way that he can be proud of and a way that the country is appreciative of."

Holder has been in the thick of things, some of it thrust upon him, others a matter of his own doing. History is ever the nasty tussle between bind and freedom, between escaping a predicament, causing one or solving one. His decision was made even as the Justice Department's investigation into the use of force by police in Ferguson, Missouri is taking place. The ghost lingers.

Holder did much to reverse the Bush administration's policies on civil rights, a nightmarish constriction that wound back the clock of reform with feverish enthusiasm. (No surprise there, given George W. Bush's gratitude for dubious voting regulations behind his own election.) Holder also ventured into the area of voting and sentence reform, at all times keeping an eye on the race issue. Crime and incarceration rates have also fallen. This prompted Obama to term him, at a stretch, "the people's lawyer".

Critics such as Eric Posner regard the civil rights tag as a misunderstood, even exaggerated one. Holder's achievement was not negligible, but overall proved "incremental", be it in such matters as refusing to allow the Justice Department to defend the Defense of Marriage Act, or launching investigations into instances of police brutality. "Most of the gains in these areas in recent years have come from private litigants, state legislatures, and courts." [1]

The Attorney-General was, however, a foot dragger in other areas. He proved reluctant to prosecute the big end of town when the US economy went belly up. White collar criminality did not inspire him to take out the prosecutor's gown, and the blatant perjury demonstrated by Lloyd Blankfein and his colleagues at Goldman Sachs before Congress was wistfully ignored. The bigger the bank, by Holder's own curious admission before the Senate

Judiciary Committee in 2013, the less likely it would be prosecuted.[2]

“Basically,” suggested Matt Taibbi, “if someone backs a dump truck up to the DOJ and unloads the entire case, gift-wrapped, a contrite and confessing criminal included, a guy like Eric Holder might, after much agonizing deliberation, decide to prosecute.”[3]

His refusal to yield documents connected with the “Fast and Furious” gun-running operation in 2012 infuriated the Republican-led House. A vote to hold Holder in criminal contempt was passed. None of this featured in the resignation speech last Thursday.

When it came to the issue of cleaning up the mess left by the Bush administration’s heavy flirtation with torture, he also proved reluctant to throw a legal brief at those behind the program. That it was endorsed by the highest echelons in the administration, insidiously finding comfort in the White House itself, put Holder and Obama in the largest of pickles. Not even practitioners of it at the CIA got a look into the dock, suggesting that its repetition is not something that would necessarily trigger the wheels of justice.

The dark chapter on waterboarding, and the deaths of prisoners in Afghanistan and Iraq, remain unaccounted for, even as Bush continues to work, ever amateurishly, at his easel. With fashioned perverseness and irony, the only person to be prosecuted and convicted arising out of the torture program was a former CIA officer John Kiriakou, who exposed its use. He received over two years for his efforts.

For a man keen on civil liberties, Holder was happy to ignore them at other points. Indiscriminate, warrantless surveillance, as exposed by Edward Snowden, and the assassination policy regarding American citizens, suggested a dysfunctional world at work. The latter point was perplexing, given the skimpiest of justifications and absence of legal precedent in a blatant undermining of the due process clause of the constitution. In the words of Senate Republican Leader Mitch McConnell (R-Ky.), he “placed ideological commitments over a commitment to the rule of law.”

Holder, for that reason, leaves the rule of law in something of a tattered state, and his successor is not likely to do much of a restoration work. This, suggests Ryan Cooper, may be as much a matter of personal flaw as systemic problem.[4] Truly, an altogether illustrative statement about the Obama administration.

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Notes

[1] http://www.slate.com/articles/news_and_politics/view_from_chicago/2014/09/-eric_holder_resigns_the_attorney_general_s_legacy_will_be_about_civil_rights.html

[2] http://www.huffingtonpost.com/2013/03/06/eric-holder-banks-too-big_n_2821741.html

[3] <http://www.rollingstone.com/politics/news/ag-eric-holder-has-no-balls-20120815>

[4] <http://theweek.com/article/index/268854/eric-holder-blew-it-as-attorney-general-his-replacement-will-too>

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