

The Bank of America Settlement and the “Justice” of Capitalism

By [Andre Damon](#)

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Attorney General Eric Holder, the head of the Department of Justice, returned to Washington Thursday from his tour of Ferguson, Missouri—which was this month put effectively under martial law—to announce a cash settlement with Bank of America over its role in helping cause the 2008 financial crisis by making billions selling fraudulent mortgage-backed securities.

The deal will cost the bank only about a third of the \$16 billion the Justice Department claims as the size of the settlement. Like previous settlements, it effectively shields the bank from further prosecution and protects the bankers responsible for forcing more than ten million families from their homes.

The actual cash settlement is under \$10 billion, of which the company will end up paying only about \$5 billion because its fine is tax-deductible. The company’s stock rallied at the news. Bank of America CEO Brian Moynihan praised the deal, saying it “is in the best interests of our shareholders,” and puts its legal troubles behind it. “Of the big stuff, that’s really the one that’s left out there,” he concluded.

“The NYPD never choked a banker,” read a sign left at the impromptu memorial of Eric Garner, the Staten Island man strangled to death by the New York Police Department as they arrested him for selling loose cigarettes on the street. Indeed. No bank executive has been arrested, much less criminally charged, for crashing the economy in 2008.

The banks have merely received wrist-slap fines, amounting to a tiny fraction of the free money handed out to them over nearly six years of zero-interest-rate policies, bailouts, and “quantitative easing.”

The settlement follows similar deals over the speculation in mortgage-backed securities that sparked the 2008 crisis, including a \$7 billion settlement with Citigroup in July and a \$13 billion settlement with JPMorgan Chase in November. In each of these cases, top executives were likewise shielded from prosecution as banks paid a small portion of their yearly profits in tax-deductible fines—a cost of doing business.

“We are here to announce a historic step,” said Holder, “to hold accountable those whose actions threatened the integrity of our financial markets and undermined the stability of our economy.” The deal, added Associate Attorney General Tony West, “achieves real accountability for the American people.”

Real accountability? As one financial analyst candidly told Dow Jones’s MarketWatch, “The

people who committed the crimes suffer nothing, while the people harmed get nothing.”

Last year, Holder admitted in Congressional testimony that he believes it is impossible to hold the banks to account. Responding to questioning from Republican Senator Chuck Grassley, who noted that there had been no major prosecutions of financial institutions or executives by the Obama administration, Holder said: “I am concerned that the size of some of these institutions becomes so large that it does become difficult for us to prosecute them, when we are hit with indications that if we do prosecute—if we do bring a criminal charge—it will have a negative impact on the national economy.”

This, in effect, was an admission that “accountability” for the people whose documented, provable violations of law spelled disaster for millions of people around the world is impossible. But, as Thomas Gordon, the great 18th-century Scottish political commentator wrote, “Impunity for past crimes is a warrant to commit more.”

The immunity from prosecution granted to the Wall Street bankers is just one expression of the politically and morally bankrupt character of the American state. Police officers who kill young people or the mentally handicapped are given suspensions with pay, otherwise known as vacations. Wars are started based on lies, hundreds of thousands are killed, and the liars and warmongers are paraded on national television to bray for more blood.

Earlier this month, Obama once again affirmed his defense of the CIA after it became known that the intelligence agency spied on the United States Senate and stole documents in order to cover up the Bush administration’s torture program. The fact that the CIA conducted torture, that “we did some things that were contrary to our values...needs to be understood and accepted,” Obama said at the time, but again no one is to be held to account.

He concluded, with a nauseating chumminess, “In the immediate aftermath of 9/11, we did some things that were wrong. We did a whole lot of things that were right, but we tortured some folks.”

What else could Obama add? “We spied on some folks. We bombed some folks. We gave assault rifles to police so they could shoot some folks. We invaded some folks. We gave Israel weapons, and then they massacred some folks. We funded ISIS, and they beheaded some folks.”

“My conscience hath a thousand several tongues,” declared Shakespeare’s Richard III, with a bit more awareness than Obama, “And every tongue brings in a several tale, And every tale condemns me for a villain.”

All of the crimes of the American state have a common root: the fundamentally criminal and parasitic character of the American ruling class, of which the state and the political establishment are a wholly owned subsidiary. The financial elite obtains its living by plunder and fraud, by driving down workers’ wages, raiding pension plans, slashing benefits, dismantling factories, laying off workers and razing cities. All of this is the basis of the massive speculative run-up in the stock market, which is fueled by trillions in free government cash.

The position of this social layer is more and more secured by open violence. We have seen in the streets of Ferguson, Missouri an indication of the methods the ruling class is prepared to employ. The state is overseen by a military-intelligence-police apparatus that functions as

a law unto itself.

Neither the looting of the economy, nor the constant string of police murders, nor the government's daily violation of the Constitution, can be punished, let alone prevented under the present social order. All of these crimes are the crimes of capitalism. This social order must be torn out root and branch if anything is to change. It must be replaced with socialism: the conscious organization of society to meet social needs, not private profit.

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