

The Breakdown of The Rule of Law: America's Descent Into Authoritarianism

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From early in one's life, an American is taught the law and American institutions of justice are great equalizers within our society, ensuring that everyone is treated the same, no matter one's class, race, or ethnicity. Yet, what has been happening quite recently, especially within the past decade or so, is that we have been seeing an increasing breakdown in the rule of law and the use of the justice system to enforce injustices.

President Obama rode in on a high horse in the 2008 presidential elections, specifically on his slogan of hope and change. He rightly criticized the Bush administration on a number of issues, from the economy to the wars abroad, as well as the use of drones.[1]

Yet, Obama subsequently went and not only increased the use of drones, but used them to kill Anwar Al-Awlaki, an alleged member of Al Qaeda who was legally an American citizen at the time of his death.[2] However, the story gets even more shocking as not only does such an act create a legal precedent where the President can kill any US citizen that he deems a terrorist[3], but the Obama administration's attorney general argued that such assassinations of American citizens on US soil "would be legal and justified in an extraordinary circumstance." [4] Some would argue that Attorney General Eric Holder cleared the entire domestic drone debacle when he sent a letter to Senator Rand Paul which read:

It has come to my attention that you have now asked an additional question: "Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?" The answer to that question is no.[5]

However, the problem with that answer is the vagueness of the phrase "engaged in combat." While it may seem obvious to someone what that phrase means, it becomes murky when one sees that the Defense Department has labeled protests as a form of low-level terrorism[6] and that environmental activists are being prosecuted as terrorists.[7] Does this mean that protesters and environmental activists are "engaged in combat on American soil" and thus it is OK to attack them with armed drones?

This is deeply problematic as it essentially nullifies the due process clause of the Fifth Amendment and paves the way for future Presidents to potentially label their political opponents as terrorists or an enemy combatant (both have vague definitions), assassinate them with a drone, and hide the evidence under the guise of national security.

The breakdown of the rule of law has been furthered in the economic sphere as the wealthy

elites are able to crash the economy and receive no jail time whatsoever, even though crimes were committed.[8] These economic elites are so powerful that even “the Department of Justice fears bringing criminal charges against them because of the possible repercussions such proceedings would have on the greater economy.”[9] The fact that these corporate fatcats can crash the economy without fear of prosecution is only a testament to their political and economic clout. They have established institutions that are so firmly entrenched within the American economy that even the Department of Justice fears the effects of bringing them to court.

These corporations have cheated the government out of what they owe by using tax havens or shell companies, as was the case with Apple.[10] This corporate tax evasion does not only send money overseas, but these corporations can tap that money at will by “simply by taking out loans and using foreign cash as collateral.”[11] Activity such as this reveals our two-tiered justice system where individuals get prison time for tax evasion, while bankers run free.[12]

A final- and perhaps the most disturbing of all of these examples- in the breakdown of the rule of law in America is that those who reveal injustices are harshly punished. Bradley Manning revealed information of US war crimes and was demonized as a traitor even though he had a legal duty to tell of these war crimes as “in the US Army Subject Schedule No. 27-1 is ‘the obligation to report all violations of the law of war.’”[13] Manning was treated with such harshness that the UN Torture Chief classified Manning’s treatment as being in “violation of his right to physical and psychological integrity as well as of his presumption of innocence.”[14] More recently, Edward Snowden released information that the US has been spying on its citizens and he has been deemed a traitor even though

Treason is the only crime specified in the Constitution, and here is what our founding document says about it, from Article Three, Section Three:

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort.

The Supreme Court has interpreted this to mean that no one can commit treason unless it’s with a country against whom our Congress has declared war. This means that neither the Vietnam War nor the Korean War nor the War on Terror can yield treasonous Americans, as none of these wars were declared by Congress.[15] (emphasis added)

The actual law is being ignored in order to demonize and prosecute those who go against the state.

Yet, what does this the breakdown of the rule of law mean for the United States? For one it means that the US is a nation where “There are two sets of laws: one set for the government and the corporations, and another set for you and me,”[16] yet on a deeper level it signals that the US is becoming more and more of an authoritarian state. There are

many characteristics of authoritarianism that the US is currently engaged in or has shown since the dawn of the 21st century. They include

- Constraints on political institutions (Think the political constraints on third parties[17])
- Constraints on the mass public
- Ill-defined executive power[18]

The descent of the US to an authoritarian nation signals the destruction of the rule of law. Yet, there is hope. We the people can reverse this situation, but we will have to work outside the system. We are our only hope.

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