

It is ironic but perhaps sadly appropriate that Attorney General Eric Holder would choose a law school, Northwestern University, to deliver a speech earlier this month in which he demolished what was left of the rule of law in America.

In what history likely will record as a turning point, Attorney General Holder bluntly explained that this administration believes it has the authority to use lethal force against Americans if the President determines them to be a threat to the nation. He tells us that this is not a violation of the due process requirements of our Constitution because the President himself embodies "due process" as he unilaterally determines who is to be targeted. As Holder said, "a careful and thorough executive branch review of the facts in a case amounts to 'due process.'" That means that the administration believes it is the President himself who is to be the judge, jury, and executioner.

As George Washington University Law Professor Jonathan Turley wrote of the Holder speech:

"All the Administration has said is that they closely and faithfully follow their own guidelines — even if their decisions are not subject to judicial review. The fact that they say those guidelines are based on notions of due process is meaningless. They are not a constitutional process of review."

It is particularly bizarre to hear the logic of the administration claiming the right to target its citizens according to some secret selection process, when we justified our attacks against Iraq and Libya because their leaders supposedly were targeting their own citizens! We also now plan a covert war against Syria for the same reason.

I should make it perfectly clear that I believe any individual who is engaging in violence against this country or its citizens should be brought to justice. But as Attorney General Holder himself points out in the same speech, our civilian courts have a very good track record of trying and convicting individuals involved with terrorism against the United States. Our civilian court system, with the guarantee of real due process, judicial review, and a fair trial, is our strength, not a weakness. It is not an impediment to be sidestepped in the push for convictions or assassinations, but rather a process that guarantees that fundamental right to be considered innocent until proven guilty in a court of law.

I am encouraged, however that there appears to be the beginning of a backlash against the administration's authoritarian claims. Just recently I did an interview with conservative radio talk show host Laura Ingraham who expressed grave concern over using these sorts of tactics against Americans using the supposed war on terror as justification. Sadly, many conservative leaders were silent when Republican President George W. Bush laid the groundwork for this administration's lawlessness with the PATRIOT Act, warrantless wiretapping, indefinite detention without trial, and other violations. Similarly, as Professor Turley points out, "Democrats previously demanded the 'torture memos' of the Bush administration that revealed poor legal analysis by Judge Jay Bybee and Professor John Yoo to justify torture. Now, however, Democrats are largely silent in the face of a president claiming the right to unilaterally kill citizens." The misuse of and disregard for our Constitution for partisan political gain is likely one reason the American public holds Congress in such low esteem. Now the stakes are much higher. Congress and the people should finally wake up!