

No matter who's president: Rule of law expiring?

by [Nat Hentoff](#)

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With President Barack Obama urgently explaining to us why he must remain in office to complete his regeneration of the nation, he particularly anticipates — as he told then-Russian President Dmitry Medvedev months ago — “more flexibility” when he wins in November (“‘Flexibility’ sparks post-election fears,” Benny Avni, New York Post, March 26).

Of course, with no more elections to worry about, he'll enjoy more flexibility as commander-in-chief over the Constitution. As he already has: American citizens can be indefinitely imprisoned by the military and also can be target-killed by CIA drones without going before a judge.

The renewed Obama will have no difficulty with those Democratic members of Congress who proudly used to be active civil libertarians until shaming themselves by remaining silent during his presidency.

Meanwhile, government surveillance of us at home also knows no limits.

If former Gov. Mitt Romney moves into the Oval Office, what changes will begin to revive our rule of law? As I've reported, I found nothing in his record in public office or during his voluble campaign for the presidency that reveals any concern for George W. Bush and Dick Cheney's “dark side” or Obama's much more dark, deep erasure of our personal constitutional liberties.

But in a Sept. 5 New York Times editorial on Attorney General Eric Holder's announcement “that no one would be prosecuted for the brutal deaths of two prisoners held in CIA custody,” we suddenly learn that “during the Republican primary campaign, Mitt Romney expressed support for the use of waterboarding as a counterterrorism method, and even denied it amounts to torture” (“No Penalty for Torture”).

Wow! I missed that one. A blunt response to Romney — further illuminating his ignorance of or indifference to the presidential war crimes authorized after 9/11 — came last week from Human Rights Watch, which reported that “it has uncovered evidence of a wider use of waterboarding than previously acknowledged by the CIA, in a report Thursday detailing brutal treatment of detainees at U.S.-run lockups abroad after the 9/11 attacks” (“Rights Watch: Evidence of wider US waterboarding,” Lee Keath, the Associated Press, Sept. 6).

This is yet further documentation of Obama's determination, since taking

presidential office, to deny any independent investigations of U.S. violations of American laws (the anti-torture statute, the War Crimes Act) and international treaties we've signed (Common Article 3 of the Geneva Conventions and the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment; the latter ratified by the Senate in 1994).

Has Mitt Romney heard of any of these American laws or treaties that also became our rule of law? There isn't any record that his new star vice presidential choice, Paul Ryan, knows or cares about them.

The 154-page Human Rights Watch report says 14 Libyan dissenters were held in American detention centers in Afghanistan or in CIA renditions, to be tortured in Pakistan, Morocco and other nations known for their abuse of their prisoners.

The waterboarding accounts came from Mohammed al-Shoroeiya and Khaled al-Sharif, captured in Pakistan in 2003 and taken to U.S. prisons in Afghanistan.

Mr. Romney, listen to al-Shoroeiya. He doesn't call this waterboarding (the word probably isn't in his language), but what al-Shoroeiya experienced is a textbook description of how it is done:

"He said he was put in a hood and strapped upside down on a wooden board. Freezing water was poured over his nose and mouth until he felt he was suffocating. During several half-hour interrogation sessions, they would waterboard him multiple times, asking him questions in between while a doctor monitored his body temperature" (Keath, Sept. 6).

This gracious medical involvement by CIA interrogators — acting on assurances of John Yoo and other members of Bush's Justice Department that they were within the law (whose law?) — was to make sure these prisoners would be able to withstand more waterboarding.

Professor Yoo has been cleared of offenses, including war crimes, by Holder's Justice Department, and he still teaches constitutional law at the University of California while writing widely in influential publications.

Years ago, professor Yoo and I were members of a panel discussion debate on war crimes held at Princeton University's Woodrow Wilson School of Public and International Affairs in New Jersey, where I accused him of a long line of specific war crimes.

His only answer was to smile and say to the other panelists, "I enjoy reading Nat Hentoff on jazz."

As for Mitt Romney, now that he has actually heard the excruciating details of waterboarding from one of its victims, does he still support the use of

waterboarding and still deny that it amounts to torture?

But whether Romney or Obama is our next president, we can be sure there will not be any meaningful independent accountability permitted by either administration for these horrors committed in our name.

And what of the CIA renditions still going on that send “detainees” for interrogation to other nations known for torturing their prisoners? We’re not allowed to know who’s being sent and what happens to them during questioning supervised by the CIA. All that, of course, is classified.

We are losing our identity and freedoms as a nation unless the new generation penetratingly learns who they are. More of them are becoming active in civics classes involving what is happening in their communities and their nation. But will there be enough authentic Americans soon enough?

As for the November elections, sure there are other vitally important issues. But who is there to vote for on who and what we are becoming? Will there ever be a candidate who recognizes and gives a damn about how much of our identity we’re losing just about every day?

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