



Accountability and the immorality of qualified immunity

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With the change in regime in Washington, I wonder what, if any, real change will take place now that the people's choice of Joe Biden and Kamala Harris control the White House. I ask one question and that is this: When will public officials and employees be properly held accountable?

When the prisoners in California decided to use Hunger Strikes as a means to get the attention of the powers that be, the number one core demand – Eliminate group punishments and administrative abuse – was for staff accountability, though in the broader sense, the substance of constitutional rights of the people in this American society are meaningless since state actors of all stripes clothed with the authority of the state can violate with impunity so-called constitutional rights that it is said all citizens enjoy.

Yes, then to top it off, even when these state, county and city employees are known to be wrong, they are not held accountable for their abuse of the state's authority and power and are typically indemnified from liability under the states.

Accountability is said to be an absolute necessity for meaningful criminal justice reform, according to Jay Schweikert of the Cato Institute. Yet, every attempt to provide greater accountability and transparency in cases of official misconduct when Kamala Harris was the attorney general of the state of California was curtailed by her policies to defend these corrupt state employees – the same as county counsel and city attorneys using the people's resources to defend these common criminals who have let the state's authority go to their heads.

Since the government of the United States is supposed to be a government of laws and not of men, how is it that the laws do not apply to those who abuse the authority of the state and then are in effect coddled and protected by their employers who emphasize the use of the moral failure of qualified immunity – yes, that judicial doctrine that protects public officials from liability even when they break the law?

Even if public servants are found to have violated someone's civil rights, the people's resources, not their own, will be used to not only protect them but also pay the bill should they be found to have committed the misconduct civilly.

Time and time again we see this to be the case all across the U.S., yet nothing is being done to properly implement real accountability. The most straightforward and sensible solution, as Jay Schweikert stated in September 2020, would be the complete abolition of qualified immunity.

The doctrine created by the U.S. Supreme Court in the 1960s created a legal standard that creates a very high hurdle for civil rights plaintiffs to overcome and effectively undermines basic accountability and in effect makes what are supposed to be public servants assume they can do as they please with impunity.

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So, now that the Democrats control the White House and have the majority in both the Senate and the House, the Democratic Party has the means at its disposal to clarify through congressional legislation that the civil rights laws do not include any such qualified immunity defense to liability.

However, while states, counties and cities may still choose to utilize the option to indemnify the state's agents under the appropriate circumstances, the people must insist on accountability of public employees; otherwise, they will continue to violate such with impunity – with “parchment barriers,” in the words of James Madison, in which symbolic commitments to individual liberty do nothing in practice to deter or prevent unlawful misconduct by government agents.

Accountability cannot be stated enough, as the lack of it has been the reason that so much abuse has been taking place and should be a top priority for Joe Biden, Kamala Harris, Nancy Pelosi and the rest of those who claim that they want real justice and fairness in the United States.

To be clear, I, as a citizen, have been disillusioned with all the lip service from elected officials who have been claiming to be working in the people's interest. However, I have only been seeing them enrich themselves at the people's expense.

And I must add that while the 13th Amendment may be an issue of concern to Black people, it is a constitutional amendment which is technically much harder for these political hacks to change than it would be to legislate away qualified immunity in order to establish real accountability in this American society.

I am all for Black Lives Matter – only problem is that we as a people have to get our priorities right and force these elected officials to pass legislation that kills qualified immunity and holds all of those in public service accountable, which would result in Black lives mattering in fact, not

fiction, as has been the case and will be the case until a national movement compels accountability of all public employees.