ERIC HOLDER ADDRESSES THE CONSTITUTION PROJECT

I happened to get lost, end up in DC, and show up to cover the Constitution Project's annual dinner, particularly Attorney General Eric Holder's keynote (see here for the [!]Breaking [!]News on that front).

Before I get into that, I just wanted to note how gratifying it is to be in a crowd of DC folks who fight for things like defendant rights and rule of law. The two awardees were George Kendall and Thomas Pickering (Alberto Mora introduced Pickering).

As Dahlia Lithwick said in her Emcee gab, these folks are the heros.

Here's my liveblog of his talk. It sure felt like Holder's apologia for military commissions to a bunch of civil libertarians. When you come before a bunch of people who believe in civilian trials and spend most of your time trying to push the benefits of both civilian trials and military commissions, it does not bode well.

After thanking the Constitution Project for its support of expanding access to legal services, Holder addresses his testimony before the Senate Judiciary Committee. [here's his testimony]

> Protecting America's safety, America's interests, and America's values by adhering to the rule of law. We are a nation at war. Go to bed each night thinking about how best to keep our people safe. I am determined to win this war. I know we can. We won't win by adhering to a rigid ideology or a narrow approach. But we are also a nation that lives under rule of law. Just as on the battlefield, our government must use all the tools we can to win the war.

Scoffs at those who say Obama Administration has continued policy of Bush Admin.

Calls military commissions and civilian trials “weapons against those who choose to do us harm.”

Differences between the two fora.

> Proposal by some to do away with civilian courts, not realistic. Without civilian authority, we would lose one of our key weapons, It would deny us means to punish guilty, and it would be disservice to history of civilian justice system. No question that if such a plan advances it would harm our national security.
>
> Just look at what civilian courts have achieved.

Intelligence Undie bomber has provided has been actionable.

Names the successes:

- Najibullah Zazi
- Undie Bomber
- David Headley
- Aafia Siddiqui

> In some cases, military commissions appropriate. Congress has taken extraordinary steps to improve commissions since they were first introduced. MCs reflect realities of battlefield. I have faith in our MCs, which is why I have referred 6 cases. There is no inherent contradiction between referring cases while at the same time prosecuting terrorists in civilian courts.
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> Commissions only have jurisdiction over AQ and affiliated groups. Not Hamas, not FARC. Not against Americans. MCs can only prosecute some violations of rules

> of law. Civilian prosecutors can also make other charges: firearms, false statements. Terrorism plots can be disrupted, while still collecting information. Civilian courts can provide just punishment for variety of bad acts.
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> Our civilian courts have 200 years of precedence. They have a reliability that gives them credibility.

Describes preference of allies to cooperate with civilian trials, says he hopes that as MCs get a better reputation, allies will cooperate on MCs too.

Debate has meant to scare rather than educate.

Holder picks up his defense of prosecutors who serve honorably. They deserve our gratitude and our respect.