



Under the Color of Law: The Bush Administration's Subversion of U.S. Constitutional and International Law in the War on Terror

By Martin Henn

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Under the Color of Law constitutes a full and critical scholarly commentary to the text of five key Bush administration legal memoranda formative of U.S. counterterrorism policy from 2001 to 2009. This volume is dedicated to the idea that these documents are worthy of being read and critically examined in themselves as primary text, precisely because the act of critical assessment may yield meaningful policy reform in the ongoing debate facing the nation over balancing security interests with the preservation of civil liberties. This volume is intended to provide counterpoint for, and antithesis to, positions vigorously defended by President Bush's attorneys working at the O.L.C. inside the Department of Justice, and it is designed to be used primarily in conjunction with and examined as response to the Bush-era documents themselves. Martin Henn investigates five central questions, each framed around commentary to a specific administration document. This work addresses the Yoo-Flanigan Memorandum of September 25, 2001, and asks whether any President has constitutional power to initiate a foreign war without congressional authorization. Regarding President Bush's November 13 executive order of 2001, Henn asks whether an emergency of war permits any President to usurp judicial and legislative powers to interpret law and define and punish offences against the law of nations. Along with many other questions these documents initiate, the author carefully analyzes and seeks to answer questions regarding the Bush administration, the use of interrogational coercion and torture in the war on terror.

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Editorial Review

Review

Professor Henn has written an important book about the cluster of issues that ought to matter most in a democracy. *Under the Color of Law* will enjoy a wide readership, and deservedly so. (Joseph Margulies, Northwestern University School of Law, author of *Guantanamo and the Abuse of Presidential Power*)

For those who admire the courage of a David who can take on a Goliath, Martin Henn's new book will prove to be an exhilarating read. Armed with the erudition of a classicist and the analytic intelligence of an adept philosopher, Henn has taken on the overblown pretensions of an imperial presidency, arguing with such force and clarity that he has convinced this reader that he just might win his battle. If his book gets the attention it deserves, the Obama Administration may have to surrender the wrongful extension of presidential power that took place under George W. Bush. On another front we can be even more hopeful: Leo Strauss's attempt (rendered dangerous once his disciples found their way to political power) to read the natural-law tradition through a Macchiavellian and Hobbesian lens has now found its definitive answer: Plato and Aristotle, Aquinas and Grotius, are on the side of civilization and the rule of law. (Joseph Lawrence, College of the Holy Cross)

*This will be the classic analysis of the legal aspects of the Bush wars. Martin Henn gives, first, a brilliant study of the Bush Administration's orders and written opinions. On the other side, he presents the relevant details of the U.S. Constitution and applicable international law. In this impressive and most careful consideration of all the significant documents on both sides, *Under the Color of Law* makes clear that the Bush administration was illegal, immoral, and inefficient in its 'war on terror.' Nothing else that I have seen on these matters is more important. (Sidney Axinn)*

Martin Henn's *Under the Color of Law* is an essential text for anyone concerned?and distressed?about Bush administration policies on torture. Henn's discussion centers around the key memos and executive orders that rationalized the Bush practices of torture. He provides an invaluable commentary on them, explaining their relation to larger questions of domestic and international law and the politics of executive power. Henn's discussion is both illuminating and sharply critical of these documents, placing them in the context of legal and political history. I cannot think of a more useful book for anyone studying the sad events of our recent history with torture. His book contributes to our country's ongoing re-evaluation of our moral responsibilities in these matters. (Cheyney Ryan, University of Oregon and Oxford University)

Martin Henn begins this book by asking whether there is any historical analogy to a republic's open suspension of law on the scale practiced in the George W. Bush presidency. He suggests that the closest was when the Roman republic granted Pompey temporary dictatorial powers (three years) that went beyond republican practice to battle a state (Pontus under King Mithridates) that was sponsoring nonstate terrorists (pirates). Yet Pompey refrained from punishing political rivals, provided trials, and did not employ torture in interrogations. In this rigorously argued book, history, jurisprudence, and the natural law tradition are employed in a convincing demonstration that the second Bush administration knowingly and arrogantly defied international law, historical precedent, and the US Constitution. (Gary Shapiro, Tucker-Boatwright Professor in the Humanities-Philosophy, University of Richmond)

About the Author

Martin Henn is former assistant professor at Fitchburg State University, in Fitchburg, Massachusetts.

Users Review

From reader reviews:

Robert Hay:

This book untitled Under the Color of Law: The Bush Administration's Subversion of U.S. Constitutional and International Law in the War on Terror to be one of several books in which best seller in this year, that is because when you read this e-book you can get a lot of benefit onto it. You will easily to buy that book in the book retail store or you can order it through online. The publisher of the book sells the e-book too. It makes you easier to read this book, since you can read this book in your Smart phone. So there is no reason to you personally to past this e-book from your list.

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