Seattle Journal for Social Justice

Volume 6
Issue 1 *Fall/Winter 2007*

Article 21

November 2007

Presidential Powers: An Introduction

John McKay

Follow this and additional works at: http://digitalcommons.law.seattleu.edu/sjsj

Recommended Citation
McKay, John (2007) "Presidential Powers: An Introduction," *Seattle Journal for Social Justice*: Vol. 6: Iss. 1, Article 21.
Available at: http://digitalcommons.law.seattleu.edu/sjsj/vol6/iss1/21

This Article is brought to you for free and open access by the Student Publications and Programs at Seattle University School of Law Digital Commons. It has been accepted for inclusion in Seattle Journal for Social Justice by an authorized administrator of Seattle University School of Law Digital Commons.

Presidential Powers: An Introduction

John McKay

Our country's recent and painful experience with terrorism produces ironies both subtle and obvious. Many Americans wonder how a handful of extremists from countries about which we had little knowledge could have so profoundly affected the way we travel, associate, worship, and earn a living. Others see irony in the use of U.S. military force in Afghanistan and Iraq as a response to the terrorist attacks of September 11. Indeed, the ever-present tension in our Constitution between our national security and our liberties was laid bare in the ruins of the attacks and amidst our grief for the loss of American lives.

This issue of the *Seattle Journal for Social Justice* examines the exercise of executive branch authority from perspectives that call into question the assumptions and strategies adopted by the U.S. government in its War on Terror. An article by Angela Buenaventura, a recent graduate of Northwestern Law, explores how fictional portrayals such as the popular television show *24* might impact public policy and our understanding of the use of torture. While examining the executive's failed rationale for the use of extreme interrogation methods, Ms. Buenaventura helps us understand that through the fictional programs of our times, torture may be what governments see when they look at a mirror held by terrorists. Also at the heart of the debate over executive branch authority lies the first military action taken after the September 11 attacks. An article by Sikander Ahmed Shah, a Pakistani law professor, calls into question our government's reliance on self-defense under Article 51 of the UN Charter as a justification for the invasion of Afghanistan.

These articles provide important context for the rousing and thoughtful discussion of the distinguished participants in Seattle University School of

Law's Presidential Authority Forum, the transcript of which forms the comprehensive framework for this issue of *SJSJ*. The examination of issues relating to executive branch authority, focusing on its limits and ambiguities, is critical to the public policy debate concerning our response to the threat of terrorism. The struggle against real enemies raises important questions about the obligation of governments to reasonably test the boundaries of their authority in the face of hatred and destruction.

As a former federal prosecutor who was appointed (and fired) by the Bush administration, a reader might consider this introduction to be, well, ironic. Yes, the struggle against terrorism requires competence, resources, and the legal authority to keep us safe while protecting our rights. Yet, above all, we must require that the individuals who wield such powers act with integrity and dedication to our Constitution and the rule of law. The real irony occurs when we do not hold them accountable when they fail.