

THE CHALLENGE

Hamdan v. Rumsfeld
and the Fight

The Challenge Hamdan V Rumsfeld And The Fight Over Presidential Power

Aryeh Neier



The Challenge Hamdan V Rumsfeld And The Fight Over Presidential Power:

The Challenge Jonathan Mahler, 2025-09-23 An inspiring legal thriller set against the backdrop of the war on terror The Challenge tells the inside story of a historic Supreme Court showdown At its center are a Navy JAG and a young constitutional law professor who in the aftermath of 9 11 find themselves defending their nation in the unlikeliest of ways by suing the president of the United States on behalf of an accused terrorist in order to prevent the American government from breaking the law and violating the Constitution Jonathan Mahler traces the journey of their client Salim Ahmed Hamdan from the Yemeni mosque where he was first recruited for jihad in 1998 through his years working as a driver for Osama bin Laden to his capture in Afghanistan in November 2001 and his subsequent transfer to Guantanamo Bay It was there that Hamdan was designated by President Bush to be tried before a special military tribunal and assigned a military lawyer to represent him a thirty five year old graduate student of the Naval Academy Lieutenant Commander Charles Swift No one expected Swift to mount much of a defense Not only were the rules of the tribunals America s first in more than fifty years stacked against him his superiors at the Pentagon were pressuring him to persuade Hamdan to plead guilty But Swift didn t believe that the tribunals were either legal or fair so he enlisted a young Georgetown law professor named Neal Katyal to help him sue the Bush administration over their legality In the spring of 2006 Katyal who had almost no trial experience took the case to the Supreme Court and won The landmark ruling has been called the Court s most important decision ever on presidential power and the rule of law Written with the cooperation of Swift and Katyal The Challenge follows the braided stories of Swift s intense precarious relationship with Hamdan and the unprecedented legal case itself Combining rich character portraits and courtroom drama reminiscent of Jonathan Harr s A Civil Action with sophisticated yet accessible legal analysis The Challenge is a riveting narrative that illuminates some of the most pressing constitutional questions of the post 9 11 era

The Role of the Highest Courts of the United States of America and South Africa, and the European Court of Justice in Foreign Affairs Riaan Eksteen, 2019-06-22 This book deals with what the author considers a sorely neglected question namely the role of the judiciary in states foreign policy processes Eksteen argues that the impact of the judiciary on foreign affairs is understudied and that recognition of its role in foreign affairs is now due This makes it a ground breaking scholarly contribution that should first of all prove of value to students scholars researchers and practitioners in the two broad fields of politics and law for the wide scope of issues it covers and the very comprehensive reference lists it contains Secondly professionals working within politics including members of the legislatures of the United States the European Union and South Africa as well as members of the judiciaries there should find this book of benefit A detailed examination has been undertaken of the role of the United States Supreme Court the two high courts in South Africa namely the Constitutional Court and the Supreme Court of Appeal and the European Court of Justice of the European Union in foreign affairs The author substantiates the unmistakable fact that these Courts have become involved in and influence foreign

affairs Furthermore that they have not shied away from using their judicial authority when dealing with cases touching on foreign affairs and especially presidential overreach The lack of recognition of the judiciary's role in foreign affairs is still noticeable in Foreign Policy Analysis (FPA) literature This book concludes that FPA has to accept and give proper recognition to the judiciary and its increasing relevance in foreign affairs Dr Riaan Eksteen is a Former South African Ambassador residing in Namibia from 1968-1973 he served at the South African Embassy in Washington D C between 1976-1994 he subsequently served as Ambassador and Head of Mission at the U N in New York 1976-81 in Namibia 1990-91 at the U N in Geneva 1992-94 and in Turkey with accreditation also to Azerbaijan Kyrgyzstan Turkmenistan and Uzbekistan 1995-97 He obtained his Ph D from the University of Johannesburg in October 2018

Democracies and the Shock of War Marc Cogen, 2016-05-13 Over the course of the twentieth century democracies demonstrated an uncanny ability to win wars when their survival was at stake As this book makes clear this success cannot be explained merely by superior military equipment or a particular geographical advantage Instead it is argued that the legal frameworks imbedded in democratic societies offered them a fundamental advantage over their more politically restricted rivals For democracies fight wars aided by codes of behaviour shaped by their laws customs and treaties that reflect the wider values of their society This means that voters and the public can influence the decision to wage and sustain war Thus a precarious balance between government parliament and military leadership is the backbone of any democracy at war and the key to success or failure Beginning with the sixteenth and seventeenth century writings of Alberico Gentili and Hugo Grotius this book traces the rise of legal concepts of war between states It argues that the ideas and theories set out by the likes of Gentili and Grotius were to provide the bedrock of western democratic thinking in wartime The book then moves on to look in detail at the two World Wars of the twentieth century and how legal thinking adapted itself to the realities of industrial and total war In particular it focuses upon the impact of differing political ideologies on the conduct of war and how combatant nations were frequently forced to challenge core beliefs and values in order to win Through a combination of history and legal philosophy this book contributes to a better understanding of democratic government when it is most severely tested at war The ideas and concepts addressed will resonate both with those studying the past and current events

Judging Executive Power Richard J. Ellis, 2009-03-16 George W Bush's presidency has helped accelerate a renewed interest in the legal or formal bases of presidential power It is now abundantly clear that presidential power is more than the sum of bargaining character and rhetoric Presidential power also inheres in the Constitution or at least assertions of constitutional powers Judging Executive Power helps to bring the Constitution and the courts back into the study of the American presidency by introducing students to sixteen important Supreme Court cases that have shaped the power of the American presidency The cases selected include the removal power executive privilege executive immunity and the line item veto with particular emphasis on a president's wartime powers from the Civil War to the War on Terror Through introductions and postscripts that accompany each case

landmark judicial opinions are placed in their political and historical contexts enabling students to understand the political forces that frame and the political consequences that follow from legal arguments and judgments

The Development of the American Presidency Richard J. Ellis, 2013-06-17 Our understanding of the politics of the presidency is greatly enhanced by viewing it through a developmental lens analyzing how historical turns have shaped the modern institution The Development of the American Presidency pays great attention to that historical weight but is organized topically and conceptually with the constitutional origins and political development of the presidency its central focus Through comprehensive and in depth coverage this text looks at how the presidency has evolved in relation to the public to Congress to the Executive branch and to the law showing at every step how different aspects of the presidency have followed distinct trajectories of change All the while Ellis illustrates the institutional relationships and tensions through stories about particular individuals and specific political conflicts Ellis's own classroom pedagogy of promoting active learning and critical thinking is well reflected in these pages Each chapter begins with a narrative account of some illustrative puzzle that brings to life a central concept A wealth of photos figures and tables allow for the visual presentations of concepts A companion website not only acts as a further resources base directing students to primary documents newspapers and data sources but also presents interactive timelines practice quizzes and key terms to help students master the book's lessons

The Development of the American Presidency Richard Ellis, 2022-05-02 A full understanding of the institution of the American presidency requires us to examine how it developed from the founding to the present This developmental lens analyzing how historical turns have shaped the modern institution allows for a richer more nuanced understanding The Development of the American Presidency pays great attention to that historical weight but is organized by the topics and concepts relevant to political science with the constitutional origins and political development of the presidency its central focus Through comprehensive and in depth coverage Richard J Ellis looks at how the presidency has evolved in relation to the public to Congress to the executive branch and to the law showing at every step how different aspects of the presidency have followed distinct trajectories of change Each chapter promotes active learning beginning with a narrative account of some illustrative puzzle that brings to life a central concept A wealth of photos figures and tables allow for the visual presentations of concepts New to the Fourth Edition Explicit and expanded attention to the role of norms in shaping and constraining presidential power with special focus on Trump's norm breaking and Biden's efforts to shore up norms Enhanced focus on the prospects for institutional reform including in the electoral college presidential relations with Congress war powers and the selection of Supreme Court justices A full reckoning with the Trump presidency and its significance for the future of American democracy presidential rhetoric the unilateral executive and the administrative state Coverage of the first year of Biden's presidency including presidential rhetoric relations with Congress and the bureaucracy use of the war powers and unilateral directives Comprehensive updating of debates about the removal power including the Supreme Court cases of

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Research Handbook on International Law and Terrorism Ben Saul,2014-06-27 This Handbook brings together leading scholars and practitioners to examine the prolific body of international laws governing terrorism It exhaustively covers the global response to terrorism in transnational criminal law the international law on the **Understanding the Rule of Law** G. S. Prentzas,2013-07-15 This book is for those who are not only interested in law but how the law works in daily practice when it comes to the limitation of powers Readers are first given a history of the development of the rule of law and the basic principles of the legal system among societies through the ages The book then explains the rule of law in America and how the American legal system came about and evolved Profiled are seminal court cases that helped shape the rule of law into what it is today The text analyzes controversial legal issues such as terrorism national security and the legality of drone strikes It also offers a look at legislation in the future with evolving technologies that test First Amendment rights With an appendix that includes the actual text from the Bill of Rights this book is a comprehensive companion for any student of social studies Military Law Review ,2010 **The International Human Rights Movement** Aryeh Neier,2020-04-07 An expanded and updated edition of a classic work on human rights and global justice Since its original publication Basic Rights has proven increasingly influential to those working in political philosophy human rights global justice and the ethics of international relations and foreign policy particularly in debates regarding foreign policy s role in alleviating global poverty Henry Shue asks Which human rights ought to be the first honored and the last sacrificed Shue argues that subsistence rights along with security rights and liberty rights serve as the ground of all other human rights This classic work now available in a thoroughly updated fortieth anniversary edition includes a substantial new chapter by the author examining how the accelerating transformation of our climate progressively undermines the bases of subsistence like sufficient water affordable food and housing safe from forest fires and sea level rise Climate change threatens basic rights

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