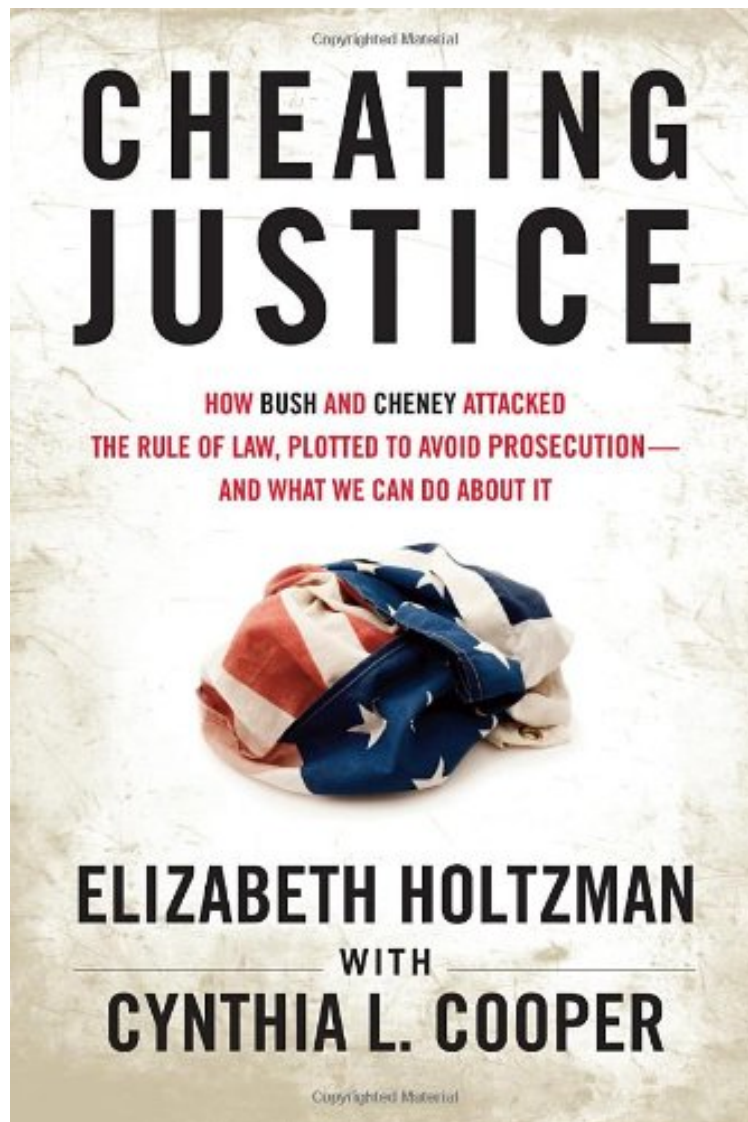


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Cheating Justice: How Bush and Cheney Attacked the Rule of Law and Plotted to Avoid Prosecution- and What We Can Do about It

Elizabeth Holtzman, Cynthia Cooper
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Elizabeth Holtzman, Cynthia Cooper : Cheating Justice: How Bush and Cheney Attacked the Rule of Law and Plotted to Avoid Prosecution- and What We Can Do about It before purchasing it in order to gauge whether or not it would be worth my time, and all praised Cheating Justice: How Bush and Cheney Attacked the Rule of Law and Plotted to Avoid Prosecution- and What We Can Do about It:

7 of 8 people found the following review helpful. Un-Cheating Justice: 2 Years Left to Prosecute BushBy David C N SwansonElizabeth Holtzman knows something about struggles for justice in the U.S. government. She was a member of Congress and of the House Judiciary Committee that voted for articles of impeachment against President Richard Nixon in 1973. She proposed the bill that in 1973 required that "state secrets" claims be evaluated on a case-by-case basis. She co-authored the special prosecutor law that was allowed to lapse, just in time for the George W. Bush crime wave, after Kenneth Starr made such a mockery of it during the Whitewater-cum-Lewinsky scandals. She was there for the creation of the Foreign Intelligence Surveillance Act (FISA) in 1978. She has served on the Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group, bringing long-escaped war criminals to justice. And she was an outspoken advocate for impeaching George W. Bush.Holtzman's new book, coauthored with Cynthia Cooper, is called "Cheating Justice: How Bush and Cheney Attacked the Rule of Law and Plotted to Avoid Prosecution -- and What We Can Do About It." Holtzman begins by recalling how widespread and mainstream was the speculation at the end of the Bush nightmare that Bush would pardon himself and his underlings. The debate was over exactly how he would do it. And then he didn't do it at all.Holtzman ends her book by pointing out that legal accountability can come after many years, as in the case of various Nazis, or of Chilean dictator Augusto Pinochet, or of the murderers of civil rights activists including Medgar Evers.In between, for the bulk of the book, Holtzman, a former district attorney, lays out the prospects for a prosecution of Bush and others on charges of lying to Congress about the grounds for war, wiretapping Americans, and conspiring to torture. This is an excellent sampling of the many horrors on the list of Bush's abuses, and clearly the three areas in which Holtzman believes a prosecution would stand the best chance of success. Her analysis of the war lies parallels and builds on that of Elizabeth de la Vega, another former prosecutor who has written on the topic. Holtzman adds an analysis of the steps Bush took to protect himself from prosecution in this and each other area. She also examines his possible legal defenses, finding some of them strong and others easily overcome.In each area Holtzman finds charges that would stick, if our laws were enforced. She also finds charges that would have stuck, had the statute of limitations not elapsed, and others for which a couple of years yet remain. Holtzman believes charges for conspiring to defraud the government with war lies could be brought until January 20, 2014. She also believes that charges for violation of FISA could be brought until that same date, pointing out that changes made to the law have not provided immunity for prior violations of what the law used to be, and that immunity has been granted from civil suits but not from criminal prosecution. Charges of torture, Holtzman concludes, could be brought at any time in the future.Holtzman argues for lengthening the statutes of limitations for grave abuses of power, for creating a special prosecutor, restoring the War Crimes Act, reclaiming protection against unchecked surveillance, recovering missing records, pursuing civil cases, impeaching torture lawyer turned judge Jay Bybee, and looking abroad for hope and change. She sees some chance of the International Criminal Court pursuing charges of torture.This book is an ideal guide for a prosecutor with nerve and decency, although we haven't found one in this country in the past several years. Other than Kurt Daims who is running for the office of Town Grand Juror in Brattleboro, Vermont, which voted to direct its police to indict Bush and Cheney four years ago, I'm not aware of any prosecutors in the United States with plans to pursue this kind of justice.Glaringly absent from Holtzman's book, despite its 2012 publication date, is any significant mention of the approach that President Obama has taken. There's not one word about "looking forward, not backward," not even so much as one tangential reference to Obama's public instructions to Attorney General Eric Holder, no analysis of the intense effort that the Justice Department, State Department, and White House have pursued to protect Bush and Cheney from accountability, no mention of the ways in which Obama has continued a similar pattern of criminality -- a state of affairs which, of course, might explain his reluctance to allow the enforcement of laws against his predecessor.I don't think it's an unfair criticism to object that a book has left out a large but intimately related topic, one that appears to have been carefully avoided. Partisan prosecution of crimes and non-crimes by Republicans under President Clinton has been aggravated by Republican defensiveness and Democratic spinelessness under Bush. But it is the Democratic switch to defending all presidential wrongdoing since 2008 that has put the largest nails into the coffin of legitimate rule by law in this country. Bush's crimes have been legitimized. Obama has claimed the power to torture as he deems necessary, the power to imprison and rendition as he sees fit, the power to murder any human being including U.S. citizens and children as he and he alone declares necessary, and powers of state secrecy that Nixon and Cheney never dreamed of. While Bush lied the Congress into a war that a reasonably intelligent 8 year old could have seen through, Obama has made the launching of wars a matter for the president alone. And that's just fine with Democrats. Surely Holtzman is aware that this partisanship is a cancer, that it has ruined the power of impeachment and done away with truly independent special prosecutors, and that the purpose of accountability is to halt the ongoing acceptance of crime.I have to quibble as well with Holtzman's lowballing of the Iraq war death count by two orders of magnitude. I know everybody does it, but I still find it grotesque.And yet I have to strongly recommend that this book be read and presented to every prosecutor in this country, including the seemingly shameless Eric Holder. We've got 23 months.0 of 0 people found the following review helpful. Five StarsBy an AmericanGreat - everyone should read this.2 of 3 people found the following review helpful. Cheating JusticeBy Laura O'SheaWhen I read "Torture Team" I was appalled and convinced that Bush/Cheney should be tried for war crimes just like Hitler's people and the Japanese

were tried after WW2. But this is even more horrific. But no one in our government has the backbone or balls to do the right thing. After listening to all the delusional statements and nonsense coming from Washington I am positive that nobody knows what the "right thing" anymore. I stayed up all night reading this book (haven't finished it but am close). I think that Morris Berman is right to say that the USA is headed in a downward spiral. The ONLY thing that keeps the USA on the right track is the rule of law and we don't have that anymore. Education has been cut to the point that nobody knows what that is anymore.

While the debate continues about impeaching President Trump, whether we're in a full blown Constitutional crisis, and which Trump administration officials should be prosecuted for illegal actions, *Cheating Justice* serves as useful background for how we got here by examining how the Bush-Cheney administration broke the law and how the people can bring them to justice. Despite the many misdeeds of and abuses of criminal law by the Bush administration, there has been no accountability. Former U.S. representative Elizabeth Holtzman pairs with lawyer and journalist Cynthia L. Cooper to explain why we can't just move on. They lay bare how the Bush-Cheney administration broke a multitude of laws and betrayed American values, and exactly why and precisely how we, the people, must bring them to justice for their crimes, their cover-ups, and their deceit. Backed by strong evidence gleaned from astounding* research, Holtzman and Cooper argue that the Bush administration not only violated various U.S. laws but also changed many laws to escape prosecution for their crimes later. The authors demonstrate how a failure to hold George W. Bush and Dick Cheney accountable would set a dangerous precedent for the future leadership of America. Bush and Cheney deceived Congress and the people to drive us into a war in Iraq; they claimed the right to wiretap illegally and to eavesdrop on citizens; and they authorized torture, upending laws and breaching international treaty obligations. Yet, both Bush and Cheney are boldly unabashed about their offenses. In his memoir, President Bush makes no apologies for his decision to start a war in Iraq, though no weapons of mass destruction, the ostensible reason for the war, were found there. And once out of office, Bush proudly said, Damn right, about his approval of waterboarding, a clear violation of the Geneva Conventions and U.S. law. Recent revelations about the extent and depth of their crimes, catalogued in detail here, make the need for accountability imperative. As a member of Congress and part of the committee that investigated and held hearings on the conduct of President Richard Nixon in the Watergate scandal, Elizabeth Holtzman condemns Bush's adoption of Nixon's claim that he acted in the interest of national security. Using Watergate-era reforms as a model, Holtzman details the steps necessary to undo the damage that the Bush-Cheney administration inflicted and explains how we can establish new protections to block future presidents from similarly abusing the law. *Cheating Justice* is not only a call to empower the American people, and a firm insistence that the nation's leaders are not above the law; it is also a blueprint by one of America's top legal minds for bringing Bush to justice and protecting the future of our democracy. *Publishers Weekly

"Elizabeth Holtzman, who helped bring President Nixon to justice in the Watergate hearings, now takes on the bigger, deeper and even more crucial task of investigating and exposing exactly how President George W. Bush and Vice President Cheney started an illegal war, subverted civil liberties, human rights and the law itself, and then used the national trauma following 9/11 to cover it up. Start to read *Cheating Justice*, and you won't be able to put it down." Gloria Steinem, co-founder Ms. Magazine, writer and feminist activist

A passionate book grounded in law. Kirkus This book makes a vital contribution to addressing the abuses of power of the Bush administration. Unfortunately today, nearly three years after the end of the George W. Bush administration, our nation still labors under the many excesses of that era. Holtzman's book offers a cogent and elaborate account of that time period and important insights into how we can prevent those from recurring. John Conyers Jr., author of *The Constitution in Crisis* George W. Bush and his administration are gone, but the wrongdoing they committed endures, exposed but unpunished. Extraordinary rendition, warrantless wiretapping, torture: we cannot live with this legacy, but neither can we seem to escape it. No one is better qualified than Elizabeth Holtzman, prosecutor, congresswoman, member of the Watergate committee to confront this legal and moral conundrum and show the way forward. *Cheating Justice*, like its author, is fierce, bold, and unflinching. A powerful, necessary book. Mark Danner, author of *Stripping Bare the Body Here* at last is a book for everyone who is outraged or just bewildered that Bush, Cheney, and other top officials escaped prosecution for their many flagrant violations of the law. Will there really be no consequences for the men who lied us into war, compromised our civil liberties, and made waterboarding and Guantanamo household words? Passionately, clearly, and concisely, Elizabeth Holtzman lays out how it happened, how the Bush administration secretly sought to immunize itself from prosecution, and how we can still hold the perpetrators accountable. Katha Pollitt, author of *Subject to Debate* Holtzman's book indicting the Cheney-Bush administration is passionate and persuasive. Whether it will be in a court of law or a truth commission, history demands a reckoning so that future administrations don't also routinely act above the law. When that happens, *Cheating Justice* will be among the bill of particulars. Going from Nixon to Bush, Liz Holtzman has been a progressive patriot dedicated to the rule of law. Mark Green, coauthor of *The Book on Bush* Elizabeth Holtzman and I were in Congress at the same time: no one I know is more vigilant in holding those in power accountable for upholding our Constitution and the justice it demands. In

Cheating Justice, she recaps the incredible misdeeds of President Bush, Vice President Cheney, and their team. Her cry for the rule of law to be applied to them is a cry every citizen should heed; if we dont, our democracys future is in peril. Former congresswoman Patricia Schroeder About the Author Elizabeth Holtzman is a practicing lawyer in New York and a former U.S. congresswoman. Cynthia L. Cooper is a journalist and former practicing lawyer. Excerpt. Reprinted by permission. All rights reserved. From the Introduction: Why We Shouldnt Simply Move on Before President George W. Bush left office, many people speculated that he would pardon himself as protection against possible future prosecution for crimes. People assumed he would do the same for Vice President Richard B. Cheney and his top cabinet officials, advisors, and aides. There was a good deal of discussion on cable TV news, blogs, opinion columns, and political talk shows: How extensive is the pardon power? Had self-pardons been tried before? When would it happen? In *Bush Final Days, Are Pardons in the Works?* asked NPRs *All Things Considered* on November 23, 2008. Will Bush Pardon Himself? wrote Human Rights Watch director Kenneth Roth in the *Daily Beast*. Get ready for mass pardons, headlined a pundit in the *Hills* blog. The president did nothing of the sort. Instead, he retired without a seeming ruffle of tension, helicoptering out of Washington, D.C., and heading to a new home in a Dallas suburb and his ranch in Crawford, Texas. When he publicly emerged, two years later, he was touting a newly published memoir, and proudly proclaiming that he had approved a form of torture, waterboarding. Damn right, he said in his memoir, *Decision Points*. The former president had no apologies for starting a war in Iraq that had taken the lives of thousands and ruined many more: he thought the world was better off for it, even though no weapons of mass destruction, his ostensible reason for the war, were found in Iraq. The vice president didnt even wait for his term of office to end before he started burnishing his role in waterboarding, war, and warrantless surveillance. Those who allege that weve been involved in torture or that somehow we violated the Constitution or laws with the terrorist surveillance program simply dont know what theyre talking about, he said in an ABC News interview on December 15, 2008. Neither seemed perturbed by the prospect of prosecution. Now we know why. While in office, they had already created walls of protection to prevent the sting of the law from reaching them. Behind the scenes, President Bush and Vice President Cheney worked tirelessly, it seems to inoculate themselves against every manner and form of accountability for misdeeds. They passed provisions changing the laws that they had violated, then giving the changes retroactive application. They made existing laws so convoluted and confusing that probably no prosecutor could enforce them. E-mails in their computers conveniently disappeared, and the retention systems failed. They stamped state secrets on legal actions that might open their misdeeds to scrutiny. They set up straw facades and fake justifications, and even slipped them in the law as pop-up defenses. In short, in an unprecedented way in American history, they engineered and fixed the system from the inside, building buffers of protection for themselves behind a moat, on a hill, locked and gated, seemingly above the law. This book explores how the Bush administration used its power to manipulate the system, cheat justice, and get away with crimes. Except . . . they had a lot of ground to cover. Their transgressions were so vast that they left open some small keyholes where the law can still reach them. This book is also about how to hold them accountable for the crimes they committed. In the years since they departed, more information has emerged about their actions: documents have been declassified, investigative reporters and authors have probed, nonprofit groups have filed Freedom of Information actions; in some areas, Congress has conducted inquiries. Former White House personnel have stepped forward; whistleblowers have revealed secrets and leaked documents; lawsuits have pried open hidden truths. Bit by bit, the record is unfolding. The president and vice president have even incriminated themselves. This book describes the multifarious ways in which President Bush and his team violated Americas criminal laws and the sophisticated counter-measures they took to avoid being held liable for these violations. Showing a breathtaking contempt for the rule of law, they disregarded laws that got in their way and, when exposed, rushed to Congress to push through a rewritten version of those laws to their specifications to get off the hook. They did this while much of the nation was still absorbing and rebounding from the attacks of 9/11. Understanding the depth of their crimes highlights one thing: it is even more important for our democracy that we refuse to let them get away with it. A president and vice president who have committed serious misdeeds in office must be held accountable. Fortunately, this is a situation that the framers of the Constitution anticipated. The founders were wise enough to know that presidents would be fallible and, as such, might commit a variety of crimes. The presidency, the founders knew, was not always going to be held by people who did the right thing or acted honorably; they explicitly provided for impeachment while presidents held office and prosecution of presidents after they left office, too. Thus far, President Bush, Vice President Cheney, and their team seem to have gotten away with their misdeeds. Their motto seems to be *Catch me if you can*, and they remain unindicted, unprosecuted, and unaccountable. Why do we need accountability at all? To ignore the misdeeds of the president and vice president is to signal to the American people that their crimes are of no importance. To give them a free pass for their illegal activities and violations is to send a message to future presidents: do what you will break any law, dont worry. To turn our backs and look away is to say that we, the people, are oblivious, blinded, unaware of their deceits and destruction, or, worse yet, that we are nodding in agreement and giving our consent. Without strong action holding them responsible, the precedent of a runaway lawless administration will continue to haunt us. Have we celebrated 220 years of our Constitution to reach a point where, like a banana republic, our highest elected leaders can engage in crimes of illegal

surveillance, lying to take the nation into war, torture, disappearance and degradation with impunity? Lets hope not. Failing to hold the most powerful among us accountable is the sign of a democracy that is losing its way. In order for a movement for accountability to rise and for the sake of generations to follow, its important to say that some of us were not blind, that some of us were willing to act. It may be a difficult path to follow, but the alternative is more difficult to imagine an America without accountability and justice. The Bush-Cheney Administration: Disaster for Democracy As someone who witnessed Watergate up close I was on the House Judiciary Committee that voted for the articles of impeachment against President Richard Nixon in 1973 I became increasingly concerned about long-lasting ramifications of the illegal acts and injurious decisions of the Bush administration. While President Bush and Vice President Cheney were in office, I advocated for their impeachment. For me, the model was what happened when President Nixon committed grave offenses against the Constitution and laws of the United States. In response, the country came together and refused to allow a president to take the law into his own hands. The American people were outraged by his systemic abuses of power and his lies. The House Judiciary Committee reviewed dozens of volumes of evidence about illegal behavior by President Nixon extending over several years including the covert bombing of Cambodia, illegal wiretapping, the Watergate break-in, and the conspiracy to obstruct justice, that is, the cover-up and came to the conclusion that impeachment was necessary. The vote reached across party lines, and the country accepted the verdict. All these years later, I still remember that it was hard to vote for President Nixons impeachment, even though I was no fan of his policies and particularly disagreed with his pursuit of war in Vietnam. While few were eager to find our president engaged in criminality, it strengthened the country to know that, in the end, most Americans valued the rule of law more than the fate of any one person. The process in Watergate had worked well to protect the nation from a criminal president. The Nixon impeachment process, because it was done so fairly, has withstood the test of time, and remains a high-water mark in the nations efforts to make sure its officials respect the law. I also believed that more than enough evidence existed to conclude that President Bush and Vice President Cheney had violated their oaths of office and committed high crimes and misdemeanors and in ways especially damaging to our democracy. But unlike Nixon, President Bush and Vice President Cheney did not face impeachment proceedings, nor did any significant legal review of their actions take place. In contrast to the situation with President Nixon, there has been no official reckoning of the actions of President Bush. A grand jury named President Nixon an unindicted co-conspirator. A House Judiciary Committee impeachment report set forth his high crimes and misdemeanors. An official record was made of his misconduct, so that history could not mistake it and it could not be whitewashed with propaganda, memoirs, or an attempt to rewrite the facts. Even without a Bush-Cheney impeachment, I knew that accountability could come after they left office. That was another lesson from Watergate. President Gerald Ford, who took office when Nixon resigned, recognized that a former president could be prosecuted for his crimes in office. President Ford took the extraordinary step of issuing a pardon to former president Nixon, insisting that he had suffered enough by having to resign in order to avoid impeachment. President Fords pardon of Nixon to prevent a possible prosecution was roundly denounced at the time because it created a dual sense of justice. The American people did not want one set of criminal standards for a president and another for the rest of us. This may well have been the most important factor in Fords defeat in the next election. When I started thinking about paths to accountability for the criminal misdeeds of President Bush and Vice President Cheney, I intended to make the case for prosecution. Based on what I already knew and had researched and written about, I expected to find a range of illegality and I did. What I hadnt expected to find were the mounting pieces of information and evidence that showed a pattern and practice by which President Bush and Vice President Cheney, after undertaking illegal actions and keeping them secret, went on to set up fake justifications for their behavior, blamed others, inserted hidden defenses in the law, and schemed to protect themselves from the consequences of their criminal conduct by every means possible. As I examined the facts more closely, I saw that they had even succeeded in changing laws in an attempt possibly successful to exonerate themselves. This could happen only in a country still traumatized by the World Trade Center and Pentagon attacks and willing to believe a president, no matter what. Taking advantage of this post-9/11 atmosphere, President Bush conducted illegal wiretapping, lied about it, and when exposed, asserted that he could flout the law. Surveillance of Americans secret and unnoticed can do permanent damage by chilling diversity and depth of opinion and speech. President Bush, no doubt, knew how sensitive Americans are to invasions of their privacy. Before he left office, he pushed through changes in the law that might protect him from prosecution. President Bush secretly authorized and unleashed systemic torture and cruel and inhuman treatment in the interrogation and handling of detainees. While in the White House, he denied that he had authorized torture. We do not torture, the president said on many occasions, even issuing a statement to the United Nations on June 26, 2004, reaffirming the commitment to the elimination of torture worldwide. But he must have realized that torture and cruel and inhuman treatment could not be hidden forever. While still in office, the president secured legal opinions purporting to allow torture and pushed through provisions to undermine the War Crimes Act and render it largely useless in affixing criminally responsibility against him. Torture and cruel and inhuman treatment violate solemn treaties, as well as our own laws. The horrid pictures of prisoner abuse at Abu Ghraib, according to various testimonies, encouraged jihad against U.S. soldiers, endangering their lives. As a former district attorney, I know that highly trained, experienced investigators can frequently obtain

vital information without ever lifting a finger against the person being questioned. As for starting a war by lies and deception, no more serious legal violations can be envisioned—thousands of lives lost, expenditures of a trillion dollars, and the violation of our treaty obligations against fighting an unprovoked war. The devastation caused by the Bush administration is so vast that, in some ways, we have been numbed to its extent and corrosiveness. Now that they are out of office, reasserting the rule of law and holding President Bush and Vice President Cheney answerable, where possible, is a necessary task. Active steps are needed to investigate the misconduct of the Bush-Cheney administration: a special prosecutor to investigate possible illegal actions and bring charges where appropriate; a truth commission to make sure that all of the facts and actions are established for a historical record; new legislation by Congress to patch holes in the law to prevent repetition of the same behavior; citizen action to demand that our constitutional standards be upheld. Prosecution is by no means a minor matter. Prosecutors must analyze the evidence and the law, persuade a grand jury to return an indictment, try the case before a jury. The evidence must meet each element of the crime in the statute and overcome defenses that those charged may assert. Prosecution isn't something to be approached lightly but it is critical to serious accountability. The argument that conducting investigations would tear the country apart is not true, but in any case is no reason to desist from requiring accountability. America is certainly strong enough to weather a fair and professional investigation of presidential criminality. During the Watergate inquiry, the same argument that the country would somehow suffer harm turned out to be untrue. Our nation prohibits titles of nobility precisely in order to guard against the formation of a legal hierarchy in our society. Presidents are not kings; they are ordinary human beings, subject to ordinary temptations, who must be treated like any other persons if they have broken the law. We do not have an aristocracy of former government officials with immunity. The danger to our democracy is seen most starkly when former Bush administration officials trumpet their crimes, proudly and publicly, without any fear that they will be held to account. As with any crime that goes unprosecuted, the failure to take action against a former president who has committed crimes stands as an indictment of the society that permits the impunity. The failure to prosecute trivializes the acts constituting the crime, suggesting, in the case of President Bush, that torture, disappearance, cruel and inhuman treatment, abrogation of our treaties, violation of our laws on privacy, deception of the Congress, and subversion of the constitutional checks on war making are minor matters, easily overlooked. It means rejecting what used to be regarded as core American values, and even worse, sends a clear signal to future presidents that they may act with similar disregard for the law.