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**Jonathan Colman. "Toward 'World Support' and 'The Ultimate Judgment of History': The U.S. Legal Case for the Blockade of Cuba during the Missile Crisis, October-November 1962." *Journal of Cold War Studies* 21:2 (Spring 2019): 150-173.**

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Review by **Lubna Qureshi**, Independent Scholar

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*Thirteen Days*, a cinematic treatment of the Cuban Missile Crisis, could have been a great film had it not exaggerated the importance of Kenneth O'Donnell, the Appointment Secretary and Special Assistant to President John F. Kennedy. O'Donnell, who was laughingly portrayed by the actor Kevin Costner, had had no significant role in policymaking during the Cuban Missile Crisis.<sup>1</sup> In addition, the 2000 film had another failing. By never questioning the legality of the naval blockade against Cuba, *Thirteen Days* simply assumed that the vote of the Organization of American States had legitimized it.

Of course, historians should not expect too much from Hollywood productions, and must turn to scholarly analyses of the Cuban Missile Crisis. Aleksandr Fursenko and Timothy Naftali's "*One Hell of a Gamble*," Michael Dobbs's *One Minute to Midnight*, and Alice L. George's *The Cuban Missile Crisis* all have their strengths, but they do not provide a legal analysis of the blockade itself.<sup>2</sup>

This is where Jonathan Colman's article, "Toward 'World Support' and 'The Ultimate Judgment of History,'" makes its contribution to scholarship, by proving that the legal issues surrounding the blockade resonate to this day. Colman suggests that Kennedy's decision to impose a peacetime blockade, and to bypass United Nations authorization in favor of the OAS, violated international law. Renaming the blockade a

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<sup>1</sup> *The Kennedy Tapes: Inside the White House During the Cuban Missile Crisis*, eds. Ernest L. May and Philip D. Zelikow (Cambridge: The Belknap Press of Harvard University Press, 1997), "Thirteen Days," March 2001, Online NewsHour, Public Broadcasting Service: <https://web.archive.org/web/20010905114944/http://www.pbs.org/newshour/forum/february01/thirteendays3.html>.

<sup>2</sup> See Aleksandr Fursenko and Timothy Naftali, "*One Hell of a Gamble*": *Khrushchev, Castro, and Kennedy 1958-1964: The Secret History of the Cuban Missile Crisis* (New York: W.W. Norton, 1998), Michael Dobbs, *One Minute to Midnight: Kennedy, Khrushchev, and Castro on the Brink of Nuclear War* (New York: Alfred A. Knopf, 2008), and Alice L. George, *The Cuban Missile Crisis: The Threshold of Nuclear War* (New York: Routledge, 2013).

quarantine did not alter the conventions in any way. “The U.S. government, in an effort to establish law by precedent as well as to garner political backing, asserted that the ‘quarantine’ fell short of a traditional belligerent blockade and so avoided the implications of a state of war,” Colman writes (151).

For the most part, diplomatic historians shy away from matters of international law; Colman’s bold venture outside his own discipline is thus admirable. He makes effective use of legal scholarship, both contemporary to the period and from the present day. The names of scholars such as Quincy Wright, Ian Brownlie, Josef Kunz, Gerhard von Glahn, and Radhika Withana should be familiar to specialists in international law, if not diplomatic history.<sup>3</sup>

Shortly before the President learned of the placement of Soviet missiles ninety miles from Florida, the State Department’s Legal Advisor doubted the validity of a blockade “because we are not in a state of war with Cuba” (154). Abram Chayes contended that not even a two-thirds vote from the OAS would waive the required authorization of the UN Security Council. Inevitably, Chayes understood, a veto from the Soviet Union would have blocked such an authorization. “These reflections seemed mostly hypothetical prior to the discovery of the Soviet nuclear missiles,” Colman observes, “and Chayes later put his reservations aside to become a vigorous advocate of the legality of the ‘quarantine’ – although the case rested in part on the presence of the weapons” (155).

Even at the most dangerous peak of the Cuban Missile Crisis, a state of war still did not exist between the United States and the Soviet Union. Kennedy, therefore, employed the term “quarantine” as a legal euphemism. Moreover, Colman notes that the word “had the benefit of echoing a 1937 speech in which President Franklin D. Roosevelt urged ‘peace-loving nations’ to ‘quarantine’ the European ‘aggressors,’ and it avoided unfavourable associations with the Soviet blockade of Berlin in 1948-1949” (157).

International law permits military action in response to aggression, and Colman makes the crucial point that the actions of Moscow and Havana did not technically break international law. After all, the Soviets faced American nuclear missiles from bordering Turkey, among other locations. “By stationing nuclear missiles in Cuba,” Colman comments, “[Nikita] Khrushchev and [Fidel] Castro were responding at least in part to U.S. aggression, and the secrecy of the Soviet operation had no bearing on its legality” (164).

Obviously, Kennedy depicted his adversaries as the true aggressors, but “any attempt to convey the impression the Soviet Union was poised to launch a nuclear first strike from Cuba was mere hyperbole, so the invocation of self-defense in U.S. rhetoric must be taken with a substantial pinch of salt” (165).

The president and his advisors took international law into their own hands. Rather than consulting with its allies, Washington merely informed them of its plan-of-action. The so-called special relationship between United States and Great Britain compelled Prime Minister Harold Macmillan to publicly support the U.S. blockade, but he had private reservations. His Foreign Secretary, Alec Douglas-Home, thought that Cuba had

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<sup>3</sup> See Quincy Wright, “The Cuban Quarantine,” *American Journal of International Law* 57:3 (1963): 597-604, Ian Brownlie, *International Law and the Use of Force by States* (Oxford: Clarendon, 1963), Josef Kunz, “Sanctions in International Law,” *American Journal of International Law* 54:2 (1960): 324-347, Gerhard von Glahn, *Law among Nations: An Introduction to Public International Law* (New York: Macmillan, 1992), and Radhika Withana, *Power, Politics, Law: International Law and State Behaviour during International Crises* (Leiden: Brill, 2008).

the right “to call for military aid from another government if necessary for the purpose of its defense,’ just as members of the North Atlantic Treaty Organization (NATO) had consented to U.S. nuclear bases on their territory” (167).

I have no quarrel to make with the thrust of Colman’s argument, and I differ with it on only one point. Colman does not in this article challenge the conventional assumption that the missiles in Cuba enhanced the Soviet strategic position. He cites a U.S. government study that the missiles raised “the first strike missile salvo which the USSR could place on targets in the continental United States by over 40%” (162).

Colman defends this assumption more vigorously in his excellent 2016 monograph, *The Cuban Missile Crisis: Origins, Course, and Aftermath*. He indicates that the Soviet Union possessed “only” 75 functioning intercontinental ballistic missiles.<sup>4</sup> In my view, the launch of 75 ICBMs would have produced enough devastation to render all but irrelevant the Cuban location of medium-range and intermediate-range ballistic missiles. I agree with Secretary of Defense Robert S. McNamara and the president in this regard. At a meeting of the Executive Committee of the National Security Council on October 16, 1962, National Security Advisor McGeorge Bundy asked: “What is the strategic impact on the position of the United States of MRBMs in Cuba? How gravely does this change the strategic balance?” McNamara replied: “My own personal view is: Not at all.” Kennedy concurred with McNamara: “You may say it doesn’t make any difference if you get blown up by an ICBM flying from the Soviet Union or one that was 90 miles away,” Kennedy observed. “Geography doesn’t mean that much...”<sup>5</sup>

I intend to assign Colman’s essay to my students. I hope it will encourage them to question whether a superpower has the unilateral right to decide the fate of humanity.

**Lubna Qureshi** earned her doctorate in U.S. diplomatic history from the University of California, Berkeley in 2006. Her first book, *Nixon, Kissinger, and Allende: U.S. Involvement in the 1973 Coup in Chile*, was based on her dissertation. Her 2013 essay, “U.S. Clandestine Operations in Chile 1970-1973” was published in Christos Frentzos and Antonio Thompson, eds., *The Routledge Handbook of American Military and Diplomatic History: 1865 to the Present*, (Routledge, 2013). Qureshi is writing her second book, *Prime Minister Olof Palme, Sweden, and the Vietnam War: A Diplomatic History*. An independent scholar, Qureshi is co-editor of H-Diplo’s *Journal Watch*.

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<sup>4</sup> Colman, *The Cuban Missile Crisis: Origins, Course, and Aftermath* (Edinburgh: Edinburgh University Press, 2016), 48.

<sup>5</sup> Ernest L. May and Philip D. Zelikow, eds., *The Kennedy Tapes, The Kennedy Tapes: Inside the White House During the Cuban Missile Crisis*, eds. (Cambridge: The Belknap Press of Harvard University Press, 1997) 89, 90-91.