

## ASSEMBLY KEYNOTE

This keynote address was convened at 9:00 a.m., Thursday, June 25, 2020, by its moderator Avril Haines of Columbia Law School, who introduced the featured speaker, William J. Burns of the Carnegie Endowment for International Peace.

### INTRODUCTORY REMARKS BY AVRIL HAINES\*

Thank you so much, Catherine, and to Sean and to Mark and all of you who have put this together. The annual ASIL event is something all of us lawyers look forward to every year, where we have an opportunity to hear some of the remarkable things that people are doing and thinking about and moving the conversation forward, and I agree it is a critical moment.

Before we start, I am going to be asking Bill, who is, in my view, the diplomat of the century, not just of the year, a whole series of questions, but I thought just to pause on Bob Dalton for a moment. He was one of my first bosses when I was a young attorney in the State Department, in the Treaty Office, needless to say, and you could not find a more generous, kinder, more passionate human being about treaty law in the world. And one of my favorite stories about him was when he was testifying before Congress in a panel about treaties, and he was facing a senior senator who was particularly skeptical, shall we say, about the treaty that was being discussed. The senator asked the panel, “Well, how many years have you been working on this?” and he got the usual answers from the first few folks. Then he got to Bob, and Bob said, “Forty.” It ended the conversation, but he really was extraordinary. And I think the award is really very special.

As we all know the theme of this year’s annual meeting is “the promise of international law,” and I cannot think of a better policymaker or foreign service officer to speak to this theme. I think, Bill, you note in your book, *The Back Channel*, which was mentioned by Catherine, that a key underlying challenge you had to deal with during the course of your diplomatic career was adjusting to a world in which American dominance was fading, and I was wondering if you can explain what the implications of this are for us and how that led to your statement later in the book that we are no longer the dominant power, but we can be the pivotal power, and what the implications might be of that for international law, how you see international law, and its importance in this era through that lens.

### REMARKS BY AMBASSADOR WILLIAM J. BURNS\*\*

Sure. Well, thanks so much. I am really delighted, I should say at the start, to be with all of you. I am delighted to be part of a program that honors Bob Dalton, who was a remarkable colleague over many years in my own service in the State Department, in L Bureau, that I have always viewed as a national treasure. Speaking of national treasures, Avril, it is nice to have this conversation with you too because you are as fine and decent a public servant as I ever worked with.

\* Columbia Law School.

\*\* Carnegie Endowment for International Peace.

I came of age as the professional American diplomat toward the end of the Cold War, a moment of singular American dominance in the international landscape as the Soviet Union fell apart. Today that post-Cold War order is clearly fading in the rearview mirror, and the contours of the new international order that is going to emerge over the next couple of decades are still pretty dimly visible.

We are in a moment of transition, one of those rare plastic moments that comes along maybe once or twice a century. This one has several important features: first and most obvious, major shifts in the balance of power among states, especially with the rise of China; second, major technological, environmental, and economic transformations in the international landscape beyond the reach of any one nation state—the problems without passports, like climate change, the next pandemic, and the revolution in technology; and third and not least, there is major uncertainty about the role of the United States, the main driver of the old post-Cold War order, now seen by many to be drunk at the wheel. And what the pandemic has done is also true, as Catherine said earlier, it has exposed and accelerated a lot of deep problems within our own society, whether it is racism or economic inequality.

But if we are no longer the only big kid on the geopolitical block—and I do not mean this as a statement of American arrogance—I still think the United States has a better hand to play in the window before us over the next decade or two than any of our major rivals. And that is not just because of our military and economic leverage, as important as they are. It is also because of our capacity to invest in alliances, to mobilize coalitions of countries, and to help shape rules of the road of which the international law remains a crucial part.

So we remain, in a sense, a pivotal power, even in this changing landscape, in a sense that we still have the capacity to bring to bear more influence in more ways and more directions than anyone else does, but only if we apply that in a disciplined fashion. In other words, if we are able to limit our hubris and our occasional crusading impulses, which oftentimes get us into a lot of trouble, in that world, diplomacy really ought to be our tool of first resort, and we have gotten into a lot of bad habits, which did not just begin in January 2017 with the Trump era. There has been a drift before that for some time, and that is one of the biggest challenges that we face.

#### **AVRIL HAINES**

It is really interesting. Maybe this is my bias coming through, but it seems to me that in this moment as you are describing it, where American leadership can still play an instrumental role in addressing some of the challenges that we are facing, even as it may be shifting from a dominant to a pivotal power, the legal frameworks that we create may actually be more important, in a sense, to preserve that option and to coordinate and collaborate through the alliances and partnerships that you described and to create those sort of institutions that help us to leverage what American leadership can do in this space. But is that fair? Is that what you are saying?

#### **AMBASSADOR WILLIAM J. BURNS**

That is right, Avril. I do not think that it is in any way naïve or illusory. At this moment when we are no longer the singular dominant player but still have a strong hand to play, all of those tools become even more important because what sets the United States apart in that landscape is our capacity to shape some of those rules, to apply international law in smart and creative ways, to help create a framework that is going to protect global public goods and shape the rules of the road in ways in which it is going to be much more important as we begin to try to think through and hopefully shape the contours of a new international order.

**AVRIL HAINES**

It is a perfect lead-in to, frankly, what I was hoping we would pivot to next in a way, which is Russia. As noted, you were the ambassador to Russia. You have long been a student of Russian leaders and thinking, and as a declining power, you have talked about the fact that Russia and, more particularly, Putin, as he pursues greater legitimacy in international standing, views undermining this American-led international order, in a sense, as critical to his ability to preserve Russia's major power status. And we certainly saw that in the Obama administration in a series of instances in the context of Ukraine and in Russia's efforts to interfere in our election.

First, I was wondering, how do you see Putin's approach? How has it evolved since then during the Trump administration, and how do you think we can most effectively push back against those efforts to actually pursue the kind of frameworks that you are talking about and the leadership that you have described?

**AMBASSADOR WILLIAM J. BURNS**

Well, Avril, most of my gray hair over the course of my three and a half decades as a diplomat came from the two times I served in Russia in our embassy and worked on U.S.-Russia issues. It is a complicated question.

Vladimir Putin, in my experience, is a combustible combination of grievance, ambition, and insecurity all wrapped up together. He is, in many ways, an apostle of payback in a sense that his worldview was shaped with the collapse of the Soviet Union and Russia's most recent time of troubles through the 1990s when it was flat on its back economically and politically as a player on the international landscape.

To illustrate that, I vividly remember my first meeting as the newly arrived American ambassador in Moscow. This is August of 2005, and the meeting takes place in the Kremlin, which as you know well is a place that is built on a scale meant to intimidate visitors, especially newly arrived American ambassadors. So you walk down these long corridors, through these huge ornate halls. You come to the end of one huge ornate hall, and there are these two-story bronze doors. You are kept waiting in front of them for a few minutes, just to let all this sink in. The door opens a crack. Out comes Vladimir Putin who, despite his bare-chested persona, is not that intimidating in the flesh. He is about 5'6" even with lifts in his shoes, but he carries himself with a lot of self-assurance.

So he comes walking through the door and, before I get a word out of my mouth, says in Russian, "You Americans need to listen more. You cannot have everything your own way anymore. We can have effective relations but not just on your terms." My experience, that was vintage Vladimir Putin. It was not subtle. It was almost defiantly charmless, but the message was Russia is going to push back.

And I think Putin's worldview, at least as he looks at relations with the United States, is shaped by a few things. He sees the way to create space for Russia as a declining major power as chipping away at an American-led order, and that is also convenient for a second reason, because it is a way of justifying a very politically repressive system at home to point to an enemy in Kiev.

Putin himself, partly by dint of professional training, is always very well attuned to other people's weaknesses. He is a very agile counterpuncher. He is less and less attuned to Russia's own weaknesses, a one-dimensional economy, way too dependent on oil and gas, and a repressive political system that is going to become more brittle over time.

In the Trump era, the president himself has demonstrated an autocrat envy in a way, in a sense that, especially with Putin but with other authoritarian leaders, the way to get ahead on this

international landscape is to ingratiate yourself with autocrats. I remember the scene at the summit meeting that President Trump and President Putin had in Helsinki in the summer of 2018 when the president stood on stage with Putin and essentially threw seventeen U.S. intelligence and law enforcement agencies under the bus and said that, in effect, he trusted what Putin had to say about the issue of Russia's interference in a 2016 election more than his own experts. President Trump may have seen that as an opportunity to ingratiate himself. Putin saw that as a signal of weakness and manipulability. If you could have seen the cartoon balloon coming out of his head on that stage, out of Putin's head, I think it would have read, "What an easy mark." So I do not think that is the way to deal with Putin.

You need firmness and consistency. You need to work with allies and partners. You need to understand with Putin's Russia, at least, we are going to be operating within a pretty narrow band, from the sharply competitive to the nastily adversarial.

That does not mean—and this is my last point—that we do not need to work hard at creating and sustaining guardrails in that relationship. The extension of the new START agreement, which regulates, reduces, monitors, and verifies our strategic nuclear arsenals, it is crazy for us not to be pursuing, as a matter of diplomacy, as a matter of smart international law, the extension of that treaty right now as well. This is going to be a combustible issue to deal with for some time to come.

#### **AVRIL HAINES**

I think it is always, in this space, engaging, but actually being assertive in responding to unacceptable behavior by an adversary in that circumstance or in finding ways to coordinate and to collaborate on things where there might be mutual benefit, and it is such a dance that you are so used to, frankly, managing. In the context of Russia, as you point out in the arms control space, that is a place where, from my perspective, international law has had enormous impact in designing the rules of the road for how you do that with an actor you do not trust and one that allows you, nevertheless, to pursue areas of mutual interest.

Let me shift to China, then, because I think that is the other side of the coin, in a way. With China's rise and its new assertiveness in advancing its interests internationally, I think it presents a different challenge. Whereas Russia, I think, we see as seeking to undermine the liberal international order, the Chinese strategy seems to be to actually refashion international rules and institutions in its own form and to replace the U.S.-led order potentially with a Chinese version of what that order might look like. As you see that happening, how do you think the United States should respond? How would you approach that differently than Russia in that context?

#### **AMBASSADOR WILLIAM J. BURNS**

I would say several things, Avril, because this is going to be the biggest challenge for American statecraft for the twenty-first century, as I can see it, at least the biggest geopolitical challenge, which is how do you manage relations with China. It is the classic challenge of statecraft. How do you navigate that gray area between conflict and cooperation? There are going to be elements of both, even though it is much easier to see the elements of conflict today in U.S.-China relations.

I would add that I think all of us, me included, were guilty of some lazy assumptions over the last three or four decades about the benefits of engagement with China. But I worry that in Washington, at least, we also are guilty in some ways of lazy assumptions about the workability of decoupling our economies, which is a fashionable subject today, or the wisdom of containing China or somehow preventing its rise. The more logical way to look at this is not so much preventing Chinese rise,

which goes beyond the capacity of the United States. We can compete very effectively, but the issue is more how do you shape the environment into which China rises. Here, the United States has enormous assets across the Indo-Pacific all the way across through Southeast Asia to our traditional treaty allies in Japan and in South Korea, for example, a web of countries that do not always want to be forced to make a choice between the United States and China on every issue but certainly share a profound interest that China's rise not come at the expense of their prosperity or their security.

We also have a profound interest, we the United States, in helping to shape rules of the road. That is why I thought it was a mistake for the United States at the beginning of the Trump administration to pull out of the Trans-Pacific Partnership. If you want to shape the incentives and disincentives of the Chinese leadership, knitting together 40 percent of the global economy around a relatively high-end set of trade and investment standards is a good place to start.

Was it a perfect agreement? Of course not. In my experience, as a diplomat over three and a half decades, perfect is rarely on the menu, but that is an example of the kind of tool and the set of assets that the United States still has in helping, as I said, to shape the environment into which China rises.

We also have to be careful not to check our values at the door in dealing with the huge challenge of China regarding Hong Kong, the Uighurs, or any other issue. It is not who we are as a society or as a leadership, and it is an issue on which we can rally a lot of other countries in the world, as difficult as they are.

#### **AVRIL HAINES**

I wonder, in this space, about engaging with allies and partners, as you describe it, and helping them, in a sense, to be more resilient against the push-and-pull between the United States sometimes and China, but also China's more assertive efforts in certain areas, it seems to be one piece of the puzzle.

As you indicate, though, too, it seems to me during the last few years, we have seen the United States pull back from international institutions, just as China is leaning in, to create greater influence in those spaces. Is that a space where you think we need to focus and where we actually lean in more effectively to prevent that influence as well?

#### **AMBASSADOR WILLIAM J. BURNS**

I do. I say this also as a self-criticism as well. In all of my years in the State Department, often-times multilateral diplomacy was not taken as seriously as it should have been, and the significance of that issue is more salient than ever today as you look at this new international landscape. The Chinese are not wasting time on both, expanding their diplomatic corps, and becoming much more effective in the UN system and elsewhere in regional institutions. The Russians, in many ways, even as a declining power, are masters at understanding, navigating, and sometimes manipulating the UN system. Does that mean that the UN system, just as one example, is not in dire need of reform? Of course, it is.

There are a lot of people who have raised concerns, for example, about the World Health Organization (WHO), but it is crazy, in my view, to suspend financial support for an institution like the WHO in the midst of a pandemic. You do not try to reform the fire brigade while the fire itself is raging out of control.

I do think one of the big challenges for American administrations, several of them in the decades ahead, is going to be to develop a new multilateralism, which takes more seriously than we

sometimes have, certainly in this era but in eras before that, the significance of those institutions because we are not going to be able to deal successfully with what I referred to before as problems without passports, unless you have those mechanisms. You are going to have to couple them into a patchwork with less formal coalitions of countries.

As you well remember, that was the experience of President Obama in dealing with Ebola. It was the role of the WHO and regional institutions, but it was also the capacity of the United States as an organizer on the international landscape to work with other nation states as well.

In this transitional period with international order, it is going to be that combination that is going to be critically important.

#### **AVRIL HAINES**

You have been the voice on this issue that many have referred to as the hollowing out of the State Department and particularly the career Foreign Service, and I wonder, what do you think needs to be done to rebuild and strengthen the State Department in this moment? Where are the critical issues that we should be focused on?

#### **AMBASSADOR WILLIAM J. BURNS**

Well, thanks, Avril. I have tried to be honest about this issue, not because I have any monopoly on wisdom but because having invested three and a half decades of my professional life in an institution that I genuinely love and revere, I am worried about its hollowing out today. I would be the first to acknowledge that the drift in American diplomacy did not start in January 2017, but it has gotten a lot worse. As I said at the start, in my three and a half decades as a professional diplomat, I have never seen a moment where American diplomacy mattered more on this shifting landscape or been more adrift.

You can measure that in either tangible or intangible ways. Tangibly, you have seen a systematic sidelining of career expertise. Of the twenty-eight assistant secretary of state positions in the State Department, the senior jobs, as all of you who are veterans of L know very well or of the U.S. government, around which the State Department organizes its role in foreign policy, only one of those twenty-eight positions today is held by a confirmed career officer as well.

You have also seen, not surprisingly, a 40 percent drop in applications to join the Foreign Service over the last few years, the biggest drop in modern American history. You have seen a greater proportion of nonpolitical ambassadorial positions than ever before. We have made painfully slow progress toward creating a more diverse foreign service, because I have always found serving overseas, we get a lot further through the power of our example than we do through the power of our preaching.

But today even that painfully slow progress has been reversed in a lot of ways. Of the 189—I think that is the right number—American ambassadors around the world today, there are exactly three who are African Americans. That is not only unconscionable, it is also not smart. That is not how you build an effective American diplomacy.

Also there has been a pernicious practice of going after individual career officers in different parts of the State Department just because they worked on controversial issues in the last administration.

And then, of course, there are the intangible measures. When President Trump was asked a couple of years ago whether he was concerned about the record number of senior vacancies in the State Department, he said, “Not really, because I am the only one who matters.” In my view that is

diplomacy as an exercise in narcissism, not the diplomacy I learned working for Secretary of State Baker in the Bush 41 administration a long time ago as a very young diplomat.

It is going to take a lot longer to fix than it has taken to break, again, recognizing that the roots of this go back many years. I do think the State Department as an institution has to be honest about its own failings and the need for reform while individual career foreign service officers or career civil servants can be incredibly innovative and creative and resourceful. As an institution, the State Department is rarely accused of being too agile or too full of initiative. So there are things that can be done within the institution that do not require new authorities from Congress or huge new budgetary outlays.

You also need leadership, especially in the White House, that understands that we need to rebalance our tools and our priorities in terms of American foreign policy. That in this world, as I was trying to describe before, diplomacy needs to be restored as our tool of first resort, backed up by military and economic leverage; in other words, to get away from some of the bad habits that we, for some understandable reasons, stumbled into after 9/11 to make oftentimes the military our tool of first resort. That is unfair to the U.S. military, and it is also not a smart way of exercising what remains considerable American influence on a really complicated international landscape.

The last thing I would say is that in the State Department, there is oftentimes a tendency—this is self-criticism for myself as much as anything—to take for granted the significance of American leadership in the world. I have found in the course of going around the country talking about my book that here are a lot of American citizens who do not need to be persuaded of the importance of American engagement in the world, but when we, people like me, card-carrying members of the Washington establishment, preach the virtues of disciplined American leadership, they are a lot more skeptical about the discipline part.

We always tell ourselves that smart American diplomacy has to begin at home in a strong political and economic system, and that is, of course, true, but it seems to me that American leaders need to do a better job of also making clear that smart diplomacy ends at home too in more economic opportunities and healthier environment and more security as well. So that is a big challenge as well, to recognize that disconnect and begin to try to bridge it at least.

## **AVRIL HAINES**

I cannot think of anybody who can speak with more authority on these issues, and your book makes such a remarkable case for diplomacy and in many ways represents the culture that I recall from the State Department, the way that it operated, just as you described it.

One thing, in thinking about these issues, it does seem to me that we have a challenge ahead. As the international and domestic realm is collapsing in so many different ways, as you point out—and I think Carnegie has done some remarkable work in this space—we need to factor in some of the domestic thinking and stakeholders that we do not typically bring into the decision-making process in foreign policy and national security more effectively in order to actually create the loop that you are describing so that our diplomacy can end at home, and we can actually make a better case in some respects for what it is that we are doing internationally in these spaces and how critical it is, from my perspective, to every aspect of American interests across both realms. Anyway, so well said.