

BENJAMIN WITTES

No, no. Don't be silly. John?

REMARKS BY JOHN BELLINGER*

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Great. Thanks, Ben. So we have a fantastic moderator who knows more about this subject than any of us, so I'm going to try to be brief and let Ben ask us some questions.

Let me start, as I know Ben would like us to, by trying to be provocative, to say, obviously, on the one hand, candidate Trump and then President Trump for the first three months have done a number of extraordinarily alarming and troubling things for those of us who are concerned about international law, but there may be some rays of hope. And the question is, where will those rays of hope go? So let me de-compact that.

I have been, I think as most of you know, very concerned about President Trump as a candidate all along. As Ben knows, I wrote one of the earliest posts on *Lawfare* in November 2015, not 2016, that said that Donald Trump is a danger to our national security based on statements that he had made about returning to waterboarding, killing the family members of terrorists. It troubled me when he said, "Who were those eggheads who had negotiated the Geneva Conventions?" and I felt that he was really dividing us as a country as a candidate.

As many of you know, that then blossomed into the letter that I wrote on behalf of the fifty national security officials in August last year that said that Donald Trump is not qualified to be president. He lacks the qualifications, experience, and values to be president, and would be reckless and dangerous. And I have remained concerned in the first couple of months of this administration about things that he has done, many things that we're all well aware of, such as the executive order on immigration. Smaller things that you may not have seen, which just struck me as bizarre, his statement that we should have taken the oil in Iraq and maybe we still will. And then when challenged on that, he said, "What, international law experts say that's wrong?" So he continues to say these unusual things.

There were the draft executive orders that came out in the very beginning, which I'd like to talk a little bit about. Some of them didn't come out, like the one on multilateral treaties, the one on defunding the UN, the one on resuming the CIA programs, but it gives you a sense of where President Trump's advisors are. And those are obviously concerning things. We have seen a potential return to some of the troubling counterterrorism policies that I know Elisa will talk about. The attorney general has talked about reopening Guantanamo. So there's a lot to be alarmed and concerned about.

The question will be, is this administration going to begin to settle down when more officials get into place? The one ray of hope that I do see is that I think there are some serious lawyers who are going into positions in this administration—centrist, nonideological lawyers, who I hope once they get into these positions will help to educate the president and some of his advisors on the importance of international law and international institutions.

I have a sense of who the legal advisor may be, and I think it is someone, if we head in this direction, that people will be comfortable with. John Sullivan had been named to be general counsel at DoD. He is a very serious centrist lawyer. They pulled his nomination to make him deputy secretary of state, a somewhat unusual appointment, but he is highly qualified. So my hope is that with

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some of these serious people in place that the administration may begin to settle down. The National Security Council, in utter disarray in the beginning, is beginning to settle down.

I don't know what direction this is all going to head. It could continue in the first direction of alarm and troubling, but it may—if we get some of these more serious people in place, particularly the lawyers, it may begin to settle down after a while. So I think there honestly is—there is cause for alarm, but it is too early to tell yet.

BENJAMIN WITTES

Excellent. Elisa?

REMARKS BY ELISA MASSIMINO*

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Okay. Thanks, Ben. Its an honor to be here. I wanted to also say a special thank-you to Saira Mohamed for organizing this panel, and thanks to all of you for being here. It takes a special kind of person to come into a cold, dark basement on a beautiful spring day to talk about international law, but good on you.

Here we are, not even a hundred days into the Trump administration yet. It feels like one hundred years to some of us, but there's already been a lot of ink spilled about what this "America First" policy really means. We have the task today to talk about whether international law, as Ben posed at the very beginning, is even relevant now. Is it on the radar screen and factoring into the administration's calculus when it's facing international and domestic security issues?

The conventional thinking is that Trump's "America First" approach is kind of code for a form of populist isolationism that seeks to avoid anything that smacks of globalism, and it remains to be seen whether the Syria strikes are a counterexample to that. But the early signals are that with the silence on human rights—we just saw in the *New York Times* today that in his meetings in Russia Secretary Tillerson not only did not meet with any human rights activists or opposition leaders, but didn't raise human rights at all. This preference for a transactional approach to foreign affairs rather than a relationship-based approach or a values-based approach, the focus on the hard elements of security and the proposal of this hard power budget that would essentially gut the ability of the United States and the United Nations to promote adherence to international law and human rights obligations, all of that poses a threat to international security and domestic national security.

As John mentioned, the tone for all of this was set in the campaign with the advocacy by candidate Trump for a return to torture and a cavalier encouragement of war crimes, and he brought that rhetoric into the White House. He continues to say that torture works and it's a good idea, but says he's going to hold off on it because Secretary Mattis would rather use cigarettes and a chat. So that creates a lot of concern, how the president thinks about these issues and, as John said, whether there are going to be personnel that constrain and advise and steer him into a more traditional respect for international law.

Structurally, I just want to note that there are things going on below the surface. Some may be good; some not so good. There's been a restructuring, as you know, of the National Security Council, but there was also a renaming and likely a repurposing of what used to be the Human Rights and Multilateral Affairs Office at the NSC. Everyone has heard the rumors that the administration is threatening to withdraw from the Human Rights Council at the United Nations, and as I

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