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### Foreign Policy Issues Facing the New Administration: Introduction [Randolph W. Thrower Symposium]

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## THE RANDOLPH W. THROWER SYMPOSIUM<sup>†</sup>

### FOREIGN POLICY ISSUES FACING THE NEW ADMINISTRATION

#### INTRODUCTION

*Howard O. Hunter\**

The generosity of the Thrower family makes possible an annual Symposium in honor of one of Emory's most distinguished graduates, Randolph W. Thrower of the Class of 1936. The principal papers are published in a special edition of the *Emory Law Journal* each year. A committee of students, faculty, and alumni develop a series of potential topics and try to pick one that is timely and of substantial interest both to the legal community and to the larger community. The change in national administrations, rapid developments in a variety of world issues, and the growing number of Emory faculty, students, and alumni involved with international studies led the committee to the topic for 2001—"Foreign Policy Issues Facing the New Administration." At the time the topic was selected, the members of the committee knew only that there would be a new administration. They did not know which party would win the White House, nor did they have any idea that the election of 2000 would be so complicated

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<sup>†</sup> The Thrower Symposium is made possible by a gift from the family of Mr. Randolph W. Thrower, a distinguished alumnus of the Emory University School of Law. Emory University School of Law hosted the Symposium on March 1, 2001.

<sup>\*</sup> J.D., 1971, A.B., 1968, Yale University. Interim Provost and Executive Vice President for Academic Affairs and Professor of Law, Emory University. Professor Hunter was Dean of the School of Law from 1989-2001 and was the principal moderator for the 2001 Randolph W. Thrower Symposium.

and controversial. Even more to the point, the participants had no idea that the United States would be the target of the terrorism that occurred on September 11, 2001. They were aware, however, that any change in administration results in policy review and that a transition is almost always a somewhat vulnerable time. Their comments remain relevant despite the events that occurred subsequent to the Symposium.

The particular sub-topics for the Symposium represented a variety of issues of perennial importance, but they also represented areas of strength at Emory. By selecting the specific sub-topics, the members of the committee were assured of presenters and papers of the highest quality. The published articles and essays that follow will provide the reader with clear insights, strong arguments, and sometimes novel or controversial approaches. Notably, a substantial portion of the presenters were not American citizens, although each has had a long relationship with this country and has spent a great deal of time residing in the United States. Their perspectives added an interesting and useful critique to the usual discussion of American foreign policy.

The two keynote speakers—former Ambassador Edward E. Elson, ‘59L, and former Senator Howard H. Baker, Jr.—brought great experience in public affairs and helped to shape the broader discussion of the day. Although each touched on a number of themes, each had some particular insights that were especially useful. Ambassador Elson, who has had many years of experience as a successful businessman and as a leader of educational institutions, and who has been involved in major policy discussions at the highest levels of government, has particular knowledge of Europe and the concerns of the major trading partners and allies of the United States. Senator Baker, who has participated actively in the shaping of American policy in the last third of the twentieth century—both in the Senate and in the Executive branch—has special knowledge about nuclear security issues in Russia and the former Soviet republics. That topic was one of considerable interest to the participants as the United States and Russia work together to reach a new understanding of their relationship. In light of subsequent discussions between Presidents Bush and Putin and the ongoing debate about the Anti-ballistic Missile Treaty (“ABM”) and missile defense systems, the comments and interventions of Senator Baker could not have been more timely.

The Middle East has been an area of major concern for all administrations since the end of World War II. Difficulties in that area continue, and after the events of September 11, there is no doubt that the Middle East will continue to

be a central focus of American foreign policy. Professor Kenneth Stein is one of the most highly regarded American experts on Israel, and particularly, on the Israeli-Palestinian conflict. He has written and lectured extensively on the area. He has been an adviser to former President Jimmy Carter on the Middle East. He has a monthly column that is published in more than two dozen newspapers and has traveled extensively in the area.

During the Symposium, Professor Stein was paired with George Salem, '77L, a well-known lawyer who is a partner with the firm of Akin, Gump, Strauss, Hauer & Feld in Washington, D.C. Mr. Salem is of Palestinian origin and is a leading member of the Palestinian community in the United States. He currently is Chair of the Board of Directors of the Arab American Institute. He served as a high-ranking member of the Reagan Administration and worked closely with members of the transition team for President George W. Bush. Mr. Salem's presentation and his subsequent discussions with Professor Stein helped to clarify the fundamentals of the ongoing debate. His interventions are reflected in the paper prepared for publication by Professor Stein, and that paper, in its final form, represents the benefits of a serious discussion between experts in an area who share mutual interests and mutual respect.

Free trade and the "global village" of commerce have been front page news repeatedly in the past few years. In recent months, the sometimes dry conversations about tariffs, currencies, interest rates, and capital movements have been punctuated by riots and street fights in Sweden and Italy, and by intense, but less physical, confrontations about global warming, energy policies, and related issues. Professor Hashem Dezbakhsh, Chair of the Emory University Economics Department, moderated a lively session that brought together two law professors who are familiar with trade issues, Peter Hay and Robert Ahdieh, and a political scientist, Juan del Aguila, who is an expert on Latin America. Professor Hay divides his time between the United States and Germany, and he writes and teaches about matters that involve the European Union ("EU") and the relationship between the EU and the United States. Professor Ahdieh, who has interests generally in world trade, also is an expert on the former Soviet Union and the emerging democracy of Russia. Professor Del Aguila's article that appears in this volume expertly identifies the core issues of free trade in this hemisphere, as various nations with strikingly different national economies and cultures work together to smooth the movement of goods, capital, and labor across boundaries.

A concern for human rights has become a central part of American foreign policy. The emphasis may change from time to time—and not only between administrations but within a single administration. But every recent administration has kept the question of human rights in the mix of issues of concern in relationships with other countries. The Symposium offered a rich and varied discussion not only of the basic questions of human rights, but also of rights within the context of ethnic conflicts that are continuing within particular areas, notably in the former Yugoslavia and in portions of Africa.

The discussants included Professor, now Ambassador, Tibor Varady from the former Yugoslavia and Professor Abdullahi Ahmed An-Na'im, a political exile from Sudan. Professor Varady taught for many years at the University of Novi Sad in Yugoslavia. He also lectured frequently in the United States and throughout Europe and developed a reputation for his knowledge of international business transactions and commercial arbitration. He was active in the pro-democracy movement within his home country, which led to some personal difficulties with the Milosevic regime. He left Novi Sad for Budapest about a decade ago and helped to organize the Legal Studies faculty of the Central European University in that city. He now divides his time between the Central European University in Budapest and Emory Law School. In 1992-93, he returned to Belgrade to serve as Minister of Justice in the government of Prime Minister Milan Panic, a post he left when Panic had to step down. More recently, he has served as Chief Legal Adviser to the Ministry of Foreign Affairs with the rank of Ambassador in the new democratically elected government of Yugoslavia, while continuing his work as a professor at both the Central European University and Emory Law School. He brought to the discussion of human rights and ethnic conflict direct, personal knowledge of the tragedies that have plagued the Balkans in recent years.

Professor An-Na'im was persecuted and forced to leave his native Sudan, where he was a professor of law at Khartoum University, for his own political activities in support of democracy and for his work on the development of secular political democracy within an Islamic society. Since the mid-1980s, he has taught at various times in Sweden and in the United States at UCLA and Harvard. He also served as Executive Director of Human Rights Watch Africa before joining the Emory faculty in 1995. Hailed as the "Martin Luther of modern Islam," he is one of the most highly regarded scholars of Islamic law and of human rights in the world. He has devoted much of his time in recent years to the study of human rights in the emerging democracies of the Islamic world, and, most particularly, in sub-Saharan Africa. Much of his work has

been devoted to the legal and economic status of women in these societies, and he now directs a major human rights project at Emory that is funded by the Ford Foundation. His work proceeds from the premise that fundamental economic security is at the base of any regime of human rights. His interventions and comments provided a useful counterpoint to some of the discussion of political rights as usually understood within the context of a rule-based state of substantial economic wealth.

Professor Johan van der Vyver, a long time opponent of apartheid in his native South Africa and also a leading international scholar on human rights, presented a paper, published in this volume, that criticizes what is known as the doctrine of American exceptionalism. Although an admirer of American support for human rights, Professor Van der Vyver argued that the United States tends to act independently and not cooperatively in the development of a multinational approach to human rights issues. In the light of recent developments in U.S. foreign policy, Professor Van der Vyver's comments have become even more relevant than they were earlier in the year.

Two other Emory Law School colleagues, Professors Harold Berman and David Bederman, discussed differing aspects of American foreign policy and human rights both in their presentations and in their papers published in this volume. Professor Berman, the leading American authority on Soviet law and one of the leading experts on the development of post-Soviet Russia, is also a major scholar on matters at the intersection of law and religion in the development of the Western legal tradition. He brought to the discussions decades of scholarship on the antecedents of modern human rights theory and a detailed knowledge of the problems associated with the protection of human rights within modern totalitarian states. Professor Bederman, whose work has focused on a variety of public and private international legal issues, helped to identify the many connections between the increasing interconnectedness of economies and the political and civil rights of citizens within specific nation states. The ongoing debates about the economic and political relationship of China and the United States, for example, illustrates the timeliness of Professor Bederman's presentation.

Finally, no discussion of American foreign policy would be complete without some consideration of national security issues. The keynote address by Senator Baker highlighted one of the major concerns—the huge nuclear arsenal that exists within Russia and other former republics of the Soviet Union. Mr. Ivan Eland of the CATO Institute and Mr. Daniel Fisk of the

Heritage Foundation engaged one another in a lively debate about the proper allocation of resources to national defense and to the policing of states, e.g. Iraq, that are seen as threats to the United States or to regional stability. The two of them did an excellent job in presenting competing analyses of threats and competing approaches to the maintenance of national security, and, as with many other participants, their comments anticipated the debates that have flourished in Washington and other capitals in the past few months.

One of the missions of a research university is to encourage the exploration of ideas and to provide opportunities for the open debate of important issues. In this Symposium, the editors of the *Emory Law Journal* and the organizers of the 2001 Randolph W. Thrower Symposium have been true to that mission. They brought together people who are leading scholars and who have had years of experience in the field of international relations to debate and discuss a series of extremely important and timely issues. The result was a lively, engaging, and enlightening day of conversations, and, in more tangible form, the collection of articles and essays in this volume. The points raised by the authors and other participants in the Symposium remain important to the development of American foreign policy, notwithstanding the necessity to respond to the recent acts of terrorism that have brought the United States into active conflict in Afghanistan.