## VERDICT

LEGAL ANALYSIS AND COMMENTARY FROM JUSTIA

The Simple Message of Tolerance That Eludes President Trump

6 APR 2020 | JOSEPH MARGULIES



## POSTED IN: HUMAN RIGHTS

President Trump has belatedly decided to stop referring to COVID-19 as the Chinese virus, though he does not regret using the term. He has never distinguished himself for his decency, so I suppose we have to be thankful for what we get. But is it too much to ask that he condemn the rise of anti-Asian calumny and violence? More than a thousand such episodes have been reported in the past two weeks alone. As Evan Gerstmann recently observed in *Forbes*, the abuse is particularly ironic, since Asian-Americans are substantially over-represented within the ranks of health care workers and researchers working tirelessly and a great personal risk to save lives and find vaccines.

At times like this, I find myself pining for ... President Bush.

I am no apologist for the Bush presidency. I spent nearly twenty years fighting the worst abuses of the post-9/11 era, and there were many. I was lead counsel in *Rasul v. Bush*, the first case granting legal protection to prisoners at Guantanamo, and for more than a decade I represented Abu Zubaydah, the first prisoner tortured in a CIA black site. But I have always given credit where credit is due.

As I have observed elsewhere, after the attacks of September 11, President Bush immediately defined national identity in the language of equality and tolerance. Over and over, he stressed that Muslims and Arab-Americans were not the enemy, and that mutual respect and religious tolerance were indispensable elements of the American Creed. President Bush repeated this message of inclusion nearly three dozen times just between September 11 and the end of 2001.

On September 13, for instance, during a phone conversation with New York Mayor Rudy Giuliani and Governor George Pataki, he said, "our nation must be mindful that there are thousands of Arab Americans who live in New York City who love their flag just as much as the three of us do. And we must be mindful that as we seek to win the war, that we treat Arab Americans and Muslims with the respect they deserve."

Four days later, he spoke at the Islamic Center in Washington, D.C.: "The face of terror is not the true faith of Islam. That's not what Islam is all about. Islam is peace. These terrorists don't represent peace. They represent evil and war. . . . When we think of Islam, we think of a faith that brings comfort to a billion people around the world—billions of people find comfort and solace

and peace—and that's made brothers and sisters out of every race—out of every race."

In his address to a joint session of Congress on September 20, Bush said the terrorists "practice a fringe form of Islamic extremism that has been rejected by Muslim scholars and . . . perverts the peaceful teaching of Islam. . . . The terrorists were traitors to their own faith, trying, in effect, to hijack Islam itself. The enemy of America is not our many Muslim friends; it is not our many Arab friends. Our enemy is a radical network of terrorists and every government that supports them."

On December 17, he hosted a dinner at the White House to mark Eid al-Fitr, the Muslim holiday at the end of Ramadan. "This year," he said, "Eid is celebrated at the same time as Hanukkah and Advent. So it's a good time for people of these great faiths, Islam, Judaism, and Christianity, to remember how much we have in common." As importantly, he also condemned those who attacked American Muslims. "That's not the America I know," he said. "That's not the America I value." The perpetrators of hate crimes "don't represent the best of America. They represent the worst of humankind and they should be ashamed of that kind of behavior."

Officials throughout the federal government followed the President's lead. On September 14, the House of Representatives passed a resolution commending Muslims "in the United States and throughout the world for their faith," and condemning bigotry and violence against Arab-Americans, American Muslims, and South Asians, declaring that these communities "are a vital part of the Nation." A bipartisan, ideologically diverse collection of representatives took to the House floor to speak in favor of equality and religious tolerance.

Congressman Nick Rahall of West Virginia, for instance, said that "Arab Americans, Muslim Americans, South Asian Americans are Americans first. They chose to come to this country in order to seek a better way of life for themselves and their families. They pay taxes. They vote. They donate to various charitable causes within their communities. They have become well respected, and . . . have contributed so much to our American way of life." By contrast, the people who committed hate crimes against perceived Muslims or Arab- Americans were "yahoos who . . . pose as great a threat to our American society, to our freedoms, and to our way of life as those perpetrators of those heinous crimes against our country last Tuesday."

Years later, President Bush explained that cooling the impulse to intolerance had been precisely his objective. "Right after 9/11, I knew this was going to be an issue in our country. I knew that there would be people that say, 'There goes a Muslim-looking person; therefore, that person might be viewed as a terrorist.' I knew that was going to be a problem. That's why I went to a mosque, to send the signal, right after the attacks, that said let's uphold our values."

President Bush was not alone in making these remarks; senior members of his cabinet followed his signal. And those who wonder whether the President's efforts made a difference should recall the testimony of Dr. James Zogby, the longtime and well-respected head of the Arab-American Anti-Discrimination Committee, who submitted comments to the United States Commission on Civil Rights in October 2001:

The President took the lead in cautioning against this backlash and was joined by the Secretary of State, the Attorney General, and the Director of the FBI. Their repeated statements, I believe, helped to stem the wave of backlash. . . . The constant repetition of this positive message on TV and radio and in print media has helped

restrain the hands of the bigots. The hate has not gone away, but the hate crimes have been greatly reduced.

President Trump fancies himself a leader. But as he faces his first crisis, he could learn a thing or two about tolerance and respect from the last Republican to sit in his chair.

POSTED IN: HUMAN RIGHTS, POLITICS

TAGS: CORONAVIRUS, COVID-19, TOLERANCE, XENOPHOBIA

## **JOSEPH MARGULIES**

Joseph Margulies is a Professor of Law and Government at Cornell University. He is the author of *What Changed When Everything Changed: 9/11 and the Making of National Identity* (Yale 2013), and is also counsel for Abu Zubaydah, for whose interrogation the torture memo was written.

## **JUSTIA**

The opinions expressed in Verdict are those of the individual columnists and do not represent the opinions of Justia.

© 2020 Justia