2 Means

How has Trump had the *means* to overtly challenge international humanitarian law (IHL)? Trump has drawn intense backlash for his attacks on the law of war. When he handed down his war crime clemencies in November 2019, for example, critics unleashed a fury of resistance.[1] On Capitol Hill, Democrat Sen. Seth Moulton of Massachusetts called the acts "appalling," insisting that they would "encourage … folks to start burning villages and pillaging like Genghis Khan."[2] Inside the Pentagon, a small number of military brass rebuked Trump[3] or privately steered him toward different judgments.[4] Combined with resistance from civil society actors, it is puzzling how Trump has overcome the steep political, legal, and institutional obstacles that militate against his agenda.

This chapter's answer is that Trump has overtly challenged IHL by partnering with influential allies on America's political right – conservative media (particularly Fox News) and Republican allies on Capitol Hill – that together comprise an "impunity coalition." Drawing on the

[1] Semones, Evan. Nov. 16, 2019. "Pete Buttigieg Hits Trump on Soldiers' Pardons." *POLITICO*. www.politico.com/news/2019/11/16/pete-buttigieg-hits-trump-soldier-pardons-071266

[2] Mitchell, Ellen. Dec. 11, 2019. "Pentagon Leaders: Trump Clemencies Won't Affect Military Order and Discipline." *The Hill*. https://thehill.com/policy/defense/474119-pentagon-leaders-trump-clemencies-wont-affect-military-order-and-discipline/

[3] Spencer, Richard. Nov. 27, 2019. "Richard Spencer: I Was Fired as Navy Secretary. Here's What I've Learned Because of It." *Washington Post*. www.washingtonpost.com/opinions/richard-spencer-i-was-fired-as-navy-secretary-heres-what-ive-learned-because-of-it/2019/11/27/9c2e58bc-1092-11ea-bf62-eadd5d11f559_story.html

[4] Myers, Meghann. Nov. 6, 2019. "Esper: 'Robust' Conversation with Trump about Proposed Pardons for SEAL, Two Soldiers." *Military Times*. www.militarytimes.com/news/your-military/2019/11/06/esper-will-ask-trump-to-reconsider-pardons-for-service-members-charged-with-convicted-of-war-crimes-report-says/

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

literature on collective action in government,[5] it claims that Trump has served as a "political entrepreneur"[6] enabling multiple diffuse actors to join forces. The impunity coalition's power has manifested in high-profile efforts to defeat and delegitimize rules and institutions that constrain U.S. military conduct. Fox News has formulated and projected talking points to advance Trump's rejection of IHL, while Republican legislators have encouraged and animated this agenda.

Trump's entrepreneurship solved a collective action problem. Before Trump, Fox News and Republicans in Congress each stood to gain from openly challenging IHL. Yet both were limited in what they could achieve alone. Fox News could endorse challenges to the law of war to its conservative audience. But it had no formal ability to affect U.S. military policy. GOP lawmakers had some purview over laws regulating the U.S. military. However, they lacked the power to take sweeping actions like pardoning servicemembers. Trump was also constrained. Without an influential media outlet to spin his agenda or high-ranking members of his party to legitimize it, Trump may have been reluctant to expend scarce capital on efforts to undermine the law of war.

As explained later, Trump has not just united Fox News and GOP lawmakers around the goal of calling into question IHL's validity. The

[5] Carpenter, Daniel P. 2001. *Forging Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928*. Princeton: Princeton University Press. Doig, Jameson W. and Erwin C. Hargrove. 1987. "'Leadership' and Political Analysis." In Doig, Jameson W. and Erwin C. Hargrove, eds. *Leadership and Innovation: A Biographical Perspective on Entrepreneurs in Government*. Baltimore: Johns Hopkins University Press. Kosack, Stephen. 2013. "The Logic of Pro-Poor Policymaking: Political Entrepreneurship and Mass Education." *British Journal of Political Science* 44(2): 409–444. Martin, Adam and Diana Thomas. 2013. "Two-tiered Political Entrepreneurship and the Congressional Committee System." *Public Choice* 154(1/2): 21–37. Schneider, Mark and Paul Teske. 1992. "Toward a Theory of the Political Entrepreneur: Evidence from Local Government" *American Political Science Review*. 86(3): 737–747. Sheingate, Adam D. 2003. "Political Entrepreneurship, Institutional Change, and American Political Development." *Studies in American Political Development* 17(2): 185–203.

[6] Moe, Terry M. 1988. *The Organization of Interests: Incentives and the Internal Dynamics of Political Interest Groups*. Chicago: University of Chicago Press. North, Douglass Cecil. 1990. *Institutions, Institutional Change, and Economic Performance: The Political Economy of Institutions and Decisions*. New York: Cambridge University Press. Riker, William H. 1986. *The Art of Political Manipulation*. New Haven: Yale University Press.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

coalition has created a synergy of action, or a series of multi-iterated "feedback loops" on America's political right. Trump, Fox News, and Republican allies amplify each other's cues and maneuvers, generating greater political influence than any one actor could produce alone. The movement has fended off backlash from state and military bureaucracies and solidified public support by carrying out roles via implicit "divisions of labor." Fox News is a developer, not just a broadcaster, of information overtly straining the law of war. GOP lawmakers both lobby Trump to directly challenge IHL and defend his behavior.

The success of the impunity coalition casts doubt on the "structuralist" assumption that institutional barriers and veto points in advanced, Western democracies render undermining the law of war largely infeasible.[7] By assembling a coalition, Trump has effectively challenged IHL. The argument parallels extensive scholarship on democratic regression, which highlights the role of enablers in empowering leaders to achieve state capture.[8] Outside of government, leaders often use media, such as "state TV" or biased news, to court and manipulate publics, a role that Fox News has played for Trump.[9] Inside of

[7] Finnemore, Martha and Kathryn Sikkink. 1998. "International Norms Dynamics and Political Change." *International Organization* 52(4): 887–917. Goldstein, Judith and Robert O. Keohane, eds. 1993. *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*. Ithaca: Cornell University Press. Ginsburg, Tom. 2006. "Locking in Democracy: Constitutions, Commitment, and International Law." *New York University Journal of International Law & Politics* 38(4): 707. Simmons, Beth A. 1998. "Compliance with International Agreements." *Annual Review of Political Science* 1: 75–93. Tacsan, Joaquín. 1992. *The Dynamics of International Law in Conflict Resolution*. Dordrecht: Martinus Nijhoff.

[8] Diamond, Larry. 2021. "Democratic Regression in Comparative Perspective: Scope, Methods, and Causes." *Democratization* 28(1): 22–42. Haggard, Stephan and Robert Kaufman. 2021. *Backsliding: Democratic Regress in the Contemporary World*. Cambridge: Cambridge University Press. Haemin Jee, Hans Lueders, and Rachel Myrick. 2022. "Towards a Unified Approach to Research on Democratic Backsliding." *Democratization* 29(4): 754–767. Norris, Pippa. 2017. "Is Western Democracy Backsliding? Diagnosing the Risks." *HKS Working Paper No*. RWP17-012. www.hks.harvard.edu/publications/western-democracy-backsliding-diagnosing-risks/. Przeworski, Adam. 2019. *Crises of Democracy*. Cambridge: Cambridge University Press. Waldner, David and Ellen Lust. 2018. "Unwelcome Change: Coming to Terms with Democratic Backsliding." *Annual Review of Political Science* 21: 93–113.

[9] Gehlbach, Scott and Konstantin Sonin. 2014. "Government Control of the Media." *Journal of Public Economics* 118: 163–171. Guriev, Sergei, and Daniel Treisman. 2019. "Informational Autocrats." *Journal of Economic*

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

government, co-conspirators prop up leaders and insulate them from accountability,[10] similar to what congressional Republicans have done for Trump.

Section 2.1 of this chapter presents case studies of how Fox News and Trump allies in Congress both inspired and defended two rounds of high-profile clemencies during his first term. The first, occurring roughly six months after Trump had pardoned Michael Behenna in May 2019, pre-empted the court martial of Mathew Golsteyn, commuted the sentence of Clint Lorance, and restored the rank of Eddie Gallagher. The second set occurred roughly a year later, when Trump pardoned four Blackwater contractors, part of the "Raven 23" convoy, who had been jailed for murdering fourteen Iraqi civilians during the 2007 "Nisour Square Massacre." Section 2.2 documents how these clemencies are not isolated events but part of a broader challenge to international law.

2.1 War Crime Clemencies

Trump's political entrepreneurship first reached a high point in November 2019 when he granted clemency for Mathew Golsteyn, Clint Lorance, and Eddie Gallagher. Trump campaigned on the acts unapologetically, touting them as a bold defense of American

Perspectives 33(4): 100–127. Rozenas, Arturas and Denis Stukal. 2019. "How Autocrats Manipulate Economic News: Evidence from Russia's State-controlled Television." *Journal of Politics* 81(3): 982–996. Shadmehr, Mehdi and Dan Bernhardt. 2015. "State Censorship." *American Economic Journal: Microeconomics* 7(2): 280–307. Simon, Joel. 2006. "Muzzling the Media: How the New Autocrats Threaten Press Freedoms." *World Policy Journal* 23(2): 51–61. Treisman, Daniel and Sergei Guriev. 2023. *Spin Dictators The Changing Face of Tyranny in the 21st Century*. Princeton: Princeton University Press.

[10] Bermeo, Nancy. 2016. "On Democratic Backsliding." *Journal of Democracy* 27(1): 5–19. Levitsky, Steven and Daniel Ziblatt. 2019. *How Democracies Die*. New York: Penguin Random House. Gandhi, Jennifer. 2008. *Political Institutions under Dictatorship*. New York: Cambridge University Press. Haggard, Stephan and Robert Kaufman. 2021. "The Anatomy of Democratic Backsliding." *Journal of Democracy* 32(4): 27–41. Khaitan, Tarunabh. 2019. "Executive Aggrandizement in Established Democracies: A Crisis of Liberal Democratic Constitutionalism." *International Journal of Constitutional Law* 17(1): 342–365. Slater, Daniel. "Iron Cage in an Iron Fist: Authoritarian Institutions and the Personalization of Power in Malaysia." *Comparative Politics* 36(1): 81–101.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

servicemembers. At an Oval Office press event on November 25, for example, Trump told reporters, "[W]e're going to protect our warfighters … [T]here's never been a President that's going to stick up for [American servicemembers] … and has, like I have."[11] Trump tweeted the next day, "I will always protect our great warfighters. I've got your backs!"[12] At a rally in Florida on November 26, Trump bragged, "I stuck up for three great warriors against the deep state. You know what I'm talking about…. People have to be able to fight."[13]

Just over a year later, in December 2020, Trump pardoned Blackwater contractors Nicholas Slatten, Paul Slough, Evan Liberty, and Dustin Heard.[14] The men, known colloquially as the "Biden Four" because then-Vice President Joe Biden had supported their prosecution, were implicated in a deadly 2007 incident in Baghdad with conflicting accounts over whether they had deliberately attacked unarmed citizens. Trump's interventions, which coincided with more than twenty pardons issued at the end of his term, again provoked a full-throated defense. The White House justified the pardons as "broadly supported by the public" and listed Fox News anchor Pete Hegseth and nine U.S. Congress members as endorsing them.[15] Both the lead-up to the interventions and their defense were the product of months of synchronization.

Fox News

Inspiration of Clemencies

Fox News first inspired the war crime clemencies by bringing the cases to Trump's attention. In 2018, a Fox News segment with

[11] Nov. 25, 2019. "Remarks Prior to a Meeting with Prime Minister Boyko Borisov of Bulgaria to the White House." American Presidency Project. www.presidency.ucsb.edu/documents/remarks-prior-meeting-with-prime-minister-boyko-borisov-bulgaria-the-white-house

[12] https://twitter.com/realDonaldTrump/status/1199290001143582721

[13] Nov. 26, 2019. "President Trump Rally in Sunrise, Florida." *C-SPAN*. www.c-span.org/video/?466539-1/president-trump-rally-sunrise-florida

[14] Wamsley, Laurel. Dec. 23, 2020. "Shock and Dismay after Trump Pardons Blackwater Guards Who Killed 14 Iraqi Civilians." *NPR*. www.npr.org/2020/12/23/949679837/shock-and-dismay-after-trump-pardons-blackwater-guards-who-killed-14-iraqi-civil

[15] Dec. 22, 2020. "Statement from the Press Secretary Regarding Executive Grants of Clemency." The White House. https://trumpwhitehouse.archives.gov/briefings-statements/statement-press-secretary-regarding-executive-grants-clemency-122220/

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

anchor and now Defense Secretary Pete Hegseth featured Mathew Golsteyn's wife pleading for clemency for her husband, who faced murder charges after admitting on Fox News to killing a suspected Taliban bombmaker. The clip set in motion a spiral of activity that eventually led Trump to intervene. One report, for example, explained that "Trump first signaled publicly that he might wade into war crimes cases … [in] December [2018], after Golsteyn's wife, Julie, appeared on Hegseth's program." Trump tweeted: "At the request of many, I will be reviewing the case of a 'U.S. Military hero,' Major Matt Golsteyn, who is charged with murder…. @PeteHegseth @FoxNews."[16]

Trump's tagging of Hegseth, the most outspoken Fox News personality advocating clemency, nodded to his centrality in the case. Known as "Trump's War Whisperer,"[17] one journalist reported that "Hegseth's behind-the-scenes work … underscores how heavily the president has relied on Fox News stars not just for support and messaging assistance but for actual counsel on policy."[18] Another writer said that observers should "give Fox News host Pete Hegseth credit if Trump pardons accused war heroes."[19] Referring to Hegseth, a *New York Times* article stated that "[a]mong the president's unofficial policy advisers and those who add to the echo chamber on Fox News talk shows, no one else channels Mr. Trump's … unexpected resort to force."[20]

As an anchor on Fox News's flagship morning show "Fox & Friends," Hegseth repeatedly lobbied for combatants implicated in war crime cases. In addition to on-air monologues, Hegseth hosted

[16] https://twitter.com/realDonaldTrump/status/1074319076766433280

[17] Bittle, Jake. Jan. 31, 2020. "Trump's War Whisperer." *The New Republic*. https://newrepublic.com/article/156377/trumps-war-whisperer-pete-hegseth-fox-news-friends

[18] Suebsaeng, Asawin, Sam Brodey, and Andrew Kirell. May 21, 2019. "Fox News Host Pete Hegseth Privately Lobbied Trump to Pardon Accused War Criminals." *Daily Beast*. www.thedailybeast.com/fox-and-friends-host-pete-hegseth-privately-lobbied-trump-to-pardon-accused-war-criminals

[19] Murdock, Sebastian. May 21, 2019. "Give Fox News Host Pete Hegseth Credit If Trump Pardons Accused War Criminals." *HuffPost*. www.huffingtonpost.co.uk/entry/pete-hegseth-fox-news-trump-pardons_n_5ce409d0e4b075a35a2dd9b3?ri18n=true

[20] Steinhauer, Jennifer. Jan. 6, 2020. "Fox Host's 'America First' Shift Makes an Exception for Trump's Iran Strike." *New York Times*. www.nytimes.com/2020/01/06/us/politics/pete-hegseth-trump-fox-news.html

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

the family members of servicemembers on his program[21] and wrote prominently on the topic. His recurring theme was that overzealous prosecutors had crippled America's ability to fight.[22] For instance, in a 2019 FoxNews.com op-ed, Hegseth wrote: "We send men to fight on our behalf, and too often second guess the manner in which they fight. Count me out on the Monday morning quarterbacking – I'm with the American warfighter, all the way."[23] On Fox News, Hegseth said of court-martialed troops, "They're not war criminals – they're warriors…. – it's all garbage, but they'll attack … [Trump] no matter what."[24]

As its "viewer in chief,"[25] Trump often live-tweeted to "Fox and Friends" and acted on Hegseth's recommendations.[26] Hegseth's comments triggered near-immediate responses on the war crime cases. For instance, one day after Hegseth published his Fox News op-ed and three days after he tweeted "#FreeEddie #FreeMatt #FreeClint,"[27] Trump made a White House appearance, aired on Fox Business, where he expressed his openness to Hegseth's pleas. "Some of these soldiers … have fought hard and long," Trump declared. "We teach 'em how to

[21] Lamothe, Dan and Josh Dawsey. Nov. 21, 2019. "'Insurgents' Lobbied Trump for War Crimes Pardons with Little Pentagon Involvement, Officials Say." *Washington Post*. www.washingtonpost.com/national-security/insurgents-lobbied-trump-for-war-crimes-pardons-with-little-pentagon-involvement-officials-say/2019/11/21/b6a0c62e-0c75-11ea-bd9d-c628fd48b3a0_story.html

[22] Wood, Graeme. Nov. 17, 2019. "War Crimes Are Not Difficult to Discern." *Atlantic*. www.theatlantic.com/ideas/archive/2019/11/trumps-latest-pardons-reveal-his-military-doctrine/602137/

[23] Hegseth, Pete. May 23, 2019. "Pete Hegseth: I'm With the Warfighters – Count Me out of Second-guessing Our Heroes." *Fox News*. www.foxnews.com/opinion/pete-hegseth-im-with-the-american-warfighters

[24] Rupar, Aaron. May 24, 2019. "Trump's Interest in Pardoning Troops Accused of War Crimes, Explained." *Vox*. www.vox.com/policy-and-politics/2019/5/24/18637360/trump-war-crimes-pardons-gallagher-golsteyn-fox-news-hegseth

[25] Aug. 28, 2019. "Fox News Advertisers Get a Direct Line to the Viewer in Chief." *Los Angeles Times*. www.latimes.com/business/story/2019-08-28/fox-news-advertisers-president-trump

[26] Marantz, Andrew. Jan. 8, 2018. "How "Fox & Friends" Rewrites Trump's Reality." *New Yorker*. www.newyorker.com/magazine/2018/01/15/how-fox-and-friends-rewrites-trumps-reality

[27] Rupar, Aaron. May 24, 2019. "Trump's Interest in Pardoning Troops Accused of War Crimes, Explained." *Vox*. www.vox.com/policy-and-politics/2019/5/24/18637360/trump-war-crimes-pardons-gallagher-golsteyn-fox-news-hegseth

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

be great fighters, and then when they fight, sometimes get treated really very unfairly."[28] One analysis said that the response amounted to Trump "taking cues from Fox News," adding that Hegseth appeared to be "doubl[ing] as an informal adviser to the president."[29]

Although Hegseth was Fox News's main voice championing war crime interventions, his "Fox & Friends" colleagues also joined the advocacy. Within the twelve-month span leading up to Trump's November 2019 clemencies, at least six of Hegseth's co-hosts – Jedediа Bilah, Ed Henry, Sean Kilmeade, Peter Doocey, Ainsley Earhardt, and Jillian Mele – made supportive comments on behalf of the service-members or featured their stories sympathetically. Other Fox News anchors – including Jeanine Pirro, Martha McCallum, Shannon Bream, and Sandra Smith – also highlighted the cases and largely framed them as unjust prosecutions. Fox News platformed Eddie Gallagher's and Clint Lorance's lawyers and featured interviews with GOP lawmakers who led the campaign for leniency.[30]

Several analyses observed Fox News's sway in persuading Trump to grant the war crime clemencies. One report, for example, stated that "[i]f Trump were to issue the pardons, they would come after lobbying efforts from Republican members of Congress and persistent coverage in conservative media, where the cases are cast as the result of over-zealous prosecutors and a military tainted by political correctness."[31]

[28] https://twitter.com/atrupar/status/1131966491962859521?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1131966491962859521%7Ctwgr%5Efaa301f1819ed454a36e366021a623be73e6b632%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.vox.com%2Fpolicy-and-politics%2F2019%2F5%2F24%2F18637360%2Ftrump-war-crimes-pardons-gallagher-golsteyn-fox-news-hegseth

[29] Rupar, Aaron. May 24, 2019. "Trump's Interest in Pardoning Troops Accused of War Crimes, Explained." *Vox*. www.vox.com/policy-and-politics/2019/5/24/18637360/trump-war-crimes-pardons-gallagher-golsteyn-fox-news-hegseth

[30] Hagle, Courtney and Grace Bennett. May 5, 2019 (updated Nov. 15, 2019). "A Fox Host Lobbied Trump to Pardon Accused and Convicted War Criminals. Here's How Fox Talked about the Cases over the Last Six Months." *Media Matters for America*. www.mediamatters.org/donald-trump/fox-host-lobbied-trump-pardon-accused-and-convicted-war-criminals-heres-how-fox-talked

[31] Darcy, Oliver. May 21, 2019. "Fox News Host Pete Hegseth Has Privately Encouraged Trump to Pardon Servicemen Accused of War Crimes." *CNN*. https://edition.cnn.com/2019/05/21/media/fox-news-pete-hegseth-trump-pardon-war-crimes/index.html

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

be able to almost unilaterally convince the president to act on issues they care about."[32] Another analysis called "the war crimes lobby … a metastasizing network of amateurish, enraged gawkers, gorging themselves on Fox News emissions."[33]

Lobbying at Fox News, however, was not just confined to TV appearances. Hegseth reportedly conversed one-on-one with Trump to persuade him to act. According to one analysis, "Trump called Hegseth numerous times to discuss the … [clemencies] and told others about the conversation."[34] Multiple officials within the White House even became concerned that Hegseth was privately supplying Trump misleading or incorrect details about the cases, making the servicemembers appear more deserving. One official, for example, recounted that Defense Secretary Mark Esper and Chairman of the Joint Chiefs Gen. Mark Milley were placed in a position where "[t]hey were trying to convince the president these guys were actually criminals, not heroes."[35]

When Trump confirmed that he was officially reviewing Mathew Golsteyn's case on October 12, 2019, he did so via tweet, tagging "@PeteHegseth" and declaring, "We train our boys to be killing machines, then prosecute them when they kill!"[36] The tweet prompted

https://edition.cnn.com/2019/05/21/media/fox-news-pete-hegseth-trump-pardon-war-crimes/index.html

[32] Fritze, John and Tom Vanden Brook. Nov. 25, 2019. "Trump's Advocacy for Navy SEAL Eddie Gallagher Is Latest Intervention for Conservative Cause Celebre." *USA Today*. https://eu.usatoday.com/story/news/politics/2019/11/25/donald-trump-advocacy-eddie-gallagher-latest-conservative-cause/4297107002/

[33] Weinstein, Adam. May 20, 2019. "Who Actually Wants War Criminals Pardoned?" *The New Republic*. https://newrepublic.com/article/153948/actually-wants-war-criminals-pardoned?utm_content=bufferf1620&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer

[34] Lamothe, Dan and Josh Dawsey. Nov. 21, 2019. "'Insurgents' Lobbied Trump for War Crimes Pardons with Little Pentagon Involvement, Officials Say." *Washington Post*. www.washingtonpost.com/national-security/insurgents-lobbied-trump-for-war-crimes-pardons-with-little-pentagon-involvement-officials-say/2019/11/21/b6a0c62e-0c75-11ea-bd9d-c628fd48b3a0_story.html

[35] Lamothe, Dan and Josh Dawsey. Nov. 21, 2019. "'Insurgents' Lobbied Trump for War Crimes Pardons with Little Pentagon Involvement, Officials Say." *Washington Post*. www.washingtonpost.com/national-security/insurgents-lobbied-trump-for-war-crimes-pardons-with-little-pentagon-involvement-officials-say/2019/11/21/b6a0c62e-0c75-11ea-bd9d-c628fd48b3a0_story.html

[36] https://twitter.com/realDonaldTrump/status/1183016899589955584

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

speculation, which turned out to be false, that Trump might intervene on Veterans Day, November 11, 2019. Trump was again counseled about the potential for fallout within parts of the military bureaucracy. Defense Secretary Mark Esper, for instance, reputedly engaged in a "robust" talk with the president in which he pleaded with Trump to resist Hegseth's recommendations. "I offered – as I do in all matters – the facts, the options, my advice, the recommendations and we'll see how things play out," Esper recalled.[37]

In addition to Trump's 2019 interventions, Fox News also laid the groundwork for Trump's pardoning of Blackwater contractors in December 2020. Similar to the prior clemencies, the process began with a "Fox & Friends" segment featuring family members. In April 2015, Jessica Slatten, sister of Blackwater agent Nicholas Slatten, and Kristin Slough, wife of agent Paul Slough, criticized the prosecutions on air. Slough described the case as being "blown entirely out of proportion" and accused the FBI of getting involved only after the Iraqi government had cleansed the crime scene, coached witnesses, and run advertisements to encourage civilians to come forward as victims. "I know you've talked to some Congressmen, some Senators," responded Fox News anchor Steve Doocy. "Let's see if something changes."[38]

Fox News's Sean Hannity also gave the Blackwater agents an early platform. According to the "Free Raven 23" website, Hannity.com published an op-ed in 2015 by Nicholas Slatten's sister, who complained that her brother and his colleagues would not be "wearing dress blues adorned with medals earned for honorable military service" but instead "jumpsuits and shackles."[39] In 2017, Nicholas Slatten penned a letter to Hannity, shared publicly, that called on him to broadcast details of the Blackwater cases. "I listen to your program every day through the week on my radio," he wrote, "[Y]ou will be outraged by this miscarriage of justice. I beg you, sir, please

[37] Myers, Meghann. Nov. 6, 2019. "Esper: 'Robust' Conversation with Trump about Proposed Pardons for SEAL, Two Soldiers." *Military Times*. www.militarytimes.com/news/your-military/2019/11/06/esper-will-ask-trump-to-reconsider-pardons-for-service-members-charged-with-convicted-of-war-crimes-report-says/

[38] Apr. 21, 2015. "Family Members of Sentenced Blackwater Guards Speak Out." *Fox News*. https://video.foxnews.com/v/4186281817001#sp=show-clips

[39] www.supportraven23.com/media

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

help us."[40] Hannity confirmed, "These guys were all over me constantly if I didn't do a segment the next number of months [on military justice] to get back on it. To their credit."[41]

Led again by Pete Hegseth, Fox News's Blackwater coverage gained momentum just before the clemencies of Golsteyn, Lorance, and Gallagher. On August 11, 2019, Hegseth interviewed the producers of the podcast "Presumption of Guilt," created on behalf of the Blackwater agents. In the "Fox & Friends" sit-down, Hegseth called the prosecutions "as bad as it gets" and blamed Joe Biden for making the contractors "vulnerable" to legal charges.[42] On May 16, 2020, Hegseth also interviewed Rep. Louie Gohmert of Texas, where he insisted that the four men had been "thrown under the bus." After Gohmert praised Hegseth as "a great American" and attacked the Blackwater charges, Hegseth replied, "One hundred percent … they should have medals on their chest, not be behind metal bars."[43]

As with Trump's 2019 clemencies, evidence points to Hegseth's lobbying as decisive in the Blackwater pardons. Journalist Peter Baker, for example, reported on the agents being "championed" by Hegseth, who he described as "a Fox News host and outspoken Trump supporter who has been influential with the president."[44] A *Los Angeles Times* story similarly recounted that "[t]he [Blackwater pardon] campaign got a boost from Pete Hegseth, a Fox News personality who had successfully pushed Trump to pardon servicemembers accused of war crimes."[45] Political scientist Norman

[40] Mar. 1, 2017. "Help Raven 23 Reach Sean Hannity." www.supportraven23.com/blog/2017/2/23/help-raven-23-reach-sean-hannity (last accessed Jan. 21, 2020)

[41] Nov. 4, 2019. "Sean Hannity & Rep. Gohmert on the Breaking News about President Trump and Military Injustice." JFW Caucus. www.youtube.com/watch?v=aK81iNj0k3A

[42] Aug. 11, 2019. "Podcast Tells the Story of How Four Veterans Ended up Serving Life Sentences for War Crimes." *Fox News*. https://video.foxnews.com/v/6071713887001?fbclid=IwAR2867eQMi1topNkvvhEJas6bfW5FkDbdK_NUwHdjmNfWMmE-OajdrlPFDk#sp=show-clips

[43] www.facebook.com/raven23support/posts/2768673599924984

[44] Baker, Peter. Dec. 24, 2020. "For a Defeated President, Pardons as an Expression of Grievance." *New York Times*. www.nytimes.com/2020/12/24/us/politics/trump-pardon-power.html

[45] Wilber, Del Quentin. Jan. 15, 2021. "This Blackwater Guard Pleaded Guilty. He Atoned. But Didn't Get a Pardon." *Los Angeles Times*. www.latimes.com/world-nation/story/2021-01-15/he-did-the-right-thing-but-his-blackwater-guard-didnt-get-a-pardon

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

Ornstein tweeted that "[i]t was Pete Hegseth who convinced Trump to pardon the Blackwater war criminals. May he burn in Hell."[46] The White House again expressly justified the pardons by saying that they were supported by Hegseth.[47]

As with Fox News, other conservative news outlets also denounced the Blackwater verdicts. For example, in 2016, right-wing radio network *TheBlaze* featured a segment on the agents, where the host complained that the prosecutions "can't be real" and accused the government of delivering "false justice."[48] On Townhall.com, writer Matt Vespa suggested that the prosecutions were the result of Joe Biden "crucify[ing] these contractors" in a politically motivated effort to "appease the Iraqi government."[49] Even right-leaning writer David French, known for his criticism of Trump, wrote a 2019 article in the *National Review* defending the Blackwater contractors. "It's time for the president to step in to correct a miscarriage of justice," he declared. "It's time to pardon the men of Raven 23."[50]

Defense of Clemencies

Fox News did not just inspire Trump's war crime clemencies. It also offered a robust defense of them. Following Trump's decisions to pardon Mathew Golsteyn and Clint Lorance and to grant clemency for Eddie Gallagher, Pete Hegseth tweeted, "God Bless our president and Commander-in-Chief @realDonaldTrump. A Hero for our warfighters,"[51] alongside a link to a Fox News story

[46] https://twitter.com/NormOrnstein/status/1342889377987514369

[47] Dec. 22, 2020. "Statement from the Press Secretary Regarding Executive Grants of Clemency." The White House. https://trumpwhitehouse.archives.gov/briefings-statements/statement-press-secretary-regarding-executive-grants-clemency-122220/

[48] Feb. 13, 2016. "Raven 23: False Justice." *TheBlaze*. https://soundcloud.com/the-jeff-fisher-show/raven-23-false-justice-21316?utm_source=www.supportraven23.com&utm_campaign=wtshare&utm_medium=widget&utm_content=https%253A%252F%252Fsoundcloud.com%252Fthe-jeff-fisher-show%252Fraven-23-false-justice-21316

[49] Vespa, May 14, 2020. "The Biden Four: Did the Former Vice President Screw Over Four Americans to Get Cozier Iraq?" *Townhall*. https://townhall.com/tipsheet/mattvespa/2020/05/14/the-biden-four-did-the-vice-president-seek-to-screw-over-four-americans-to-get-cozier-with-the-iraqis-n2568756?fbclid=IwAR1ldMshNj7KAMmcnoKE5rmOOSkh6hizWiDl1fBECVahDrXAFuWGZYjcYqA

[50] French, David. May 28, 2019. "Pardon the Men of Raven 23." *National Review*. www.nationalreview.com/2019/05/pardon-the-men-of-raven-23/

[51] https://twitter.com/PeteHegseth/status/1195493031715184645

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

headlined, "Trump grants clemency to 2 Army officers accused of war crimes, restores rank to Navy SEAL Eddie Gallagher." Trump responded by expressing gratitude to Hegseth and elaborating on his decision-making. "Thank you Pete," he said in a tweet collecting more than 30,000 "likes." "Our great warfighters must be allowed to fight. I would not have done this for Sgt. Bergdahl or Chelsea Manning!"[52]

After receiving his clemency, Eddie Gallagher thanked Hegseth explicitly, writing, "It was humbling to see all the veterans and veterans' companies come to my aid and support me…. Pete Hegseth … you are true patriots."[53] Gallagher, Golsteyn, and Lorance all appeared on "Fox & Friends" after their release. Golsteyn told Hegseth that he was "stunned and awed by the president's generosity" and praised Trump for being "incredibly sanguine [and] warm." "I think it sends a clear signal that the president of the United States is paying attention," he remarked.[54] Lorance said that if he wanted Trump to know anything, it would be, "I love you, sir…. [I]f you're working in the White House or … in the United States government, and you don't agree with something the president does, then go home."[55]

Fox News aired two exclusive interviews with Gallagher, both conducted by Hegseth, within the first week and a half of Trump's interventions. In the first, Gallagher declared that "it was pretty surreal … to get a phone call from the White House and have them tell you that the president is on the line…. I had a feeling that it was coming because the president has shown the nation that he's been a man of his word."[56] In the second interview, aired after Navy leadership had attempted to remove his SEAL trident, Gallagher lashed out. "This is all about ego and retaliation," he pronounced. "I'm overjoyed that … [Trump] stepped in again as being the leader that

[52] https://twitter.com/realdonaldtrump/status/1196061212833923072
[53] https://twitter.com/PeteHegseth/status/1198780634904383492/photo/1
[54] Musto, Julia. Nov. 16, 2019. "Former Green Beret Maj. Mat Golsteyn Praises Trump's 'Courage' for Pardon, Says He Woke Up 'Incredibly Stunned.'" *Fox News*. www.foxnews.com/media/major-mat-golsteyn-president-trump-pardon-fox-and-friends-weekend
[55] Nov. 18, 2019. "Exclusive: Clint Lorance Gives First Interview since Pardon by Trump." *Fox News*. www.youtube.com/watch?v=ne3AX9tasKY&t=448s
[56] Nov. 17, 2019. "Eddie Gallagher Speaks Out after Trump Orders His Naval Rank Restored." *Fox News*. www.youtube.com/watch?v=5UGPRMZC5KY

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

he is.... It's the higher echelon, the upper brass, who are the ones who are trying to put their thumb on me."[57]

For months after the interventions, Fox News continued to spotlight the cases. For example, in a March 2020 segment featuring Hegseth, Sean Hannity lauded his colleague's role in the clemencies, saying, "I like to kid Pete about his tattoos. But he served our country.... And what you did for Eddie Gallagher was amazing."[58] Fox News also platformed several other advocates of the interventions. For instance, on FoxNews.com, Clint Lorance's lawyer, Don Brown, blasted "inexcusable prosecutorial overreach" and praised Lorance, Golsteyn, and Gallagher as "brave patriots."[59] On FoxNews.com, Gen. Anthony Tata railed against the "suffocating pressure of a resource-rich bureaucracy" that he said had unduly borne down on Gallagher.[60]

Fox News's defense of the clemencies was so influential that Trump even appeared to borrow language directly from its coverage. On May 23, 2019, Hegseth on FoxNews.com complained about prosecutions of U.S. servicemembers "by lawyers who *never left their air-conditioned offices*."[61] From there, the phrase redounded. On June 24, former George W. Bush lawyer John Yoo, speaking on Fox News about the Gallagher trial, claimed that a military jury should not say "back now in our *air-conditioned courtroom*, we can impose our standard."[62] On September 18, Fox News's Sean Hannity echoed

[57] Nov. 24, 2019. "Eddie Gallagher on His Case: 'This Is about Ego and Retaliation.'" *Fox News*. www.youtube.com/watch?v=6dkz9MdRTZo

[58] Mar. 9, 2020. *Fox News*. www.foxnews.com/transcript/rep-devin-nunes-we-need-fisa-to-protect-america-but-not-at-the-expense-of-our-liberty

[59] Brown, Don. Nov. 26, 2019. "Don Brown: Military Men Who Got Trump Clemency – Lorance, Golsteyn & Gallagher – Are Heroes, NOT War Criminals." *Fox News*. www.foxnews.com/opinion/don-brown-military-men-who-got-trump-clemency-lorance-golsteyn-and-gallagher-are-not-war-criminals

[60] Tata, Anthony. Nov. 29, 2019. "Gen. Anthony Tata: Trump Was Right, Fired Navy Secretary Was Wrong on Eddie Gallagher Case." *Fox News*. www.foxnews.com/opinion/gen-anthony-tata-trump-was-right-to-fire-navy-secretary-and-intervene-on-behalf-of-seal-eddie-gallagher

[61] Hegseth, Pete. May 23, 2019. "Pete Hegseth: I'm With the Warfighters – Count Me out of Second-guessing Our Heroes." *Fox News*. www.foxnews.com/opinion/pete-hegseth-im-with-the-american-warfighters

[62] Yoo, John. June 24, 2019. "Discussing the Eddie Gallagher Case: Yoo on Fox News' 'The Daily Briefing with Dana Perino.'" AEI. www.aei.org/press/discussing-the-eddie-gallagher-case-yoo-on-fox-news-the-daily-briefing-with-dana-perino/

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

similar language on his radio program: "It's amazing how people can second-guess guys that are in combat … from the comfort of their offices and their *air-conditioned military courtrooms*" [emphasis added in all the above quotes].[63]

Trump himself finally invoked the "air-conditioned" phrase at a MAGA rally in Florida on November 26, proclaiming "I will always stick up for our great fighters. *People can sit in air-conditioned offices* and complain, but it doesn't matter to me."[64] Two days later, on November 28, Sean Hannity, in an interview with Clint Lorance, declared, "How about those guys in *air-conditioned offices* that want to sit back and judge your three-second decision?"[65] During his confirmation hearings, Hegseth again railed against "people here in *air-conditioned offices* that like to point fingers at the guys in dark and dangerous places" [emphasis added in all the above quotes].[66] Collectively, the multiple, repeated references to judging U.S. service-members from "air-conditioned" rooms epitomized the symbiotic messaging between Trump, Fox News, and his supporters.

Alongside Fox News, other media voices on the far right also defended Trump's interventions. Talk radio host Rush Limbaugh, for example, praised Trump for "sid[ing] with the military hero, the down-in-the-dirt grunt who does the great, miraculous work, Eddie Gallagher, a Navy SEAL."[67] On RedState.com, a commentator wrote that "[i]t is insane to hold … [U.S. troops] to some bullsh** peacetime 'use of deadly force' standard."[68] Townhall.com's John

[63] Hannity, Sean. Sept. 18, 2019. "Justice for Warriors." *Sean Hannity Show*. www.iheart.com/podcast/51-the-sean-hannity-show-24392822/episode/justice-for-warriors-49394778/

[64] Nov. 26, 2019. "President Trump Rally in Sunrise, Florida." *C-SPAN*. www.c-span.org/video/?466539-1/president-trump-rally-sunrise-florida

[65] Nov. 28, 2019. "Lt. Clint Lorance on Being Pardoned by Trump." *Fox News*. https://video.foxnews.com/v/6109800956001#sp=show-clips

[66] Jacobson, Louis and Sara Swann. Jan. 15, 2025. "Fact-check: What Did Pete Hegseth Say in Defence Confirmation Hearing?" *Al Jazeera*. www.aljazeera.com/news/2025/1/15/fact-check-what-did-pete-hegseth-say-in-defence-confirmation-hearing

[67] Nov. 25, 2019. "Trump Schiffcans Navy Secretary in SEAL Case." *Rush Limbaugh Show*. www.rushlimbaugh.com/daily/2019/11/25/trump-schiffcans-navy-secretary-in-seal-case/

[68] Streiff. Nov. 15, 2019. "Trump Issues Pardons in Three Highly Controversial War Crimes Court Martial Cases." *RedState*. www.redstate.com/streiff/2019/11/15/trump-issues-pardons-three-highly-controversial-war-crimes-court-martial-cases/

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

and Andy Schafly called criticism of Trump's pardons "a disgrace," and suggested that if there were any benefit of the pushback, it was that "disrespect for Trump's pardons smokes the Never-Trumpers out." On Gateway Pundit, writer Cristina Laila praised Trump for his actions "after overzealous Obama hacks hunted … [Eddie Gallagher] down."

When initial reports emerged that Navy leadership planned to strip Gallagher of his SEAL trident, Fox News again rushed to his defense. On November 21, 2019, one of Gallagher's attorneys appeared on Fox News to impugn the commander of the Navy SEALs as a "coward."[69] Within hours, Trump turned to Twitter: "The Navy will NOT be taking away Warfighter and Navy Seal Eddie Gallagher's Trident Pin…. Get back to business!"[70] On November 24, Trump fired Navy Secretary Richard Spencer for plotting to override his order,[71] prompting Hegseth to slam Spencer as "an institutionalist" who "wanted to … just bow to whatever the system was doing." He elaborated: "They ignored the president's clear guidance. 'You're not taking the Trident. Get back to business.' … [Trump]'s the commander-in-chief. He won the election. You didn't."[72]

Others on Fox News echoed similar sentiments. For example, national security analyst Rebecca Grant penned an op-ed on FoxNews.com insisting that "[t]he Spencer case is sad proof there is indeed a 'deep state' anti-Trump resistance popping up within the Pentagon."[73] Fox Nation also hosted Eddie Gallagher's brother, who called the commander in charge of the matter a "clown" and stated that "the Navy got their asses handed to them."[74] One writer

[69] Crowley, James. Nov. 21, 2019. "Fox News Guest Calls Commander of the Navy Seals a 'COWARD.'" *Newsweek*. www.newsweek.com/fox-guest-calls-navy-seal-commander-coward-eddie-gallagher-1473249

[70] https://twitter.com/realdonaldtrump/status/1197507542726909952?lang=bn

[71] https://twitter.com/realDonaldTrump/status/1198746376420679680

[72] Nov. 25, 2019. "Hegseth to Pentagon Officials: The Obama Era Is Over. Understand that or See the Door." *Fox News*. https://video.foxnews.com/v/6108684683001#sp=show-clips

[73] Grant, Rebecca. Nov. 27, 2019. "Rebecca Grant: Fired Navy Secretary's Actions Prove a 'Deep State' Anti-Trump 'Resistance' Exists at Pentagon." *Fox News*. www.foxnews.com/opinion/rebecca-grant-fired-navy-secretarys-actions-prove-a-deep-state-anti-trump-resistance-exists-at-pentagon

[74] London, Matt. Mar. 2, 2020. "Critics Ignore Military Justice Failures in '60 Minutes' Profile of Navy SEAL Eddie Gallagher." *Fox News*. www.foxnews.com/media/eddie-gallagher-former-seal-60-minutes

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

opined that "Spencer's firing ha[d] its roots in the case of Edward Gallagher, a Navy SEAL who became a Fox News hero."[75] Analyst Sam Vinograd remarked, "[I]t's one thing for Fox analysts to offer their opinions, let's say on Gallagher's case. It is another thing for the president of the United States to make decisions based upon those analysts' opinions."[76]

After Trump issued the Blackwater pardons, Hegseth again promptly defended the moves. On "Fox & Friends," he declared, "God bless the president for having the courage which a lot of other presidents wouldn't do to pardon those men."[77] He insisted that the evidence that led to the convictions was "mischaracterized" and "mishandled" and complained that the agents had faced prosecution in a civilian court. According to Hegseth, Trump deserved "huge credit" and "kudos" for sending a clear signal to U.S. servicemembers: "We're going to have your back when you make tough calls on the battlefield, much like some of the pardons he gave for other members of the military before."[78] Hegseth also retweeted a message by "@freeraven23": "THEY ARE FREE!!! Thank you president @realDonaldTrump ! We love you and support you!"[79]

GOP Allies on Capitol Hill

Inspiration of Clemencies

Alongside Fox News, Republican lawmakers were crucial in inspiring Trump's war crime clemencies. On Capitol Hill, the Congressional Justice for Warriors Caucus (CJWC) was the primary

[75] Waldman, Paul. Nov. 25, 2019. "How Richard Spencer's Firing Illustrates Some of Trump's Most Corrupt Impulses." *Washington Post*. www.washingtonpost.com/opinions/2019/11/25/how-richard-spencers-firing-illustrates-some-trumps-most-corrupt-impulses/

[76] Palmer, Ewan. Nov. 28, 2019. "Donald Trump Running Military to Serve the Interests of Fox News Rather than the Country: CNN National Security Experts." *Newsweek*. www.newsweek.com/trump-fox-eddie-gallagher-richard-spencer-1474591

[77] Baragona, Justin. Dec. 23, 2020. "Fox's Pete Hegseth Applauds Trump for Pardoning War Criminals: 'God Bless the President.'" *Daily Beast*. www.thedailybeast.com/foxs-pete-hegseth-applauds-trump-for-pardoning-war-criminals-god-bless-the-president

[78] Dec. 23, 2020. "Pete Hegseth Praises Blackwater Guards Who Massacred 14 Civilians." *Raw Story*. www.youtube.com/watch?v=LP6l_LLoLwA&t=2s

[79] https://twitter.com/FreeRaven23/status/1341733087978381323

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

force advancing the agenda before the White House. Although individual Republicans in Congress had been lobbying for war crime clemencies even before Trump took office,[80] the caucus's formation institutionalized their effort. Founded in 2019 by Reps. Louie Gohmert of Texas and Duncan Hunter of California, the CJWC provided backing to court-martialed troops who it claimed had been "unfairly treated by the military justice system."[81] Encouraged by GOP Congress members, especially those with military backgrounds, Trump was motivated to intervene and gained credibility through the CJWC's support.

The CJWC first earned major traction in March 2019 when it wrote a letter to Navy leadership alleging the mistreatment of Eddie Gallagher while he was awaiting trial.[82] The letter earned the CJWC a national audience and showcased how it worked collaboratively with Fox News to gain Trump's attention. Fox News prominently covered the allegations, with the Gallagher family telling the network that it was "grateful [to] Members of Congress … [for] calling attention to … the abhorrent treatment of one of its most decorated warfighters."[83] After Rep. Ralph Norman of South Carolina appeared on "Fox & Friends" to discuss the case,[84] Trump tweeted that he would order Gallagher's removal from restrictive confinement, tagging both "@foxandfriends" and "@RepRalphNorman."[85]

Much of the early impetus for congressional lobbying came at the behest of Gallagher himself. On Instagram, for example, Gallagher

[80] Tan, Michelle. Jan. 14, 2015. "Congressmen to Army: Review LT's Murder Conviction." *Army Times*. www.armytimes.com/news/your-army/2015/01/14/congressmen-to-army-review-lt-s-murder-conviction/

[81] https://twitter.com/JFWCaucus

[82] Norman, Greg. Mar. 21, 2019. "Texas Rep. Dan Crenshaw Fighting for Fellow Navy SEAL Being Held on War Crimes Charges." *Fox News*. www.foxnews.com/us/eddie-gallagher-case-house-republicans-call-on-navy-leadership-to-review-treatment-of-seal-being-held-on-war-crimes-charges

[83] Norman, Greg. Mar. 21, 2019. "Texas Rep. Dan Crenshaw Fighting for Fellow Navy SEAL Being Held on War Crimes Charges." *Fox News*. www.foxnews.com/us/eddie-gallagher-case-house-republicans-call-on-navy-leadership-to-review-treatment-of-seal-being-held-on-war-crimes-charges

[84] Rupar, Aaron. May, 24, 2019. "Trump's Interest in Pardoning Troops Accused of War Crimes, Explained." *Vox*. www.vox.com/policy-and-politics/2019/5/24/18637360/trump-war-crimes-pardons-gallagher-golsteyn-fox-news-hegseth

[85] https://twitter.com/realdonaldtrump/status/1111965027483951105?lang=bg

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

wrote to his followers: "Our family is seeking Congressional Support for a presidential Pardon for Eddie.... Please call your Congressional Representative and ask them to sign onto our Letter to the POTUS to #FREEEDDIE from this Travesty of Justice." The post tagged "@justice_for_warriors_caucus" and several of the most active CJWC members, including co-chairs Reps. Louie Gohmert and Duncan Hunter.[86] Gallagher's lawyer, however, maintained that his client "didn't need to ask for a pardon, because that happened organically, because members of Congress are paying attention to what happened in this case."[87]

In subsequent months, several GOP lawmakers pushed Trump to take action in war crime cases. The most vocal was CJWC co-chair Duncan Hunter, who repeatedly lobbied for Gallagher specifically. In an op-ed for *USA Today* published in May 2019, Hunter decried prosecutorial misconduct by the Navy and insisted that "[a] pardon by Trump is fully warranted."[88] Hunter had previously said that, while he wanted Trump to help Gallagher, it was important for his court martial to proceed so that the public could witness "how disgusting the military justice system is when it's run by lawyers and bureaucrats [who] go after the war-fighter."[89] Gallagher's brother, Sean, praised Hunter as "one of those allies" whose "support for Eddie was immediate and unwavering."[90]

More than calling for Trump to intervene, Hunter appeared to minimize the significance of war crimes and to condone them as an

[86] www.instagram.com/p/B4SjG6yA3-i/?utm_source=ig_embed&hl=en

[87] Szoldra, Paul and Jared Keller. Nov. 1, 2019. "Navy SEAL Eddie Gallagher's Family Is Asking Trump for a Presidential Pardon." *Military.com*. www.military.com/daily-news/2019/11/01/navy-seal-eddie-gallaghers-family-asking-trump-presidential-pardon.html

[88] Hunter, Duncan. May 24, 2019. "Commander in Chief Donald Trump's Pardon Is Warranted." *USA Today*. https://eu.usatoday.com/story/opinion/2019/05/24/pardon-president-donald-trump-fully-warranted-navy-seal-editorials-debates/1213635001/

[89] Budryk, Zack. May 27, 2019. "GOP Rep Defends Accused War Criminal, Saying He Also Photographed Bodies." *The Hill*. https://thehill.com/homenews/house/445666-gop-rep-defends-accused-war-criminal-by-saying-he-also-photographed-bodies

[90] Gallagher, Sean. Oct. 24, 2019. "Congressman's Support of SEAL Immediate and Unwavering." *San Diego Union-Tribune*. www.sandiegouniontribune.com/opinion/story/2019-10-24/what-duncan-hunters-support-of-eddie-gallagher-reveals-about-his-character

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

inevitable byproduct of war. He argued for Trump to grant clemency for Gallagher because his acts were not rare in battle, saying that he "frankly [didn't] care" about his guilt or innocence.[91] Hunter had formerly sparked controversy for admitting that, as an artillery officer, his unit "killed probably hundreds of civilians" in Iraq, including "[p]robably … women and children."[92] Referring to the charge of Gallagher posing with the corpse of a teenager, Hunter bragged that he had also taken illicit pictures "just like that when I was overseas" and said that "[a] lot of my peers … have done the exact same thing."[93]

As momentum grew for clemencies in 2019, the CJWC sent a string of letters to Trump pleading for him to intervene, including one for Clint Lorance dated August 9[94] and one for Eddie Gallagher dated November 4.[95] The letters pilloried their verdicts and warned of the damage to troop morale if Trump neglected to intervene. After Pete Hegseth reported on Fox News that Trump intended to act soon, CJWC leaders again wrote to the White House on November 5 praising the president for defending "our nation's warriors." The text read that the "CJWC … would like to commend you [President Trump] for your decision as reported by Fox News' Pete Hegseth to take action in the cases of 1Lt. Clint Lorance, Chief Petty Officer Eddie Gallagher, and Maj. Matt Golsteyn."[96]

On November 8, Reps. Duncan Hunter and Louie Gohmert followed up these letters with an op-ed at FoxNews.com entitled, "War Crimes Charges against 3 Military Combat Veterans Should be

[91] Fearnow, Benjamin. June 3, 2019. "'Keep Your Mouth Shut.' Retired General Shuts Down Republican Duncan Hunter's Defense of Alleged War Criminal." *Newsweek*. www.newsweek.com/duncan-hunter-general-war-crime-cnn

[92] Kelly, Caroline. June 2, 2019. "Rep. Duncan Hunter: Iraq Unit 'Killed Probably Hundreds of Civilians.'" *CNN*. https://edition.cnn.com/2019/06/01/politics/duncan-hunter-barstool-interview-killed-hundreds/index.html

[93] Budryk, Zack. May 27, 2019. "GOP Rep Defends Accused War Criminal, Saying He Also Photographed Bodies." *The Hill*. https://thehill.com/homenews/house/445666-gop-rep-defends-accused-war-criminal-by-saying-he-also-photographed-bodies

[94] https://gohmert.house.gov/uploadedfiles/scanned_letter_signed_for_lorance_with_hice.pdf (last accessed Mar. 14, 2021)

[95] https://gohmert.house.gov/uploadedfiles/pardon_eddie_gallagher.pdf (last accessed Mar. 14, 2021)

[96] https://gohmert.house.gov/uploadedfiles/11.5.19_letter_to_president_trump_from_louie_gohmert_and_duncan_hunter.pdf (last accessed May 14, 2021)

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

Thrown out by Trump."[97] In the piece, the legislators referred to Golsteyn, Lorance, and Gallagher as "brave men" and insisted that "[e]very commonsense, patriotic American would undoubtedly celebrate the dismissal of all the charges." Apart from lobbying for clemencies, Hunter and Gohmert touted the CJWC's role in "ensur[ing] miscarriages of justice like those suffered by these men never happen again." The op-ed was featured on Fox News's website with a video of Pete Hegseth stating that he was "able to confirm … from the president of the United States himself … that action is imminent."

When news emerged of pushback from inside the Pentagon, the CJWC took to social media to decry "Pentagon bureaucrats" bent on "'head[ing] off' president Trump from taking action."[98] On Facebook, the CJWC encouraged supporters to "[p]lease call the White House … and Tweet our president @realDonaldTrump and encourage him to act on behalf of our nation's heroes."[99] Their pressure was rewarded when, days later, Pete Hegseth tweeted Trump's decision: "Army 1LT Clint Lorance is FULLY PARDONED and will be out of prison TONIGHT. Army Green Beret Matt Golsteyn is FULLY PARDONED and is free from Army harassment. Navy SEAL Eddie Gallagher gets his rank & record back. All thanks to @realDonaldTrump. #AmericaFirst #WarriorsFirst."[100]

As with the 2019 clemencies, Republican Congress members also played an integral role in pushing for Trump's Blackwater pardons. On May 12, 2020, the CJWC issued a press release urging Trump to act.[101] The statement, calling the contractors "brave men" who

[97] Hunter, Duncan and Louie Gohmert. Nov. 8, 2019. "Reps. Hunter and Gohmert: War Crimes Charges against 3 Military Combat Veterans Should Be Thrown Out by Trump." *Fox News*. www.foxnews.com/opinion/reps-hunter-and-gohmert-trump-should-throw-out-war-crimes-charges-against-3-brave-military-combat-veterans

[98] www.facebook.com/CongressionalJusticeForWarriorsCaucus/?ref=nf&hc_ref=ARSU9xcJhn28UKuDYzt0KhapYQn7nMjPE9vgZDW72A3PY-cNBGFQGkQTqzTSI9OhXv4&__tn__=%3C-R

[99] www.facebook.com/CongressionalJusticeForWarriorsCaucus/?ref=nf&hc_ref=ARSU9xcJhn28UKuDYzt0KhapYQn7nMjPE9vgZDW72A3PY-cNBGFQGkQTqzTSI9OhXv4&__tn__=%3C-R

[100] https://twitter.com/PeteHegseth/status/1195498456326004736

[101] Press Release. May 12, 2020. "The Congressional Justice for Warriors Caucus Calls Upon President Trump to Pardon the Biden Four." https://gohmert.house.gov/news/documentsingle.aspx?DocumentID=399780 (last accessed Sept. 14, 2021)

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

"suffered grave injustices," ended with quotes from Reps. Louie Gohmert and Paul Gosar accusing Democrats and prosecutors of stymieing justice. According to Gohmert, the Blackwater agents were victims of "constitutional violations, prosecutorial misconduct, and media malpractice," as well as a malicious effort "[to] scapegoat[e] these men for political and diplomatic expediency." In the words of Gosar, "It was Hillary Clinton and Joe Biden who pushed for further prosecution," an act he described as "truly unconscionable."

Individual leaders of the CJWC also spoke out on the Blackwater cases. As early as June 2019, for example, Rep. Duncan Hunter called for unconditional pardons on FoxNews.com. Claiming that the contractors were being used as "political pawns" by Democrats, he wrote that "[o]ur warfighters deserve better" and "[i]t's time to have their backs."[102] On the same day that the CJWC formally advocated pardons, Rep. Louie Gohmert appeared on the "Raven 23: Presumption of Guilt" podcast,[103] the podcast that Pete Hegseth had earlier featured on Fox News.[104] Gohmert acknowledged that the CJWC did not originally intend to lobby for the Blackwater agents because they worked for a private firm. However, he said that this changed after realizing the men had prior military service and that "these were warriors."

Defense of Clemencies

GOP Congress members also rushed to defend Trump's war crime clemencies. When Trump intervened on November 15, 2019, the CJWC declared in a letter that it was "ecstatic and eternally grateful." It added that the clemencies were a "shining example of why [Trump] … was elected in 2016" and called him a "bold and fearless leader who refuses to bow to establishment pressure when helping

[102] Hunter, Duncan. June 21, 2019. "Rep. Duncan Hunter: President Trump, 'The Biden Four' Deserve Your Attention." *Fox News*. www.foxnews.com/opinion/rep-duncan-hunter-trump-iraq-biden-four-blackwater-veterans-prison

[103] Keating, Gina. May 12, 2020. "Raven 23: Presumption of Guilt Special Episode: Interview with US Rep. Louie Gohmert." www.youtube.com/watch?v=oDGrQAU13b0

[104] Aug. 11, 2019. "Podcast Tells the Story of How Four Veterans Ended up Serving Life Sentences for War Crimes." *Fox News*. https://video.foxnews.com/v/6071713887001?fbclid=IwAR2867eQMi1topNkvvhEJas6bfW5FkDbdK_NUwHdjmNfWMmE-OajdrlPFDk#sp=show-clips

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

America's valiant warriors."[105] The CJWC's Twitter handle was celebrated by sharing tweets from its members, Trump, and Pete Hegseth.[106] One retweet included a message from Hegseth declaring, "@BarackObama traded terrorists for traitors. @realDonaldTrump backs real warfighters. Obama's war rules handcuffed our warriors – and then he prosecuted them. Trump let them fight and win – and tonight, he sets them free."[107]

Several CJWC members boasted on social media about their personal roles in the clemencies. For example, Rep. Paul Gosar of Arizona tweeted out a handwritten letter from Clint Lorance reading: "I want to personally thank you for sending a letter to the President on my behalf. You have made a permanent impact on my life. Thank you for your leadership. May God bless you." Gosar tagged @realDonaldTrump and declared that he would "never stop fighting for our men and women in uniform."[108] Rep. Ralph Norman tweeted, "This is who we fight for: those who fought for us. Well done, @realdonaldtrump."[109] His message responded to Trump's son, Eric, declaring, "I hope no one who serves our country and volunteers to do the unthinkable is ever treated like this again! Great job @realDonaldTrump!"[110]

Other GOP lawmakers defended Trump's clemencies, especially on Fox News. For example, Rep. Guy Reschenthaler of Pennsylvania lauded Trump on Fox News for "letting war fighters be war fighters."[111] On "Fox News Sunday," Rep. Steve Scalise of Louisiana complained that, before Trump, U.S. servicemembers "felt that they … needed a team of attorneys before they could return fire in the battlefield."[112] In another example of how Fox News's messaging was used by other IT members, Rep. Michael Waltz of Florida

[105] www.facebook.com/CongressionalJusticeForWarriorsCaucus/photos/a.528793434597055/575858916557173/?type=3&theater
[106] https://twitter.com/jfwcaucus?lang=en
[107] https://twitter.com/PeteHegseth/status/1195500711259320322
[108] https://twitter.com/RepGosar/status/1195695801575628800
[109] https://twitter.com/RepRalphNorman/status/1195494279256379393
[110] https://twitter.com/EricTrump/status/1195491841506004992
[111] "GOP Rep. Weights in on Clemency Granted to Two Army Officers." *Fox News*. www.youtube.com/watch?v=HwLLFLI1rBs
[112] Semones, Evan. Nov. 17, 2019. "Steve Scalise: Trump's Military Pardons Boost Troop Morale." *POLITICO*. www.politico.com/news/2019/11/17/steve-scalise-trump-military-pardon-071306

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

told Pete Hegseth on "Fox & Friends" that "[w]hat we can't do is … have people back in Washington, DC, a bunch of lawyers, Monday morning quarterbacking."[113] The "Monday morning quarterbacking" phrase echoed precise words from Hegseth's 2019 FoxNews.com opinion piece.[114]

Soon after the interventions, a number of CJWC members urged Trump to go further in granting clemencies. For example, Rep. Louie Gohmert said that pardoning more servicemembers would be evidence of the White House's commitment to Americans serving in uniform. "Today," Gohmert said in a press release, "I am humbly requesting that the president also act in the cases of two more American heroes: Sgt. Derrick Miller and 1Sgt. John Hatley. All these men mentioned are deserving of having the findings and sentences of their cases disapproved." Gohmert added that "[t]hese warriors have been sacrificed at the altar of politically correct Rules of Engagement for far too long. It is time we take decisive action and put an end to the wrongful prosecution of our military heroes."[115]

Several Republican Congress members also defended Trump's firing of Navy Secretary Richard Spencer over his attempt to strip Eddie Gallagher of his SEAL trident. Rep. Duncan Hunter, for example, declared that Spencer was "just asking to be relieved as soon as possible."[116] Sen. Jim Inhofe of Oklahoma said that his past disagreements with Spencer were "no secret" and that he "look[ed] forward to … considering a nomination for the next Secretary of the Navy as soon as possible."[117] When Democrat Sen. Tim Kaine of Virginia demanded an inquiry into Spencer's firing, one reporter

[113] Nov. 17, 2019. "Rep. Michael Waltz: President Trump Did the Right Thing by Pardoning Clint Lorance." Rep. Michael Waltz. www.youtube.com/watch?v=IXmKv1yo2Ng&t=112s

[114] Hegseth, Pete. May 23, 2019. "Pete Hegseth: I'm With the Warfighters – Count Me out of Second-guessing Our Heroes." *Fox News*. www.foxnews.com/opinion/pete-hegseth-im-with-the-american-warfighters

[115] www.facebook.com/RepLouieGohmert/posts/10157590336776904?comment_id=10157590386666904

[116] Stone, Ken. Nov. 25, 2019. "Rep. Duncan Hunter: Military Should Consider Trump Tweets a Direct Order." *Times of San Diego*. https://timesofsandiego.com/politics/2019/11/25/rep-duncan-hunter-military-should-consider-trump-tweets-a-direct-order/

[117] Morgan, Wesley. Nov. 24, 2019. "Esper Forces out Navy Secretary over Disputed SEAL Case." *POLITICO*. www.politico.com/news/2019/11/24/esper-navy-secretary-resign-seal-case-073436

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

noted "Republicans … lined up in support of the president on the matter" and predicted that it was "doubtful an investigation would gain traction in the chamber where Republicans hold the majority."[118]

When Trump announced the Blackwater pardons in December 2020, the CJWC also released an official statement to celebrate.[119] In it, members alternated between praising Trump and criticizing lawyers and the Obama administration for allowing the men to be jailed. Rep. Louie Gohmert, for example, lauded Trump for "the most wonderful Christmas gift in the form of pardons." Rep. Bill Flores of Texas declared, "I commend president Trump for his action tonight to pardon the Biden Four." Rep. Daniel Webster of Florida wrote, "Thank you, president Trump, for standing up for these four veterans and righting this wrong." After accusing the Obama White House of "railroad[ing] four of our Iraq warriors," Rep. Paul Gosar ended his message with three words: "Welcome home boys."

The CJWC and various Republican politicians again took to social media to champion the interventions. On its Facebook page, the CJWC posted a red, white, and blue photo of the four Blackwater contractors, pronouncing: "THEY ARE FREE!!! Thank you President Donald J. Trump!! We love you and support you!"[120] On Twitter, the CJWC recounted the "wonderful news of @realDonaldTrump's pardons for the #BidenFour."[121] In response to a UN report criticizing the interventions, Rep. Matt Gaetz tweeted, "The UN is an America-Last organization. @realDonaldTrump was right to issue the Blackwater Pardons."[122] Even a Republican Texas state senator, Drew Springer, expressed his support on Twitter, tagging "@PeteHegseth": "Thank you Pres. Trump for pardoning them! Whiskey & Cigars seem like freedom to me."[123]

[118] Sisk, Richard and Gina Harkins. Nov. 27, 2019. "Lawmakers Call for Pentagon Investigation into Navy Secretary's Firing." *Military.com*. www.military.com/daily-news/2019/11/27/lawmakers-call-pentagon-investigation-navy-secretarys-firing.html

[119] Dec. 23, 2020. "CJWC Members Celebrate President Trump's Pardons for the Biden Four." Press Release. https://gohmert.house.gov/news/documentsingle.aspx?DocumentID=399894 (last accessed Feb. 13, 2022)

[120] www.facebook.com/CongressionalJusticeForWarriorsCaucus/

[121] https://twitter.com/freeraven23/status/1341733087978381323?lang=en

[122] https://twitter.com/mattgaetz/status/1344405861989576704?lang=en

[123] https://twitter.com/DrewSpringer/status/1344798100666376199

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

2.2 Additional Examples of IT Synchronization

As described earlier, Trump's war crime interventions exemplify the impunity agenda most clearly, as they overtly challenged IHL and the U.S. military justice system. However, they are not isolated events. As part of a broader attack on international laws governing the military, Trump has also tested bedrock principles pertaining to noncombatant immunity, state sovereignty, restraints on the use of force, and prohibitions on torture. As with the war crime clemencies, Trump, alongside Fox News and Republican Congress members, has carried out discrete tasks via divisions of labor to inspire and defend the behavior. By relying on right-wing partners, Trump has been able to avoid succumbing to resistance in publicly dismissing international laws.

First, Trump on multiple occasions has called for the deliberate killing of civilians, which, if acted on, would breach the IHL principle of "distinction" forbidding the intentional targeting of noncombatants. In December 2015, for example, Trump declared on "Fox & Friends" that killing family members of terrorists can be an effective tactic, pronouncing "When you get these terrorists, you have to take out their families."[124] At a GOP primary debate later that month, Trump refused to back down, saying that terrorists "may not care much about their lives, but they do care, believe it or not, about their families' lives."[125] According to a 2018 report, while being briefed on a drone strike in Syria, Trump also "[q]uestioned why [the] CIA avoided killing [a] terrorist's family."[126]

Fox News has given Trump multiple platforms to defend his views. In 2015, for example, Sean Hannity told Trump, "I actually agree with you" after Trump advocated killing the wives of terrorists.[127] When

[124] Hains, Tim. Dec. 2, 2015. "Trump: Islamic State Is Our No. 1 Threat." *Real Clear Politics*. www.realclearpolitics.com/video/2015/12/02/trump_isis_is_our_1_threat_--_we_cant_be_fighting_everybody_at_the_same_time.html

[125] Alter, Charlotte. Dec. 16, 2015. "Transcript: Read the Full Text of the Dec. 15 Republican Debate in Las Vegas." *TIME*. https://time.com/4150816/republican-debate-las-vegas-transcript/

[126] Hartmann, Margaret. Apr. 6, 2018. "Trump Questioned Why CIA Avoided Killing Terrorist's Family: Report." *New York Magazine*. https://nymag.com/intelligencer/2018/04/trump-asked-why-cia-drone-avoided-terrorists-family-report.html

[127] Dec. 4, 2015 "Trump Doubles Down on Targeting Terrorists' Families: 'Take Them Out!'" *Fox News*. https://insider.foxnews.com/2015/12/04/donald-trump-doubles-down-targeting-terrorists-families-hannity

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

Fox News's Bill O'Reilly asked Trump to clarify that he would really "put out hits on women and children," Trump insisted, "I would do pretty severe stuff."[128] One journalist noted that he had never witnessed "a political event at which people cheered for the murder of women and children."[129] Similar threats gained some approval in Congress. In 2015, for instance, Sen. Ted Cruz of Texas called for the U.S. military to "carpet-bomb … [ISIS] into oblivion," a move that would likely violate both distinction and proportionality principles. "I don't know if sand can glow in the dark," Cruz remarked, "but we're going to find out!"[130]

Related to noncombatant immunity, Trump also in his first term called for reversing Obama-era policies that had strengthened U.S. military rules of engagement (ROE).[131] Although the merits of loosening ROE are contested, and many experts acknowledge that they were previously more restrictive than required by IHL, reforms coincided with spikes in civilian deaths.[132] Trump's efforts culminated in a high-profile address in 2017 when he declared that "[r]etribution will be fast and powerful as we lift restrictions and expand authorities in the field."[133] Secretary of Defense General James Mattis reportedly took multiple steps on this front, including eliminating proximity requirements for launching air attacks.[134] Trump also oversaw the canceling of plans to stop the U.S. military's use

[128] Beauchamp, Zack. Jan. 25, 2016. "Donald Trump Said He'd Kill Terrorists' Families at a Rally. His Crowd Went Wild." *Vox*. www.vox.com/2016/1/25/10828770/trump-terrorist-family-appeal

[129] Beauchamp, Zack. Jan. 25, 2016. "Donald Trump Said He'd Kill Terrorists' Families at a Rally. His Crowd Went Wild." *Vox*. www.vox.com/2016/1/25/10828770/trump-terrorist-family-appeal

[130] Glueck, Katie. Dec. 5, 2015. "Cruz Pledges Relentless Bombing to Destroy ISIL." *POLITICO*. www.politico.com/story/2015/12/cruz-isil-bombing-216454

[131] Cooper, Helene. Apr. 5, 2017. "Trump Gives Military New Freedom. But With That Comes Danger." *New York Times*. www.nytimes.com/2017/04/05/us/politics/rules-of-engagement-military-force-mattis.html

[132] Crawford, Neta C. 2020. *Afghanistan's Rising Civilian Death Toll Due to Airstrikes, 2017–2020*. Brown University and Boston University.

[133] Aug. 21, 2017. "Full Transcript and Video: Trump's Speech on Afghanistan." *New York Times*. www.nytimes.com/2017/08/21/world/asia/trump-speech-afghanistan.html

[134] Mehta, Aaron. Oct. 3, 2017. "Mattis Reveals New Rules of Engagement." *Military Times*. www.militarytimes.com/flashpoints/2017/10/03/mattis-reveals-new-rules-of-engagement/

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

of "cluster munitions," known for killing civilians indiscriminately through sub-explodables.[135]

Fox News commentators defended Trump's ROE reforms. Pete Hegseth, for example, praised Trump, quoting him as saying "I will … untie the hands of my commanders. I will not micromanage from the White House." He further lamented "30 something graduate students second-guessing commanders on the battlefield," which he said occurred under Obama.[136] Sean Hannity lauded Trump for "t[aking] off the rules of engagement of Obama and bomb[ing] the living hell out of [the caliphate in Syria]."[137] On Capitol Hill, Rep. Michael Waltz of Florida complained that, prior to Trump, ROE were "often … flawed" and "were dramatically over-restrictive."[138] Rep. Mac Thornberry of Texas also protested that, before Trump, troops "missed targets because they had to go back and have an NSC [National Security Council meeting] that met for weeks."[139]

Regarding accountability for noncombatant casualties, Trump has regularly taken aim at the ICC, accusing it of targeting U.S. servicemembers. Most notably, on June 11, 2020, Trump signed an executive order that froze financial assets and applied travel bans on ICC prosecutors. In a statement, Trump assailed the ICC's "illegitimate assertions of jurisdiction" and accused it of "imped[ing] the critical national security" work of the U.S.[140] The penalties came shortly after then

[135] Rogin, Josh. Nov. 30, 2017. "The Trump Administration Cancels a Plan to Curtail the Use of Cluster Bombs." *Washington Post*. www.washingtonpost.com/news/josh-rogin/wp/2017/11/30/the-trump-administration-cancels-a-plan-to-curtail-the-use-of-cluster-bombs/

[136] Apr. 24, 2017. "New Rules of Engagement for America's Military." *AM 560 The Answer*. https://560theanswer.com/podcast/episode/4897/new-rules-of-engagement-for-americas-military

[137] Staff. Jan. 3, 2020. "Sean Hannity Calls for Trump to Discard Rules of Engagement with Iran and 'Bomb the Living Hell out of Them.'" *Media Matters*. www.mediamatters.org/sean-hannity/sean-hannity-calls-trump-discard-rules-engagement-iran-and-bomb-living-hell-out-them

[138] Nov. 18, 2019. "Rules of Engagement 'Restrictive' under Obama: Rep. Waltz." https://video.foxnews.com/v/6105511944001#sp=show-clips

[139] Kheel, Rebecca. Mar. 28, 2017. "GOP Lawmakers Defend Trump Military Rules of Engagement." *The Hill*. https://thehill.com/policy/defense/326212-gop-lawmakers-defend-trump-military-rules-of-engagement

[140] June 11, 2020. "Executive Order on Blocking Property of Certain Persons Associated with The International Criminal Court." The White House. https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-blocking-property-certain-persons-associated-international-criminal-court/

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

Secretary of State Mike Pompeo warned in May 2020 that the U.S. would be willing to "exact consequences" on the ICC.[141] It also followed 2018 comments by Trump national security adviser John Bolton who insisted that the U.S. "will not cooperate with the ICC" and that, "for all intents and purposes, the ICC is already dead to us."[142]

Fox News provided a platform for criticizing the ICC. For example, in a "Fox and Friends" interview with Pete Hegseth in March 2020, Pompeo complained that "these international bodies can turn … against you, and that's precisely what's happened [with the ICC]."[143] On Foxnews.com, contributor Christian Whiton accused the ICC of being part of a "globaloney" agenda that was "more interested in prosecuting Americans than thugs."[144] In Congress, Sens. Ted Cruz, Marco Rubio, and Tom Cotton issued a press release in March 2020 condemning the ICC's "unacceptable" investigations of U.S. servicemembers.[145] Earlier that year, Cruz denigrated the ICC as a "kangaroo court" and "fundamentally illegitimate," vowing that "[t]he ICC's campaign against our troops will fail because the United States will ensure that it fails."[146]

Trump has also disregarded international laws on state sovereignty. Most notably, he has threatened to use the U.S. military to

[141] May 16, 2020. "Pompeo Warns ICC Against Asserting Authority Over Israel." *VOA News*. www.voanews.com/a/middle-east_pompeo-warns-icc-against-asserting-authority-over-israel/6189396.html

[142] Sept. 11, 2018. "John Bolton Threatens ICC with Sanctions: 'We Will Not Cooperate'." *Al Jazeera*. www.aljazeera.com/news/2018/9/11/john-bolton-threatens-icc-with-sanctions-we-will-not-cooperate

[143] US Secretary of State. Mar. 6, 2020. "Secretary Michael R. Pompeo With Steve Doocy, Jedediah Bila, and Pete Hegseth of Fox and Friends." https://2017-2021.state.gov/secretary-michael-r-pompeo-with-steve-doocy-jedediah-bila-and-pete-hegseth-of-fox-and-friends/index.html

[144] Whiton, Christian. Sept. 25, 2018. "Trump at UN: Elites May Laugh but Americans Can See Through the Globaloney." *Fox News*. www.foxnews.com/opinion/trump-at-un-elites-may-laugh-but-americans-can-see-through-the-globaloney

[145] Press Release. Mar. 13, 2020. "Rubio, Cotton, Cruz Urge POTUS to Ensures Service Members and Allied Armed Forces are Protected from ICC Prosecution." www.rubio.senate.gov/public/index.cfm/2020/3/rubio-cotton-cruz-urge-potus-to-ensures-service-members-and-allied-armed-forces-are-protected-from-icc-prosecution (last accessed Oct. 21, 2022)

[146] Press Release. Mar. 5, 2020. "Sen. Cruz: 'The ICC's Campaign against Our Troops Will Fail Because the United States Will Ensure That It Fails'." www.cruz.senate.gov/newsroom/press-releases/sen-cruz-and-039the-icc-and-039s-campaign-against-our-troops-will-fail-because-the-united-states-will-ensure-that-it-fails-and-039

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

confiscate Middle Eastern oil for profit, a pledge that would likely constitute the war crime of "pillage."[147] In October 2019, for example, in reference to Syria, Trump said, "We're keeping the oil … I've always said that – keep the oil.… $45 million a month."[148] Trump's comments prompted retired Gen. Barry R. McCaffrey to ask, "WHAT ARE WE BECOMING … PIRATES?"[149] In 2017, Trump also said that the U.S. military "should have taken the oil" from Iraq during its 2003 invasion.[150] When told that the act would breach international law, Trump called experts holding the position "fools."[151] As far back as 2011, Trump had endorsed the U.S. military seizing oil from Iraq. "You're not stealing anything," he pronounced. "We're reimbursing ourselves … at a minimum."[152]

On Fox News, anchors again rationalized Trump's arguments. For example, Fox Business host Charles Payne remarked that "what the president is saying … [is] it's kind of crazy that we've spent trillions of dollars, that we lost all these amazing valuable lives to protect a region … where the biggest asset is oil and we never tap into it."[153] In 2015, Sean Hannity told Trump that he "like[d] the idea" of confiscating oil.[154] On Capitol Hill, Sen. Lindsey Graham

[147] Stewart, James G. Nov. 5, 2019. "Trump Keeps Talking about 'Keeping' Middle East Oil. That Would Be Illegal." *Washington Post*. www.washingtonpost.com/outlook/2019/11/05/trump-keeps-talking-about-keeping-middle-east-oil-that-would-be-illegal/

[148] Finnegan, Conor. Oct. 28, 2019. "'We're Keeping the Oil' in Syria, Trump Says, but It's Considered a War Crime." *ABC News*. https://abcnews.go.com/Politics/keeping-oil-syria-trump-considered-war-crime/story?id=66589757

[149] https://twitter.com/mccaffreyr3/status/1188669495386071046

[150] Saadoun, Sarah. Jan. 27, 2017. "Trump, Iraq Oil and International Law." Human Rights Watch. www.hrw.org/news/2017/01/27/trump-iraqi-oil-and-international-law#

[151] Saadoun, Sarah. Jan. 27, 2017. "Trump, Iraq Oil and International Law." Human Rights Watch. www.hrw.org/news/2017/01/27/trump-iraqi-oil-and-international-law#

[152] Borger, Julian. Sept. 21, 2016. "Trump's Plan to Seize Iraq's Oil: 'It's Not Stealing, We're Reimbursing Ourselves.'" *Guardian*. www.theguardian.com/us-news/2016/sep/21/donald-trump-iraq-war-oil-strategy-seizure-isis

[153] Staff. Oct. 28, 2019. "Fox Business Host Defends Trump Plan to Tap Syria for Oil: 'The Idea Is to … Alleviate the Economic Issues that Come with Policing that Part of the World.'" *Media Matters*. www.mediamatters.org/charles-payne/fox-business-host-defends-trump-plan-tap-syria-oil

[154] Aug. 12, 2015. "FOX 'Hannity'- Transcript: Trump Interview." https://votesmart.org/public-statement/1110867/fox-hannity-transcript-trump-interview#.Xj9B3FJKiqB

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

of South Carolina also backed Trump's oil threats. In 2019, after Trump proposed "mak[ing] a deal with ExxonMobil or one of our great companies to go in there and do it properly," Graham called Trump's plan "good common sense foreign policy"[155] and recommended "us[ing] some of the revenues from future oil sales to pay for our military commitment in Syria."[156]

Related to national sovereignty, in January 2020, Trump sparked debate about the legality of foreign assassinations after he authorized a drone strike killing Iranian Maj. Gen. Qasem Soleimani, who had previously been implicated in the deaths of Americans.[157] The White House initially justified Soleimani's targeting on the grounds that he was planning an "imminent" attack on U.S. citizens,[158] but then refused to substantiate the claim. After rebukes from opponents, Trump responded by criticizing the "Radical Left, Do Nothing Democrats" for "defending the life of Qasem Soleimani."[159] He also dismissed the need for legally justifying the act, tweeting that "whether or not the future attack by terrorist Soleimani was 'imminent' or not … doesn't really matter because of his horrible past!"[160] A White House report released after Soleimani's killing offered no specific evidence of an imminent attack.[161]

[155] Hirsch, Lauren. Oct. 27, 2019. "Trump Wants to Make a Deal with Exxon or Others to Tap Syrian Oil: 'We Should Be Able to Take Some.'" *CNBC*. www.cnbc.com/2019/10/27/trump-wants-to-make-a-deal-with-exxon-or-others-to-tap-syrian-oil.html

[156] Press Release. Oct. 23, 2019. "Graham Statement on Syria." www.lgraham.senate.gov/public/index.cfm/2019/10/graham-statement-on-syria

[157] Loveluck, Louisa, Adam Taylor, and Michael Brice-Saddler. Jan. 3, 2020. "Trump Says Iranian Military Leader Was Killed by Drone Strike 'To Stop a War,' Warns Iran Not to Retaliate." *Washington Post*. www.washingtonpost.com/world/iran-strike-live-updates/2020/01/03/3779f55c-2e33-11ea-bcb3-ac6482c4a92f_story.html

[158] Hosenball, Mark. Jan. 3, 2020. "Trump Says Soleimani Plotted 'Imminent' Attacks, but Critics Question Just How Soon." *Reuters*. https://uk.reuters.com/article/us-iraq-security-blast-intelligence/trump-says-soleimani-plotted-imminent-attacks-but-critics-question-just-how-soon-idUSKBN1Z228N

[159] https://twitter.com/realDonaldTrump/status/1215998705557475328

[160] https://twitter.com/realDonaldTrump/status/1216754098382524422

[161] "Notice on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations." The White House. www.documentcloud.org/documents/6776446-Section-1264-NDAA-Notice.html

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

Fox News vigorously defended Trump over the Soleimani strike. Sean Hannity, for example, declared that "there's a new sheriff in town tonight," calling Soleimani's killing "a huge success."[162] Pete Hegseth said that Soleimani's death could be "about as big as bin Laden … about as big as Baghdadi."[163] He also implied credit for Trump's decision: "If I was part of the narrative … [in Soleimani's killing] well, that's a wonderful part of my day job."[164] In Congress, lone GOP voices like Sens. Rand Paul of Kentucky and Mike Lee of Utah questioned the legality of Soleimani's killing.[165] However, most high-profile lawmakers – including Sens. Marco Rubio of Florida, Tom Cotton of Arkansas, and Ben Sasse of Nebraska[166] – dismissed concerns about its lawfulness. Sen. Lindsey Graham accused some skeptics of the Soleimani strike of "empowering the enemy."[167]

Following Soleimani's death, Trump threatened to use "disproportionate" force against any Iranian response, a move that would expressly violate IHL's "proportionality" principle.[168] He also announced that retaliation would risk a U.S. counterstrike against Iranian cultural

[162] Garcia, Victor. Jan. 6, 2020. "Sean Hannity: Iran Regime Knows 'That There's a New Sheriff in Town Tonight.'" *Fox News*. www.foxnews.com/media/sean-hannity-pelosis-iran-resolution-makes-us-less-safe

[163] Gage, John. Jan. 2, 2020. "'About as Big as Bin Laden': Fox's Pete Hegseth Hails Death of Iranian Gen. Qassim Soleimani." *Washington Examiner*. www.washingtonexaminer.com/news/about-as-big-as-bin-laden-foxs-pete-hegseth-hails-death-of-iranian-general-qassem-soleimani

[164] Steinhauser, Jennifer. Jan. 6, 2020. "Fox Host's 'America First' Shift Makes an Exception for Trump's Iran Strike." *New York Times*. www.nytimes.com/2020/01/06/us/politics/pete-hegseth-trump-fox-news.html

[165] Shabad, Rebecca and Mitch Felan. Jan. 8, 2020. "'Insulting and Demeaning': Two GOP Lawmakers Rip Trump Administration after Iran Briefing." *NBC News*. www.nbcnews.com/politics/congress/insulting-demeaning-lawmakers-rip-trump-administration-after-iran-briefing-n1112596

[166] Basu, Zachary. Jan. 2, 2020. "Republicans Celebrate Death of Qasem Soleimani." *Axios*. www.axios.com/2020/01/03/qassem-soleimani-death-reactions-iran

[167] Jan. 9, 2020. "Rand Paul Fires Back at Lindsey Graham: That's a Low, Gutter Type Response." *CNN*. www.youtube.com/watch?v=yfr6CoSmEBw

[168] https://twitter.com/realDonaldTrump/status/1213919480574812160?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1213919480574812160%7Ctwgr%5Ed81efe24f135fd1e9c1a450199d7e046930dc1aa%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.vox.com%2F2020%2F1%2F6%2F21051550%2Ftrump-iran-tweets-soleimani-war-powers-act

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

sites, which would breach the Geneva Conventions.[169] "Let this serve as a WARNING," Trump tweeted, "that if Iran strikes any Americans, or American assets, we have … targeted 52 Iranian sites…, some … important to Iran & the Iranian culture, and those targets, and Iran itself, WILL BE HIT VERY FAST AND VERY HARD."[170] Although Trump eventually walked back his comments,[171] it was not before he defended his original tweet, saying, "They're allowed to torture and maim our people…. And we're not allowed to touch their cultural site? It doesn't work that way."[172]

Trump's threats again received support on Fox News. Pete Hegseth, for example, pronounced, "I don't care about Iranian cultural sites, and I'll tell you why…. [I]f Iran could … they would destroy every single one of our cultural sites and build a mosque on top of it."[173] Co-host Ainsley Earhardt suggested, without evidence, that Iran was using cultural sites to conceal weapons.[174] Although Senate Majority Leader Mitch McConnell criticized targeting cultural sites,[175] Trump's warning was still met with a defense on Capitol Hill. After several Democrat senators tried to pass a unanimous resolution labeling force against cultural sites a war crime,[176] Republican Sen. James

[169] Bronin, Sara C. Jan. 5, 2020. "Destroying Cultural Heritage Sites Is a War Crime." *Los Angeles Times*. www.latimes.com/opinion/story/2020-01-05/iran-donald-trump-cultural-sites-war-crime

[170] https://twitter.com/realDonaldTrump/status/1213593974679769093

[171] Vazquez, Maegan and Allie Malloy. Jan. 7, 2020. "Trump Appears to Backtrack on Threat to Target Iranian Cultural Sites." *CNN*. www.cnn.com/2020/01/07/politics/donald-trump-iranian-cultural-sites-backtrack/index.html

[172] Haberman, Maggie. Jan. 5, 2020. "Trump Threatens Iranian Cultural Sites, and Warns of Sanctions on Iraq." *New York Times*. www.nytimes.com/2020/01/05/us/politics/trump-iran-cultural-sites.html

[173] Caruso, Justin. Jan. 6, 2020. "Fox News' Pete Hegseth: 'I Don't Care about Iranian Cultural Sites,' They Would Destroy Ours and Build Mosques." *Daily Caller*. https://dailycaller.com/2020/01/06/fox-news-pete-hegseth-dont-care-about-iranian-cultural-sites/

[174] Baragona, Justin. Jan. 8, 2020. "Fox News' Pete Hegseth: We Need to 'Rewrite the Rules' of War in Dealing With Iran." *Daily Beast*. www.thedailybeast.com/fox-news-pete-hegseth-says-we-need-to-rewrite-the-rules-of-war-in-dealing-with-iran

[175] O'Connor, Lydia. Jan. 7, 2020. "Mitch McConnell Says Targeting Iran's Cultural Sites Would Be 'Inappropriate.' It's Also Illegal." *HuffPost*. www.huffingtonpost.co.uk/entry/mitch-mcconnell-iran-cultural-site-attacks-inappropriate_us_5e14de2fc5b66361cb5be392?ri18n=true

[176] Jan. 8, 2020. "Senators Introduce Anti-War Crimes Resolution That Denounces Trump Threats to Attack Iranian Cultural Sites." www.warren

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

Inhofe of Oklahoma blocked the effort. Echoing a concern from Fox News, he explained, "[I]t's simply not true that attacking cultural sites is always a war crime because … cultural sites have been used as staging grounds for hostilities."[177]

Trump has further endorsed illegal interrogation techniques, including torture. On multiple occasions, Trump has expressly advocated waterboarding, despite the practice widely being deemed illegal under IHL. For example, in November 2015, Trump declared at a rally, "Would I approve waterboarding? You bet your ass I'd approve it…. In a heartbeat." Later that month, Trump proclaimed, "[T]hey say to me, 'What do you think about waterboarding?' I said, 'I think it's fine. I like it. I like it.'" In February 2016, Trump affirmed, "Those animals that are cutting off heads, when they hear that we're talking about waterboarding, you know, waterboarding is essentially a minor form of doing what they do." That month, Trump reiterated, "I think we should go much, much, much further than waterboarding." In June 2016, Trump pronounced that he did not think waterboarding was "tough enough."[178]

On Fox News, Trump's position has been met with support. Sean Hannity, who once offered to be waterboarded for charity,[179] posed a hypothetical to defend Trump. "OK, two guys … kidnap your child," he said. "You don't waterboard that guy?"[180] Pete Hegseth said that Trump "understand[s] the appetite of the American people"

.senate.gov/newsroom/press-releases/senators-introduce-anti-war-crimes-resolution-that-denounces-trump-threats-to-attack-iranian-cultural-sites

177 Carney, Jordain. Jan. 7, 2020. "Senate Republican Blocks Unanimous Consent on Resolution Calling Targeting Cultural Sites a War Crime." *The Hill*. https://thehill.com/homenews/senate/477231-senate-republican-blocks-resolution-calling-targeting-cultural-sites-a-war

178 All quotes from: Apr. 4, 2018. "What Trump Said about Waterboarding." *Washington Post*. www.youtube.com/watch?v=ipLRLTc0uEE

179 Linkins, Jason. May 23. 2009. "Hannity Offers To Be Waterboarded for Charity (By Charles Grodin!)." *HuffPost*. www.huffpost.com/entry/hannity-offers-to-be-wate_n_190354?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAJLFdrANR5xtnNFnQsiPFdIRPN5GFONkDtPfcPOnMdldAXv6xMj7X7fRmgXD6p16VRY5aBZqmhg1jcAEc82vdmPN9EMUMg1wUJcWsHWM8sRp0sTXAmsp7X8y63virv_NHqKBsvG5JOW6lrOmh5vGinLAWGOthZQgb5bnrPA9Lgpu

180 Herbert, Geoff. Jan. 27, 2017. "Trump, Hannity Defend Waterboarding: What If David Muir's Kids Were Kidnapped?" Syracuse.com. www.syracuse.com/politics/2017/01/trump_hannity_waterboarding_david_muir_kidnapped.html

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

and is "willing to do something like waterboarding if it's going to keep us safe."[181] Fox News's Jesse Waters also called waterboarding "effective."[182] Despite generating more controversy within the Republican Party, some Congress members, including Sen. Ted Cruz, signaled openness to waterboarding.[183] After Trump's 2016 election, Sen. Tom Cotton suggested that waterboarding should be an option, affirming that "Donald Trump's a pretty tough guy, and he's ready to make those tough calls."[184]

In addition to waterboarding, Trump has also called for "much worse" forms of torture and other unspecified interrogation techniques against terrorists.[185] In 2016, for instance, Trump explicitly said, "Torture works, okay folks."[186] In a move that many critics saw as an implicit endorsement of torture, Trump nominated Gina Haspel as director of the CIA in 2018.[187] Haspel's record of running a CIA "black site" stirred backlash, with former American Civil Liberties Union deputy legal director Jameel Jaffer calling her "quite literally a war criminal."[188] Trump also nominated Marshall Billingslea, who had ties to Bush-era torture policies, to serve as an

[181] Apr. 12, 2016. "Pete Hegseth: Brennan's Rejection Of Waterboarding Was A "Stab At Cruz And Trump." Robert De Niro. www.youtube.com/watch?v=igfSzNqox6U

[182] May 26, 2018. "Green Beret Livestreams Himself Getting Waterboarded." *Fox News*. https://video.foxnews.com/v/5790088593001#sp=show-clips

[183] Feb. 6, 2016. "Ted Cruz, Donald Trump Advocate Bringing Back Waterboarding." *ABC News*. www.youtube.com/watch?v=u486WX1qHeQ

[184] Manduley, Christina. Nov. 9, 2016. "Sen. Tom Cotton: Waterboarding Isn't Torture." *CNN*. www.cnn.com/2016/11/09/politics/tom-cotton-waterboarding-torture/index.html

[185] Johnson, Jenna. Feb. 17, 2017. "Trump Says 'Torture Works,' Backs Waterboarding and 'Much Worse'." *Washington Post*. www.washingtonpost.com/politics/trump-says-torture-works-backs-waterboarding-and-much-worse/2016/02/17/4c9277be-d59c-11e5-b195-2e29a4e13425_story.html

[186] Feb. 17, 2016. "Donald Trump: Torture Works." *Fox News*. www.youtube.com/watch?v=Kpj3pp10wD8

[187] Jansen, Bart. Mar. 13, 2018. "Gina Haspel, Nominated by Trump as First Woman to Lead CIA, Has Controversial Past." *USA Today*. www.usatoday.com/story/news/2018/03/13/gina-haspel-trump-nominee-first-woman-leader-cia/419547002/

[188] Miller, Greg and Shane Harris. Mar. 13, 2018. "Gina Haspel, Trump's Pick for CIA Director, Tied to Use of Brutal Interrogation Measures." *Washington Post*. www.washingtonpost.com/world/national-security/trump-nominates-gina-haspel-to-head-cia-an-agency-veteran-tied-to-use-of-brutal-interrogation-measures/2018/03/13/bd47c8ce-26c6-11e8-874b-d517e912f125_story.html

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

undersecretary of state.[189] One expert predicted that Trump made "a return to torture more likely."[190] Another journalist explained that "[t]orture was a key part of Trump's national-security platform."[191]

Several Fox News voices have endorsed or declined to criticize Trump's advocacy of torture. For instance, analyst Tom McInerney said that "torture worked" on Sen. John McCain as a prisoner of war, mocking "[t]hat's why they call him 'Songbird John.'"[192] Pete Hegseth called torture a "loaded term," adding that "what terrorists would do to you or to me … would [be] chop our heads off."[193] Anchor Greg Gutfield said, "Sure, it's easy to say, but we're better than [torturing] … from a shiny newsroom. But … what is your alternative?"[194] On Capitol Hill, Sen. Marco Rubio, according to one journalist, often resorted to his "favorite dog whistle" in explaining his stance on torture: Terrorists "are getting a one-way ticket to Guantanamo Bay."[195] Ted Cruz said that he only would rule out torture when it induced "excruciating pain equivalent to losing … organs and systems."[196]

[189] Berschinski, Rob and Benjamin Haas. Sept. 17, 2019. "Trump Wants a Torture Proponent to Lead US Human Rights Policy. The Senate Should Say No." *POLITICO*. www.politico.com/magazine/story/2019/09/17/trump-billingslea-torture-human-rights-228112/

[190] Jacobson, Adam D. 2017. "Could the United States Reinstitute an Official Torture Policy?" *Journal of Strategic Security* 10(2): 97–118.

[191] Serwever, Adam. Jan. 26, 2017. "Can Trump Bring Back Torture?" *Atlantic*. www.theatlantic.com/politics/archive/2017/01/trump-torture/514463/

[192] Wemple, Erik. May 10, 2018. "Fox Business Guest Says Torture 'Worked' on John McCain." *Washington Post*. www.washingtonpost.com/blogs/erik-wemple/wp/2018/05/10/fox-business-guest-says-torture-worked-on-john-mccain/

[193] Staff. May 9, 2018. "Fox & Friends Hosts Architect of CIA's Torture Program to Go to Bat for Gina Haspel." *Media Matters*. www.mediamatters.org/fox-friends/fox-friends-hosts-architect-cias-torture-program-go-bat-gina-haspel

[194] Mar. 14, 2018. "President Trump's CIA Pick Faces Questions over Her Role in Enhanced Interrogation Program." *Fox News*. www.foxnews.com/transcript/president-trumps-cia-pick-faces-questions-over-her-role-in-enhanced-interrogation-program

[195] Mora, Alberto. Mar. 13, 2016. "Is America on the Brink of Returning to Torture?" *Los Angeles Times*. www.latimes.com/opinion/op-ed/la-oe-0313-mora-election-return-to-torture-20160313-story.html

[196] Welna, David. Feb. 13, 2016. "Fact-Check: Could The Next President Bring Back Waterboarding?" *NPR*. www.npr.org/2016/02/13/466544830/fact-check-could-the-next-president-bring-back-waterboarding

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002

Ultimately, as this chapter illustrates, Trump's overt challenges to IHL have been enabled by his alliance with powerful right-leaning partners. With Trump acting as a political entrepreneur, the impunity coalition has overcome collective action problems and surmounted barriers posed by state, military, and civil society. The overt strategy is crucial, freeing Trump, Fox News, and GOP allies in Congress from tempering their rhetoric and actions. Rather than relying on veiled language, Trump can push his agenda openly, both to supporters and in the face of detractors. Yet even if the impunity agenda's messaging has been effective, there is still a question of why conservative members of the public are so open to pursuits that explicitly undermine IHL. Chapter 3 turns to that question.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 15 Nov 2026 at 05:21:14, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009675901.002