

3-20-2014

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Recommended Citation

Peter Margulies, The US and Human Rights: A Federalist Society Debate, *Lawfare* (Mar 20, 2014, 7:36 PM), <https://www.lawfareblog.com/us-and-human-rights-federalist-society-debate>

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The US and Human Rights: A Federalist Society Debate

By **Peter Margulies** Thursday, March 20, 2014, 7:36 PM

Criticizing the US stance on human rights treaties is practically an international sport, as evidenced by the bruising reception the UN Human Rights Committee (HRC) gave to a US delegation last week. As Bobby reported here, the US disappointed the HRC by declining to agree with former State Department Legal Adviser Harold Koh's recently disclosed memos urging extraterritorial application of the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (see my earlier post responding to Ben).

The validity and wisdom of the US stance was the subject of a robust debate sponsored by the Federalist Society on Tuesday. While I argued for extraterritorial application, my points were rebutted by two distinguished co-panelists: Edwin Williamson, State Department Legal Adviser under President George H.W. Bush, and Nick Rostow, Legal Adviser to the National Security Council from 1987-1993. Both Nick and Edwin argued that the ICCPR's text was the best guide to the treaty's meaning. I tried to persuade Nick and Edwin that the text was less clear than the US claims and the purpose of the treaty clashed with the current US view. My co-panelists pushed back, fortified by their considerable expertise and experience.

An informative debate for anyone impatient with slogans on either side!

Topics: Relationship between LOAC and IHRL, International Law: LOAC: Field of Application, NIAC: Conflict with IHRL, International Law

Peter Margulies is a professor at Roger Williams University School of Law, where he teaches Immigration Law, National Security Law and Professional Responsibility. He is the author of *Law's Detour: Justice Displaced in the Bush Administration* (New York: NYU Press, 2010).