

OBAMA'S WOULD-BE "RULE OF LAW" COUNSELOR CALLS BRADLEY MANNING'S TREATMENT UNCONSTITUTIONAL

In Charlie Savage's story from last year on the sidelining of Laurence Tribe as head of an "Access to Justice" program at DOJ, he reported that Tribe originally believed he would serve as counselor for "rule of law" issues in Obama's Administration.

There was also concern over how his presence might play out internally, several administration officials said. Some officials feared that he might be unmanageable, intruding into all manner of policy areas and able to call on Mr. Obama as a trump card.

"He has an ego," said Charles Fried, a former solicitor general in the Reagan administration and a fellow Harvard law professor. "He's entitled to it. He's earned it."

Several friends and administration officials said Mr. Tribe had initially sought and believed he would be given a far broader title and assignment: counselor for "rule of law" issues, which would have come with a mandate to help shape matters of national security and foreign policy. That did not happen, but Mr. Tribe came to Washington anyway.

After less than a year in that position, Tribe left last December, citing medical issues.

Now, the guy Obama sidelined to make sure he didn't impose too much rule of law on his

Administration has strongly criticized Bradley Manning's treatment, not only signing a letter condemning Manning's treatment, but elaborating on why that treatment was unconstitutional.

[Tribe] told the Guardian he signed the letter because Manning appeared to have been treated in a way that "is not only shameful but unconstitutional" as he awaits court martial in Quantico marine base in Virginia.

The US soldier has been held in the military brig since last July, charged with multiple counts relating to the leaking of thousands of embassy cables and other secret documents to the WikiLeaks website.

Under the terms of his detention, he is kept in solitary confinement for 23 hours a day, checked every five minutes under a so-called "prevention of injury order" and stripped naked at night apart from a smock.

Tribe said the treatment was objectionable "in the way it violates his person and his liberty without due process of law and in the way it administers cruel and unusual punishment of a sort that cannot be constitutionally inflicted even upon someone convicted of terrible offences, not to mention someone merely accused of such offences".

A pity. Back when Tribe was celebrating candidate Obama, he called him the best student he ever taught at Harvard Law and promised he would defend civil liberties and would not appoint justices who put executive power above rule of law.

Tribe said Americans' civil liberties are hanging by a thread. "But it's better to have a thread than to have the thread cut," he said. "A Republican

president would be in a position to cut that thread.”

[snip]

Tribe said that if Obama were to be elected, he would appoint justices “who share his view that the Constitution is a living document that has to be interpreted in light of evolving values of decency.”

“They would not be justices who fool themselves into thinking they know what the Constitution’s original meaning was, and they can apply it as if nothing has happened in the last 200 years,” Tribe said. “They would be justices who have a serious record of support for human rights and constitutional values, rather than justices who simply have shown their loyalty to executive power.”

[snip]

On a more personal note, Tribe called Obama the “best student I ever had” and the “most exciting research assistant.”

As to Justices Obama would appoint, Tribe has proven himself badly wrong about who would and would not make a good Justice.

But it appears that his belief that Obama would support the rule of law was a far greater misjudgment.