

Conference on Terrorism 1/21/87

Today I would like to address the topic of terrorism from the standpoint of the rule of law. Perhaps there is no better way of doing that than discussing one story that is very much in the news this week. I am referring, of course, to our efforts in the United States Government and particularly the Department of Justice to bring to justice one of those charged with the hijacking of TWA Flight 847 in June of 1985 and committing the murder of a member of the United States Navy.

We may start at the beginning of that story — on the 14th of June 1985, which was the day that the hijacking occurred.

Shortly thereafter on the 3rd of July, on the basis of federal statutes against aircraft piracy and hostage taking on any United States aircraft, we filed complaints against three individuals who had been identified and whom we believed were responsible for that incident. On the same day the federal district court here in Washington issued arrest warrants for those persons.

The documents were held under seal until the 17th of October, when we asked the court to open them. And in November sealed indictments were returned against those who we believed had committed the crimes.

Almost 14 months later — on the 13th of January of this year — one of those individuals, Mohammed Ali Hamadei, was arrested by West German authorities. The next day — the 14th of January — we filed a provisional arrest request with the West German government. On the following day we filed a motion with the court here in Washington to unseal the indictments so that we could proceed with the legal process. Just yesterday we filed papers with the German government seeking the extradition of Hamadei to the United States.

We expect that the extradition process will be completed soon, and that he will arrive in Washington to stand trial. At that point the next step in the legal process would be his arraignment.

This, then, is the story so far. It demonstrates a point that is valuable to recognize: that just as you are looking to the future to the new advent of technology as it pertains to the topic of terrorism, the old rules of law and the old legal processes are equally applicable to terrorism even in a technological age. It also demonstrates a point that this Administration has been making for some time — namely, that while terrorism is without doubt a threat to the rule of law, at the same time, the rule of law itself can be used to combat terrorism, whether that terrorism occurs within the boundaries of our own country or whether it occurs in the international arena.

Specifically, I would suggest to you that this incident shows first of all the importance of having laws on the books under which we can charge those who commit terrorist acts even abroad against our citizens.

The Congress of the United States has very prudently enacted criminal statutes that give us jurisdiction in situations such as this and thus enable us to take immediately the important and necessary legal steps.

Second, the example shows that when as in this case the individual we seek turns up in the custody of another nation there must be a legal means available for bringing that person to the United States so that he or she can stand trial here. Extradition is one such means. In this case it will prove to be a most significant means. We have extradition treaties with more than 100 nations including, of course, West Germany. Such treaties, in existence before the time of arrest, provide a regular legal process through which those persons who've been charged in that country with terrorist crimes can be brought here to stand trial.

Third, this case illustrates that it is not enough just to have the necessary criminal statutes or the necessary extradition treaties. It is equally necessary that there be nothing less than a committed will to use these instruments of the law. At the moment the world is witnessing something very vital in this fight against international terrorism. I am referring to an exercise of will, of political will, by two nations — the United States and the Federal Republic of Germany. Doubtless there will be some of you who may wish to ask questions about the TWA matter. As time permits I'll answer them to the best of my ability, or at least to the best that is dictated by prudence in the event of a potential criminal trial. But for the moment I would like to address the subject of terrorism more broadly by outlining the things that must be done to combat this evil.

First, we in the government and those in the press, in academia, in business and industry must educate the public as to the true nature and magnitude of terrorism.

Ambassador Benjamin Netanyahu, Israel's Ambassador to the United Nations, who has personal knowledge of the toll of terrorism in as much as it was his brother who was the courageous lieutenant colonel who led the raid on Entebbe and was killed in the process of that incident, has defined terrorism as the deliberate and systematic murder, maiming and menacing of the innocent to inspire fear for political ends." There can never be ends sufficiently noble to justify means such as these.

Terrorists do not threaten just a nation or a people or an individual. They are at war literally with the rule of law, with the norms and ideals of civilization itself.

In addition, it is important to have an effective anti-terrorism program in place. This must be true here at home as well as abroad.

In recent years, we've made great progress. And yet at the same time we have to continue to exercise extreme vigilance and extreme care because the potential for a terrorist attack is there at any time.

In the United States, part of the success that we have enjoyed results from the fact that law enforcement agencies have trained hard in anti-terrorist skills. Not only at the federal level with such organizations as the Secret Service and the FBI, but also local police and sheriffs departments working together with the federal agencies have done a great deal in recent years to be prepared for terrorist response. And the FBI in particular has done a tremendous job in this area.

As a result of its considerable law enforcement efforts and also I must say candidly a little luck as well, the number of terrorist incidents in the U.S. has dropped from 112 in 1977 to only 7 in 1985 and 8 in 1986. Our vigilance has kept up, and our will to go after terrorists continues even to this day, not only abroad in the case that I mentioned but within the last 48 hours, in the arrest of one of the Weathermen terrorists from those incidents some 17 years ago. This person has been apprehended and will be brought to trial. In 1985 alone, the FBI

through its efforts detected and prevented 23 separate terrorist missions within borders of the United States and over a hundred incidents abroad. In 1986, at least four terrorist incidents were thwarted by the work of the Bureau.

At the same time as the FBI and other federal agencies — Secret Service, the Alcohol, Tobacco and Firearms Bureau and others, along with local police — have improved their capabilities, we have also expanded the role of the lawyers in the Criminal Division. Because of the necessity and the increased emphasis upon using the rule of law and the regular criminal process against terrorists, we have had experts develop their skills as lawyers in dealing with these cases and we are fortunate to have had an attorney from the Department of Justice stationed as a part of a contingent at our embassy in Rome.

On the international front, through the good offices not only of Justice lawyers but also of our colleagues in the State Department and our foreign service officers and ambassadors abroad, we have devoted considerable energy to putting into place the necessary legal framework to accomplish the arrest, indictment, extradition and prosecution of terrorists who have been captured abroad. Over the past decade, the Congress has passed a variety of important legislation expanding our jurisdiction over terrorist acts committed against our citizens abroad. We do this in a way not to conflict with or interfere with the legitimate law enforcement of other countries but rather to complement their efforts. We have found that this has been very helpful, encouraging prompt attention on the part of those countries to incidents in which our citizens are involved. We have also negotiated new extradition treaties, and we have modified old ones, to bring them up to date and to meet the challenges of taking legal action against terrorists in the '80s.

Throughout all of these processes political will has been important, because it is important that there be the dedication and the commitment to take whatever actions and utilize whatever means are required in particular incidents. Generally, we try to attack terrorism through the legal process that I've been describing, and which we are now using in the case of the perpetrators of the assault on TWA Flight 847.

In other instances, however, we must be willing to use other means, including military. Twice in the past year we have used other means in self-defense and in defense of the rule of law. We've done this in the interception of an airliner that was spiriting away the killers who had participated in the Achille Lauro incident, and later in the bombing of military targets in Libya, after we obtained proof of Libyan involvement in the destruction of the West Berlin nightclub.

Some will perhaps argue that either method, using legal or military means, involves risks of retaliation from these same bloodthirsty terrorists, either here at home or abroad. And without doubt there are dangers of this order. But terrorists cannot be granted immunity simply because they threaten the loss of innocent life.

This principle applies to such strategies as the raid on Libya, or the Israeli rescue operation at Entebbe. But it applies equally to hostage situations of the sort we face today. We have a moral obligation to other potential hostages — theoretically any citizen — not to capitulate to hostage-takers. Doing so would encourage many more such incidents in the future.

A terrorist can win or at least claim victory in several ways. Obviously the terrorist wins if government gives in to his demands, because it demonstrates his supremacy and the impotency of government.

Secondly, the terrorist wins something if he carries out his threat and thereby causes injury or death or the destruction of property. This raises doubts in the minds of citizens about the ability of government itself to carry out its primary responsibility, which is the protection of the lives and property of its citizens.

Thirdly, a terrorist can claim victory if he intimidates a society or a group of people to the extent that he causes fear or changes in the living and work habits of the people or alterations in their lifestyle, because then the terrorist has subjugated society to his will. And also the terrorist can achieve significant gains if by his provocation he stimulates over-reaction on the part of government so that government takes steps that are oppressive, such as denying basic rights to the people or unduly interfering with their lives, or if it causes government itself to give up the rule of law, in which case it responds in kind. Such oppressive acts on the part of government sow the seeds within the citizenry of resentment, dissatisfaction, disaffection, and ultimately disloyalty, thereby serving the cause for which the terrorist acts. That is why the best thinking of any nation or any society must be devoted to this process of combatting terrorism.

We have seen over the last 10 years that terrorists can be thwarted, prevented and defeated. It requires a number of ingredients many of which you will be discussing in more detail during the presentations and panels involving other speakers. But let me mention just a few.

There must be constant vigilance in order to prevent the terrorist incident from occurring and to deny the terrorist the opportunity to work his will. This involves the best possible and the highest level of intelligence. It involves surveillance and investigation — always of course within the bounds of the law. And it involves extensive controls and attention to who's coming in and going out through the borders of various countries.

Combatting terrorism also involves careful preparation, so that an appropriate response can be mounted against the terrorist incident itself. This involves a great deal of some of the things I talked about earlier — of planning and coordination among law enforcement agencies. It involves a strategy and doctrine, the refusal to capitulate to the demands of terrorists, the kinds of things that are tough enough to think out carefully in the calm arena that you have when there is no terrorist incident actually taking place but which if not thought out carefully and calmly are almost impossible to cope with in the tension and under the conditions of the terrorist attack itself.

And combatting terrorism also involves a lot of training. A lot of work on joint exercises so that police departments for example learn to work together and mesh their operations. And again referring to the theme of the rule of law, it involves the development of appropriate legal resources. I've already discussed the kinds of statutes that are needed. It also means having ready the kind of court processes that will be successful.

Our friends in England have learned a great deal about how court processes themselves have had to be modified in Northern Ireland in order to deal with the terrorist incidents there. And having adequate court processes includes the necessary security so that the legal process itself can be carried out in safety for all of the participants including the judges and jurors.

And finally, any effort against terrorism involves an aware, educated and supportive citizenry.

Well, I've mentioned some of the steps that we have taken in our country. But we're also taking steps in working with our allies on an international basis.

Twelve of the countries in the European community have formed a group composed of my counterparts in their nations — the Ministers of Justice or the Ministers of the Interior, whoever has the primary responsibility for public security and law enforcement. And in these countries a great deal has been done, particularly during the last year.

A group that used to meet only once a year in a somewhat ceremonial setting now has become a very hard working group devoted directly at the top levels of the governments of these nations to this problem of terrorism. As a result they have achieved a much higher level of international coordination of anti-terrorist activities, in terms of border control and the control of visas and travelers. There has been a renewed emphasis on the sharing of intelligence and the exchange of information about terrorist suspects and terrorist organizations as well as terrorist tactics and methods particularly in regard to the method of funding terrorist activities. And there has been a joint resolution to bar suspects. Too often, a few years ago, it was easy for a terrorist suspect to be excluded from one country only to find easy access to other countries. Now the cooperation has reached the point where a person barred from one country is likewise barred from the rest.

And this organization has also fostered renewed cooperation among police agencies in regard to their joint tactics, their training and other means of working out their operations.

In April, 1986 the United States for the first time in its history was able to develop an informal affiliation with this group so that we, too, can share in some of the benefits of this joint activity through regular communication and cooperation, through the chairman of this group. This relationship has provided a valuable contribution to our capabilities in the fight against terrorism and has enabled us and will continue on an even greater basis enable us to contribute particularly in the area of technological innovation to the counsels of these European communities.

In combatting the threat of terrorism through the rule of law it is vitally important that the basic tenets of the law itself not be sacrificed. In this regard I think one particularly important part of this conference is the attention that you are giving to the role of the news media.

Obviously we all know that the terrorists thrive on publicity. And yet at the same time it is absolutely essential that despite the threat of terrorism we not give up one iota in terms of our concept of freedom of the press.

In 1985 in England, at the time of the visit of the American Bar Association, there was a great deal of tension about the role of the press in regard to terrorism, several incidents having just occurred. The Prime Minister of the United Kingdom, among others, spoke to this topic. I think it is important that in addressing terrorism we recognize that government has no place whatsoever in telling the press how to go about their business in covering this phenomenon.

It would be the worse possible abdication of the rule of law if the government were to set out guidelines or any other limitation upon the way in which the press did its business, including the handling of terrorist incidents.

It is, I believe, appropriate for the news media themselves, as in fact has occurred particularly over the last year in this country, to examine its own position, its own codes of conduct, its own standards of activity, and its own responsibilities. And indeed that's one of the things you'll be hearing at this conference. But the private sector news media enterprises that we have

in this country should not be influenced either by government coercion or government dictation.

As we will all appreciate, the rule of law is our common heritage, not just in matters of law enforcement or terrorism but in commerce and daily contact between people. In all that we do it is at the bottom of our daily lives, and it is the source of our strength, our prosperity and our happiness. Without the rule of law we would have chaos in every segment of our lives. It is a legacy we may trace through the British Parliament to the popular assemblies of ancient Greece. And it is a promise made in this golden age of America to generations that are yet unborn.

We also make that promise to democracies that are now just starting. Democracies that have not even been founded yet.

But our aspirations for liberty under law will amount to little if we do not take the steps we must take today to safeguard it.

As you well know, sophisticated technological means are being employed by both sides in this struggle. And from my vantage point, technology does not appear to have given either side a decisive advantage. Technology is itself neutral — capable of causing great damage, yet also capable of preventing great harm.

The West has found and will continue to find it desirable to use technology to counter terrorism. But there should be no misunderstanding: While technology may be a weapon necessary in the fight against terrorism, it is not a sufficient one. Technology alone cannot solve the problem of terrorism. The solution to terrorism lies first and foremost in asserting our political will to resist it, using the various means available to us. Once again let me emphasize the importance of the joint exercise of will on the part of both West Germany and the United States. Nations committed to fighting terrorism must be willing to use every available means, including, as in the case at hand, the legal means.

The terrorist is betting that he can dissolve our will to resist in a wave of fear. To prove them wrong will require determination and courage — in all quarters.

The United States, throughout its history, has been a peace loving nation. But as much as Americans have loved peace, they have loved liberty more. In this year that we celebrate the bicentennial of our Constitution, the fact that our very charter of government was enacted to preserve freedom for all generations, just as those founders of our nations in the work of independence placed freedom ahead of comfort and security, is a very important tenet of this concept of the rule of law. I trust that today in the context of the subject that is being discussed at this conference no less than in 1776 or in 1787, freedom will continue to reign as the first of all American values.

Thank you.