

REMARKS OF THE ATTORNEY GENERAL  
BEFORE THE AMERICAN BAR ASSOCIATION  
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Thank you, Mr. Riley. I am delighted and honored to keynote the 1984 Annual Meeting of the ABA.

The rule of law means many things, but implicit in all its meanings is an adherence to legal and equitable processes as opposed to arbitrary authority. Almost exactly one hundred years ago, the British legal scholar Albert Dicey succinctly stated the first principle of the rule of law. No one should be deprived of liberty or property "except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land." Dicey contrasted a state ruled by law to one in which persons in authority exercise "wide, arbitrary or discretionary powers of constraint." As Edmund Burke said nearly 100 years before Dicey, "Law and arbitrary power are in eternal enmity."

In America -- through the Constitution's separation of powers, its careful limitation of governmental authority, and its establishment of a democratic form of government -- the rule of law has grown stronger still. And re-enforcing that fidelity to the supremacy of law over arbitrary authority has been a unique American invention -- judicial review.

On the international scene, the rule of law has not fared so well. Although it remains the conceptual cornerstone of many, democratic nations, the rule of law remains at best a dim aspiration throughout much of the world. Many countries do not follow the rule of law. Many governments do not even wish to follow the rule of law -- except as a propaganda device to criticize democratic nations for alleged deficiencies. Hence, the ABA's effort through Goal VIII -- "To Advance the Rule of Law in the World" -- is a welcome glow in the darkness.

On a daily basis, the Department of Justice is itself actively engaged in a practical effort to implement the rule of law internationally. Too frequently, international law is thought of as merely a body of hopeful concepts -- a utopian dream whose usefulness on this earth must await some later and better age of international reasonableness. There is, however,

a large body of international law that develops through the practical day-by-day contacts that occur, with growing frequency, between different legal systems.

The legal and law enforcement problems of almost any nation today implicate activities in other nations. For example, right now, five of the Department of Justice's six litigating divisions -- as well as many of our U.S. Attorneys -- are involved in foreign litigation or activities that require ongoing relations abroad. The FBI, the Drug Enforcement Administration, and the Immigration and Naturalization Service -- all parts of the Justice Department -- have personnel stationed around the world and regularly must pursue their efforts abroad. It is not surprising therefore that we have negotiated many new law enforcement and extradition treaties in the last few years. Since complex crimes -- like drug-trafficking and money-laundering -- respect no international boundaries, we must -- and do -- work with foreign nations to pursue criminals across borders worldwide. Indeed, the international law forged in such practical international activities will, I believe, prove to be both the most beneficial and the most long-standing.

Our more interdependent world, made smaller by electronic communication and jet travel, has brought international legal issues closer to home. Similarly, extralegal international threats to the rule of law now affect everyone of us as well.

A century and one-half ago, the French historian Alexis de Tocqueville wrote of "two great nations in the world," the United States and Russia. In explaining what must have seemed to be mere presumption so long ago, Tocqueville said:

"The Anglo-American relies upon personal interest to accomplish his ends and gives free scope to the unguided strength and common sense of the people; the Russian centers all the authority of society in a single arm. The principal instrument of the former is freedom; of the latter, servitude."

Since then, the Czarist era of personal rule in Russia has been supplanted by the totalitarian rule of the Soviet leaders. The Russian Revolution and the revolutions it has spawned have, however, gripped the Soviet Union and other nations with an arbitrary rule as detrimental to liberty as the servitude demanded by the

Czar. Today, the greatest threat to the international rule of law arises from the communist world and the means it utilizes to foster the spread of communism.

There is a story of a student who confronted his final examination in a course on international law. The sole question asked was:

"How does the arbitration of the international fisheries problem with respect to fisheries protocol and dragnet and trawl procedures affect (1) the U.S. government point of view, and (2) the British government point of view?"

In desperation, the student wrote:

"I do not know the position of the U.S. government. I also do not know the position of the British government. Therefore, I shall discuss the question from the point of view of the fish."

Today, I want to discuss the international threat to the rule of law from the point of view not of concepts but of realities. The threat is real and can affect our daily lives. Through the spreading of false or misleading information internationally -- which is called "disinformation" in intelligence circles -- and drug-trafficking, for example, communist societies threaten both the rule of law and our own welfare.

Free speech is, of course, both a basic American belief and an essential underpinning of the rule of law. A free commerce in ideas is necessary to our domestic order, and it is a necessary ingredient in the effort to promote the rule of law throughout the world. It is therefore deeply disturbing to realize the extent to which totalitarian nations go to discredit the truth and perpetrate falsehood. The following is an example of such an effort, which we have recently confirmed.

As you know, the Soviet Union has chosen to boycott the 1984 Olympics now underway in Los Angeles. This boycott is, of course, an attempt to discredit the United States and to retaliate for the boycott of the 1980 Moscow Olympics, which occurred as a result of the Soviet invasion of Afghanistan. The Soviets nevertheless allege that their boycott was made necessary by some kind of security threat to their athletes posed by anti-Soviet groups in the United States.

With this background in mind, we were especially concerned by reports in the press that the Ku Klux Klan had allegedly mailed threatening and abusive letters to some twenty Asian and African countries planning to take part in the 1984 Olympic Games. We have copies of those letters. They are openly racist and disgusting, and they threaten violence against Asian and African athletes who participate in the Games. Fortunately, none of the nations that received these letters succumbed to the attempted intimidation.

But even more reprehensible than the letters themselves is what we now know about their actual origin. They were not produced or sent by the Ku Klux Klan. They were instead manufactured and mailed by another organization devoted to terror: the KGB. Although I cannot detail all of what we know about these documents for fear of helping the authors to refine their techniques, a thorough analysis -- including linguistic and forensic techniques -- reveals that they are classic examples of a Soviet forgery or disinformation operation. They were apparently intended to aid the Soviets in justifying their boycott of the Olympics and to gain the support of non-communist-bloc countries.

Through this plot, the Soviet Union, employing cynical falsehood, struck at both the Olympic ideal and the rule of law. It is not, however, unique. The plot is an example of what the intelligence community refers to as an "active measure." By an "active measure," the Soviets mean an operation intended to influence or affect another country's policies. In the intelligence context, an active measure is distinguished from espionage and counterintelligence -- and includes, among other things, manipulation or control of the media, use of foreign front operations, economic warfare, disinformation, and forgery. In fact, forgeries are a commonplace "active measure" used by the Soviets and their allies to mislead public opinion. In testimony before the Senate Judiciary Committee in 1961, some thirty-one documents were identified as communist forgeries. Hearings before the House Select Committee on Intelligence in 1980 and 1982 detailed further forgeries -- as have Soviet and Czech defectors. The recent Olympic letters are egregious, but typical. And let me emphasize one other point: Active measures such as these are approved by the Soviet Politburo itself, and they are implemented through the Communist Party Central Committee's International Department and the KGB's Service A.

As crude as this disinformation attempt may seem, it is, as I have said, surprisingly typical. Too many years without a free press or free speech have obviously taken their toll on the Soviets. Nevertheless, these forgeries are deserving of worldwide censure and should serve as a warning of Soviet efforts. Lest we -- with our free and more sophisticated press -- fail to take these efforts seriously, it should be remembered that the rule of law is itself not observed throughout much of the world and there is not a free press in most countries. Indeed, there have been efforts in UNESCO to promote what is euphemistically called a New World Information Order that would actually further restrain what free international press does exist.

Communist active measures strike at the intellectual underpinnings necessary to the rule of law. There is also evidence suggesting that some communist countries or organizations strike more directly at even our physical well-being. In the last few years, we have received reports and other evidence that terrorist and insurgent groups are becoming involved in drug-trafficking. The damage done in this country by trafficking in drugs is well known in the ruined lives of drug users, the tremendous illicit and untaxed profits generated for criminals, and the violence spawned by users and traffickers. Any coming together of terrorist or insurgent groups and drug-trafficking must be viewed as an extremely serious threat to law and society.

We believe that two foreign governments -- Cuba and Bulgaria -- have actively used drug-trafficking to assist terrorists. In November 1982 a federal grand jury indicted four high-ranking Cuban officials, nine others, and the alleged Colombian drug trafficker Jaime Guillot-Lara. According to the indictment, the Cuban officials included: a member of the Central Committee of Cuba's Communist Party, who was also President of the Cuban Institute of Friendship with the People; Cuba's Ambassador to Colombia; another Cuban diplomat in Colombia; and a Cuban Vice-Admiral, who was also a member of the Communist Central Committee. The following other facts were also alleged in the indictment, which has already resulted in the conviction and sentencing of five of the defendants: the Cubans provided safe haven for Guillot's drug smuggling vessels traveling from Colombia to the United States; in payment for their cooperation, Guillot provided the Cubans with hard currency; and, in addition to gaining financing to support terrorist activities in Latin America, the Cubans were also able to use Guillot's smuggling network to send arms to a

Colombian terrorist group called the "19th of April Movement" or "M-19."

Similarly, we believe the Bulgarian government has encouraged and aided drug-trafficking through its own official import/export agency, "Kintex." By its dealings with non-Bulgarian brokers who trade in weapons, Bulgaria obtains hard Western currency. We have persistent reports that Middle Eastern revolutionary groups -- primarily in Turkey and Lebanon -- receive arms and ammunition in return for drugs, which are then smuggled to the West and sold.

Other insurgent and terrorist groups have become involved in drug-trafficking -- groups such as the "FARC" in Colombia; and the two major opiate-trafficking groups in Southeast Asia's Golden Triangle, the "Burmese Communist Party" and the "Shan United Army."

In recent months, we have discovered evidence that the government of Nicaragua or at least some of its officials may also be using the drug trade to finance their revolutionary efforts. Just last week, a federal grand jury in Miami indicted eleven persons on drug-trafficking and conspiracy charges involving a major cocaine shipment smuggled into this country via Nicaragua. One of those defendants -- Federico Vaughan -- has been identified in court documents as an aide to the Sandinista Minister of the Interior.

Our suspicions that the Nicaraguan government is itself involved are further heightened by the following facts alleged in the indictment. On June 3 Vaughan himself supervised the refueling in Managua, Nicaragua, of a twin engine aircraft carrying a shipment of cocaine. After takeoff, the aircraft was forced to land in Nicaragua and the pilot was arrested. On the following day, Vaughan secured the release of the pilot by Nicaraguan authorities and provided secure facilities for the plane and cocaine. The pilot returned to Florida, acquired another aircraft, and flew back to Managua with cash and equipment ordered by Vaughan. Once again, Vaughan supervised as this plane was refueled and a 700-kilogram shipment of cocaine was loaded on board and flown into Florida. In the course of the bond hearing last Thursday, it was further revealed that the aircraft was refueled both times with Russian aviation fuel.

The facts alleged in the indictment make it especially hard to believe that these drug smugglers --

four of whom are believed to be among the largest smugglers in the world -- could have been operating in Nicaragua without active assistance from someone in power in the Sandinista regime.

Today, I have touched upon only a few of the very real international threats to the preservation and expansion of the rule of law. Disinformation strikes at the ability to communicate the truth, which is the raw material of democratic and peaceful decisionmaking. International drug-trafficking by communist states or revolutionary groups threatens the rule of law even more directly. Indeed, in a world in which terrorist incidents increased six-fold during the 1970s, the possibility of terrorist groups financing their violence through drug-trafficking is especially heinous.

The rule of law is the bedrock upon which liberty rests. It is, I believe, the great hope of the future for the entire world. The rule of law secures greater rights for the individual and constrains the power of the state. It promotes democratic rule at the expense of arbitrary power.

Through its Goal VIII, the ABA has chosen wisely to advance the rule of law throughout the world as a central mission of this Association. I wish you the best in this effort and pledge my fullest support -- and the support of this Administration. As important as the rule of law is, however, we must keep in mind that it is not universally admired or observed. Others would take advantage of our open society and our adherence to the rule of law in order to undermine our own liberty.

The rule of law is a great ideal worthy of our continuing and best efforts. Although an ideal, it must be advanced -- and can be achieved -- throughout the world only with hard-headed realism in its pursuit. Sentiment alone -- and wishful thinking -- will not preserve our liberties or secure liberty for those who remain bound by arbitrary governments.

In the words of Theodore Roosevelt:

"I think there is only one quality worse than hardness of heart and that is softness of head."

The task before us will require an understanding heart, but it will also require hardheaded, practical effort.

The goal is surely worth that effort to us -- and to all mankind.