



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

THE PRINCIPLE OF “FIRST AND SECOND THINGS” IN THE GERMAN-AMERICAN ALLIANCE AGAINST TERROR”

Remarks as prepared for delivery by Inspector General Joseph E. Schmitz of the Department of Defense, to the Friedrich Ebert Foundation, Arlington, Virginia, Thursday, September 9, 2004.

Thank you Dieter for that introduction. I am delighted to have the opportunity to address this gathering of the Friedrich Ebert Foundation.¹ It is a special honor for me to speak to German Ph.D. candidates about the following three subject matters: First is what C.S. Lewis called the “Principle of First and Second Things”; Second, is the role of Inspectors General in promoting integrity and efficiency in Government generally; and Third is how I in particular serve Secretary Rumsfeld, the Department of Defense, and the People of the United States – and indirectly, the People of Germany, among others – as “part of the solution” in our ongoing global war on terror.

In April of 2002, after having been appointed to the position of Inspector General by the President of the United States and confirmed by the United States Senate, I took a sacred oath to support and defend the Constitution of the United States against all enemies, foreign and domestic. This oath is taken by all officers in a position of trust of the United States Government and is a fundamental underpinning of our rule-of-law based constitutional democracy.

That same month, in a speech by German Foreign Minister Joschka Fischer on the occasion of former President George Herbert Walker Bush receiving the Eric M. Warburg Prize in Berlin, Minister Fischer described a “Close relationship with the US” as, next to European integration, [quote] “the most important pillar on which the liberty and democracy of our country is built.”² [unquote] (The Minister’s German-language comment, if you are interested for academic or other purposes, was: “Ein enges Verhältnis zu den USA ist neben der europäischen Integration der wichtigste Pfeiler, auf dem die Freiheit und die Demokratie unseres Landes aufgebaut ist.”³) In recounting the challenges of finally achieving a united and democratic Germany, Minister Fischer explained that “[t]he united Germany is a free and stable democracy, surrounded solely by friends and partners in an integrating Europe, with stable borders, firmly anchored in the West.”⁴

What exactly did Minister Fischer mean in April 2002 by “firmly anchored in the West”? As important as “common defense” issues are, this comment by Minister Fischer, I submit, addresses “First Things”: that is, the fundamental principles shared by the Western Alliance that makes a common defense worth pursuing.

¹ See <http://www.fesny.org/>.

² Joschka Fischer, Rede von Bundesaußenminister Fischer anlässlich der Verleihung des Eric M. Warburg Preises der ‘Atlantikbrücke e.V.’ an den ehemaligen Präsidenten der USA, George Bush (Apr. 17, 2002), available at http://www.auswaertiges-amt.de/www/de/laenderinfos/laender/laender_ausgabe_archiv?land_id=188&a_type=Reden&archiv_id=3001.

³ *Id.*

⁴ *Id.* (“Das vereinte Deutschland ist eine freiheitliche, stabile Demokratie, ausschließlich von Freunden und Partnern in einem sich mehr vereinigenden Europa umgeben, in stabilen Grenzen lebend und im Westen fest verankert.”).

“[T]he principle of 'first and second things,' as C. S. Lewis calls it . . . [is] that when second things are put first, not only first things but second things too are lost. More exactly, when there are greater goods, or ultimate ends and proximate ends, if we put lesser goods, like survival, before greater goods, like values to survive for, then we lose not only the greater goods, the values, but even the lesser goods that we've idolized . . . [T]he society that believes in nothing worth surviving for beyond mere survival will not survive.”⁵

Twenty years before Minister Fischer's comments about being “firmly anchored in the West,” President Reagan, in his famous “ash heap of history” speech to the British House of Commons (alluded to, by the way, in Minister Fischer's speech twenty years later⁶), described our country's enduring contribution to mankind as three principles steeped in the legal tradition of England: “individual responsibility, representative government, and the rule of law under God.”⁷

Today I would like to share with you an Inspector General's perspective on how these enduring principles – these “First Things” to which the German and American people are both “firmly anchored” – ought to give us hope in Afghanistan and Iraq, and for ultimately prevailing in the global war on terror. The most obvious – but often overlooked – reason for hope is that notwithstanding the terrorist attacks of September 11, 2001, and everything else that has been happening around the world since then, American and German families still enjoy the “Blessings of Liberty” for which our forefathers pledged their sacred honor, fought and won a Revolutionary War – with the assistance, by the way, of an Inspector General named Von Steuben (more on him later) – and then established for our benefit the most brilliant constitutional framework for constraining governmental abuses of power ever known to man.

We Americans typically receive a daily barrage of contradictory news reports about what our war efforts are all about. I presume it's the same in Germany. But how often do we hear a discussion of the benefits to us of an open and free society in Iraq? Or of how our recent successful conclusion of the 40 year cold war liberated the 15 countries behind the Iron Curtain? Or about the hopes and dreams of the young people of Iraq, by that I mean those below the age of 15. Our American soldiers know this history and believe in their hearts that they are helping fellow humans overcome the limitations placed on their families by decades of totalitarian governments.

My job as Inspector General of the Department of Defense is to serve as an “independent extension of the eyes, ears, and conscience” of my Commander, Secretary of Defense Donald Rumsfeld. It is my statutory duty objectively -- the Army calls it “doggedly” -- to pursue the truth,

⁵ PETER KREEFT, A REFUTATION OF MORAL RELATIVISM: INTERVIEWS WITH AN ABSOLUTIST 133 (1999); see C.S. Lewis, *Time and Tide*, reprinted in GOD IN THE DOCK (1942) (“You can't get second things by putting them first; you can get second things only by putting first things first... Civilizations have pursued a host of different values in the past: God's Will, honour, virtues, empire, ritual, glory, mysticism, knowledge. The first and most practical question for ours is to raise the question, to care about the summum bonum, to have something to life for and to die for, lest we die”).

⁶ Joschka Fischer, *supra* n.2 (“In only a few months the old order disappeared and the GDR and the Soviet Union vanished into the trash can of history.”).

⁷ Ronald Reagan, Speech to the House of Commons (June 18, 1982), available at www.fordham.edu/halsall/mod/1982reagan1.html.

and to present my findings to Secretary Rumsfeld, to the Congress, and ultimately to the American People, as plainly as I see it.

But first, allow me to explain a bit more about what an Inspector General is in the context of marching orders from our Commander-in-Chief to all of us, both civilian and military, who are engaged in the global war on terror, and that is that we must always do “not only what is legal, but what is right.”⁸

The Continental Congress created the Office of the Inspector General of the Army in 1777, the functions of the office were to:

- “Review the troops;
- See that officers and soldiers were instructed in exercise maneuvers, established by the Board of War;
- Ensure that discipline was strictly observed; and
- Ensure that officers commanded properly and treated soldiers with justice.”⁹

The techniques of Inspectors General and our scope have changed a great deal since Valley Forge, but our basic guiding principles have not.

The man George Washington chose to help instill these principles into the fledgling American militia was Baron Friedrich Wilhelm Von Steuben of Prussia, who after serving as George Washington’s IG throughout the Revolutionary War became an American citizen. A monument in honor of Inspector General Von Steuben’s achievements stands today in Lafayette Park, across from the White House in Washington, D.C., which monument bears the inscription, “He gave military training and discipline to the citizen soldiers who achieved the independence of the United States.”

As we consider now turning over the training and discipline of the new Iraqi Defense forces to NATO, it is a fair question to ask, “Who within NATO can and will step up to the plate to give ‘military training and discipline’ to the new Iraqi Defense forces who are risking their lives for liberty and democracy in their newly liberated country?”

From my perspective, it all comes down to this – both Germans and Americans pride ourselves on our strict adherence to what Ronald Reagan called “the rule of law under God” – which does not mean that whoever is in power wins. The preamble to the German Constitution reaffirms this commitment by stating that the *Grundgesetz* – the “Basic Law” – has been adopted by the German people [quote] “Conscious of their responsibility before God and Man”¹⁰ [close quote]. Herein lies the fundamental difference between us and the terrorists.

⁸ President George W. Bush, President Honors Public Servants (Oct. 15, 2001), *available at* <http://www.whitehouse.gov/news/releases/2001/10/20011015-8.html>.

⁹ History of the U.S. Army Inspector General, *at* http://www.public.ignet.army.mil/History_of_the_IG.htm.

¹⁰ Basic Law of the Federal Republic of German, *available at* http://www.bundestag.de/htdics_e/info/gg.pdf.

The terrorists make no apologies for their evil acts; they do not hold accountable those among them who act outside the law; and they refuse to recognize the very standards of behavior that distinguish civilization from barbarism.

We, on the other hand, punish those among us who violate the law – and are disappointed with ourselves when those among fail to meet our high aspirational standards.

As President Bush so compellingly argued in his speech to the United Nations last September, in some instances we must follow a rule of law that stands above the laws of man and of nations.¹¹ This concept of the rule of law under God is the very foundation of our constitutional way of life.

If we in our rule-of-law based Western Alliance ever get to the point when our citizens seriously doubt whether or not we will hold ourselves accountable to the rule of law – from the most junior Army private to the most senior Commander – then we will have lost the war on terror.

But we have not arrived at that point.

We are not even close.

The outrage that virtually all of us felt at the recently publicized instances of prison abuse in Iraq is a strong indicator that we still place the very highest value on the rule of law and the standards of decency that distinguish us from the terrorists.

As the Inspector General, sometimes I have to get out among the troops. In a word, I have to inspect. Earlier this year I traveled to Abu Ghraib prison to see for myself how we interrogate detainees. I then traveled to another detainee collection point in Afghanistan to learn more about the rules, standards, and procedures we use to collect intelligence and otherwise to deal with the known and potential terrorists we capture in the course of our ongoing military operations.

The more time I spend with our forward-deployed troops, listening to their stories and watching them perform their duties, the more I understand why the terrorist hate us so much. Beyond any doubt, we owe our Coalition men and women now serving overseas a debt of gratitude.

I cannot begin to tell you what an awesome and honorable job these troops are doing in both Iraq and Afghanistan. They are making incredible sacrifices, and making them gladly – generally with a brave and humble spirit – in order to provide hope for nations who have been under the control of tyrants for generations and, more importantly, to protect you and me from another terrorist attack against our own children and grandchildren.

Our Coalition troops know that we are not in Iraq and Afghanistan to conquer and destroy, but ultimately to liberate and to rebuild. And, to win and keep the hearts and souls of the Afghan

¹¹ President George W. Bush, Address to the United Nations General Assembly (Sept. 23, 2002), *available at* <http://www.whitehouse.gov/news/releases/2003/09/20030923-4.html>.

and Iraqi people – so that their sons, daughters, and grandchildren are not terrorizing ours – on our soil – in the generations to come.

If properly supported from the home-front, our Coalition troops in Iraq and Afghanistan will achieve that goal: the rule of law as we know it will ultimately prevail.

As a practical matter, what does this mean to you and me?

For me, as the Inspector General of the Department of Defense, it means that I must religiously safeguard the process by which we hold people accountable.

One of the founding principles of our constitutional way of life is that we treat criminal defendants as innocent until proven guilty. The U.S. Constitution itself mandates that “no person shall be deprived of life, liberty, or property without the due process of law.”¹²

When my staff investigates allegations of criminal wrongdoing, we are guided by a tradition of law that respects human dignity – unlike our enemies whose atrocities we are still in the process of uncovering.

For the American citizens and the citizens of our Coalition partners, the practical challenges of the ongoing war on terror mean that there may be times when they have to be patient and refrain from rushing to judgment on incomplete information as we execute not only the operational war plans but also “the due process of law,” respecting always that even those among us who appear to have betrayed our core values – and there inevitable will be some of those – are presumed innocent until proven guilty.

Operation Enduring Freedom in Afghanistan, for many, has too quickly become a forgotten war. But it is very real to the wife and children of the U.S. Army Sergeant I had the honor to meet on a military flight from Afghanistan to Germany earlier this year. Before going into his reconstructive surgery, the Sergeant told me that I could share his story – on condition that I disclose neither his name nor his unit.

The Sergeant is a 36-year-old son of an Iowa farmer. He is happily married to beautiful wife and has five young sons ranging in age from twelve to two.

Earlier this summer, the sergeant was part of a joint U.S. Army-Afghan security team on patrol in the mountainous region of Southeast Afghanistan, checking out reports of buried individual explosive devises – the same type of terrorist devices that are killing our troops in Iraq. Having completed their patrol, the joint team had just camped down for dinner and was in the process of cleaning their equipment when they came under heavy mortar attack, presumably by Al Qaeda trained forces.

The joint U.S.-Afghan force gave chase to the enemy, and by all accounts inflicted major casualties. Unfortunately, the firefight also left six of our own Afghan security forces dead and 14 others wounded, including the Sergeant, who suffered a 7.62 mm direct hit to his left arm,

¹² U.S. CONST., amends. V & XIV.

shattering the humerus bone and otherwise threatening his life. I'm happy to say that this great American is now recovering and hopefully will continue to contribute to our ongoing Coalition efforts.

Lest you think this and other acts of bravery are in vain, I would point out that in the past two years the Afghan people have ratified an Afghan Constitution – and as a Constitutional Law expert and former Adjunct Professor, I can tell you it's an impressive Constitution. The people of the new constitutional Republic of Afghanistan will soon hold their first open elections – in which Afghan women will participate for the first time.

And we are not doing this alone. There are 27 nations involved at various levels in Afghanistan to assist in the rebuilding of infrastructure – roads and schools – as well as providing humanitarian assistance.

One soldier I met in Afghanistan answered the question as to whether we are “accomplishing anything” with the following statement: “I can't tell you how to measure that, but I can tell you that there are children here today who are learning how to read and write in a school that we helped build a year ago.”

In a country where less than twenty percent of the population has achieved basic literacy, that is an amazing start.

We are admittedly in a much different stage of operations in Iraq, and at this point it is a perilous one. It is not only a tense and dangerous time for our troops, but also for the brave Iraqis who are trying to build a just and stable government under the rule of law. In this endeavor, they are up against unprincipled opponents who obey no laws and adhere to no principles.

During my trip to Baghdad, I had the honor to meet with the Inspectors General of the 29 new Iraqi ministries. These courageous professionals are struggling to root out the results of two generations of corruption, and to establish some semblance of integrity, along with basic law and order. They fear not only for the success of their endeavors but for their lives, and for the lives of their family members.

At first I was not sure what to say to these courageous but scared Iraqi champions of integrity, other than to commend them for their bravery and personal commitment. As I looked around the room, I was struck by the similarity between the situation they now face and what America's founding fathers were up against. History tells us that the signers of the U.S. Declaration of Independence paid dearly for their courageous actions.

Think about it – when the signers of the American Declaration of Independence met to contemplate the formation of our new nation, few if any foreign governments thought we would succeed. We were, after all, up against the toughest military force in the world at the time. Only a few brave and dedicated visionaries had the faith to step forward and assist our founding fathers.

I will close my remarks today by reiterating the importance of Americans and our allies understanding why we are fighting the global war on terror, which cannot be understood without

first understanding the profound differences between us and the terrorists. The differences come back to the very same enduring American principles that justified our fighting and ultimately winning the Cold War: “individual liberty, representative government, and the rule of law under God.”¹³

Thank you very much. I would be glad to entertain questions.

¹³ Ronald Reagan, *supra* n.7.