

U.S., Europe Facing Similar Problems in War on Terror

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President Bush's current trip to Europe is being viewed as a means to ease tensions and promote better relations. The often heated rhetoric over the past few years between the U.S. and Europeans has obscured the fact that they are facing many of the same challenges and have encountered similar difficulties in their efforts to combat terrorism. One of the primary issues with which both have struggled—often with limited success—is to give a suspected terrorist a fair trial while at the same time protecting intelligence sources and investigative methods.

Unfortunately, there appears to be little effort to work together to find solutions. President Bush should push for greater collaboration in this area, and call for a joint European-U.S. commission to study this issue.

The U.S. difficulties in prosecuting suspected terrorists have been well-documented and began soon after 9/11, in the case against Zacarias Moussaoui. Despite the fact that Moussaoui has admitted in court to swearing allegiance to Osama bin Laden, he has managed to tie the system in knots, and his latest appeal is pending before the Supreme Court. The U.S. has also had terrorism convictions overturned, defendants acquitted and, in other cases, been forced to drop or drastically reduce the charges. The U.S., however, is hardly alone in this regard. Many Western European countries have run into similar problems in their prosecution efforts.

The factors contributing to these problems are similar in both Europe and the U.S. First, there is a great deal of pressure to disrupt terrorist cells much earlier than would have been the case prior to 9/11. No longer do the governments have the luxury of waiting until the last moment before a possible attack to carry out the arrests, so that they can catch the perpetrators "red-handed."

Second, for a variety of reasons, it is often problematic to use intelligence information in the course of a prosecution. This often becomes a very difficult balancing question as to whether it is worth exposing a particular source or method to improve the odds of a conviction.

Third, prosecutions are becoming increasingly an international endeavor. Frequently, a terrorist suspect will have traveled to or had ties to numerous countries, and the cooperation of many governments will be required for a successful prosecution.

Fourth, not all countries have laws which are well designed to prosecute suspected terrorists. Although the U.S. and some European countries have made significant legal changes since 9/11, gaps certainly remain, and the laws will need to be frequently reviewed and updated, as the terrorist threat continues to change.

Collaborating on these issues could potentially yield many benefits for both sides. While it would be difficult to

import wholesale aspects of another system, there are aspects of the European system which might be workable in the U.S. and vice versa.

In light of the fact that all aspects of counterterrorism, including the efforts to prosecute suspected terrorists, are becoming an increasingly global effort, this type of understanding is essential. President Bush could take a step forward by pushing for a more collaborative effort to tackle these issues.

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