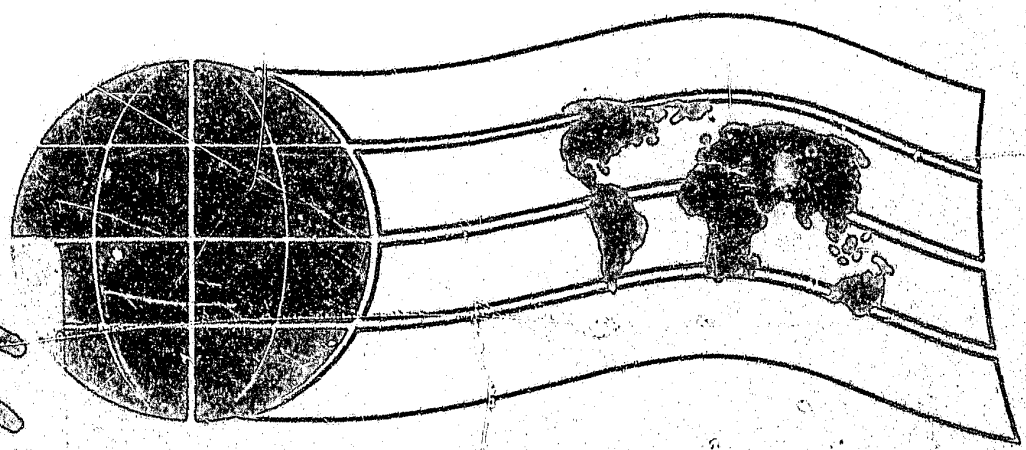
If you have issues viewing or accessing this file contact us at NCJRS.gov.

National Criminal Justice Reference Service ncjrs

International Summaries

A Collection of Selected Translations in Law Enforcement and Criminal Justice

Volume 3



U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice

Terrorism is a subject of international concern. This volume of translations from the international literature on this subject has been prepared to contribute to increased understanding of its roots, manifestations, and control.

Paul Cascarano, *Assistant Director*
National Institute of Law Enforcement
and Criminal Justice

The National Criminal Justice Reference Service (NCJRS) is an international clearinghouse of information on law enforcement and criminal justice. Part of the National Institute of Law Enforcement and Criminal Justice, NCJRS collects relevant documents in English as well as other languages and maintains a computerized data base of approximately 40,000 documents. By providing for the exchange of information about police, courts, prosecutors, public defenders, and corrections, NCJRS contributes to the goal of improving law enforcement and the administration of justice. NCJRS is being operated and administered by Aspen Systems Corporation for the National Institute of Law Enforcement and Criminal Justice under contract number J-LEAA-023-77 with the Law Enforcement Assistance Administration, U. S. Department of Justice.

International Summaries

A Collection of Selected Translations in Law Enforcement and Criminal Justice

Volume 3

National Criminal Justice Reference Service

April 1979

U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice

Law Enforcement Assistance Administration
Henry S. Dogin, Administrator

National Institute of Law Enforcement
and Criminal Justice
Harry M. Bratt, Acting Director

GOT A MOMENT?

We'd like to know what you think of the NCJRS International Summary series.

A reader's questionnaire is printed on the last page of this publication. The package is prepaid and the questionnaire is designed to facilitate your response. Won't you take a few moments to complete it? Your answers will help NCJRS provide you with more useful publications. Thank you for your cooperation.

TABLE OF CONTENTS

Introduction vii

Acknowledgment ix

PART I. TERRORISM: A CASE HISTORY

The Events and Decisions Connected With the Kidnaping of Hanns Martin Schleyer and the Hijacking of the Lufthansa Jet "Landshut". 3
A detailed chronology of the kidnaping and hijacking, adapted from a West German Government press release.

PART II. TERRORISM AROUND THE WORLD

Terrorism in Latin America--Motives and Forms 19
A survey of the development and manifestations of terrorism in Cuba, Venezuela, Brazil, Uruguay, and Argentina.

Terrorism in Northern Ireland--An Overview 27
The history and evolution of terrorism in Ireland, British countermeasures, and prospects for the future.

The Palestinians and the Network of International Terrorism 37
A comprehensive examination of Palestinian terrorist organizations, including their origins, principles, and connections with other groups.

Terrorism and Reaction 45
A study of the background and ideology of West German terrorists, the reaction of the German people, and governmental antiterrorism measures.

Part III. FEMALE TERRORISTS

Women in Isolation 55
The behavior of female terrorists attributed to their withdrawal from productive society, lack of emancipation, and reaction to reduced social status.

Political Socialization and Conditions of Custody 61
An appraisal of the German female terrorists in terms of her psychological development, emancipation, and rehabilitation.

PART IV. SOME PERSPECTIVES OF TERRORISM AND ANTITERRORISM

How Effective Is Terrorism? 73
A discourse on the effectiveness and chances of success of terrorism, drawing heavily on terrorist experiences in Latin America.

The Concept of Terrorism 81
An elementary review of the definitions, objectives, and types of terrorism from a Yugoslav point of view.

The Personality of the Terrorist 89
A documented examination and criminological assessment of terrorist behavior.

Conduct and Negotiations in Hostage Situations 99
A primer on how to select a negotiating team and how the team should negotiate to secure the release of hostages.

International Terrorism--Challenge and Defensive Measures. 105
A broad study of terrorism and antiterrorism, stressing terrorist tactics and citing Israel as the "model" for successful antiterrorist measures.

PART V. LEGAL ASPECTS OF TERRORISM AND ANTITERRORISM

The Idea of Terrorism in Comparative Law 115
A review of legal measures against terrorism, illustrated by citations of antiterrorism provisions in the penal codes of several nations.

Political and Judicial Approach to Terrorism and Anarchistic Criminality in the Federal Republic of Germany 123
An analysis of terrorism from the standpoint of its legal and political implications, with emphasis on antiterrorist penal law.

Terrorist Criminality 131
The criminal aspects of terrorism, together with a history of terrorism in Italy and antiterrorism provisions in Italian law.

Terrorism and Extradition in Belgian Law 139
A survey of the development of extradition and political asylum provisions in the laws of Belgium from 1833 to the present.

Contact Ban Between Prisoners and the Outside World—Information About a Law to Fight Terrorism 147
The West German Ministry of Defense's explanation of the background and provisions of the 1977 Contact Ban Law.

PART VI. INTERNATIONAL ANTITERRORISM INITIATIVES

The United Nations and International Terrorism 157
A discussion of United Nations efforts to formulate international agreements to combat terrorism.

International Conventions on Terrorism: A Selected Review 165
An NCJRS compilation of selected international anti-terrorism agreements, from the 1937 Geneva convention to the 1977 Council of Europe convention.

INTRODUCTION

The theme of this third volume in the series of International Summaries published by the National Criminal Justice Reference Service (NCJRS) is terrorism. Other volumes and commentaries on terrorism published in the United States for the most part have examined the phenomenon from a distance. As a result, the perspective has been limited. No such limitation has affected commentators in other nations, however. They have witnessed terrorist activities in their own countries, and their reports reflect their first-hand experiences. This compilation of international writings therefore offers valuable insights into terrorism that should interest the criminal justice community in the United States.

The 19 articles that appear in this volume were carefully collected to provide a wide range of international opinion and discussion on terrorism and its various manifestations. Anthologies, pamphlets, journals, and conference proceedings from Belgium, Italy, West Germany, and Yugoslavia have yielded a rich collection of materials for translation. Although West German sources are heavily represented, terrorist activities in that nation such as the 1972 Munich Olympic Games incident and the 1977 kidnaping of industrialist Hanns Martin Schleyer have prompted extensive coverage by German observers.

A graphic, day-by-day account of the Schleyer kidnaping and subsequent hijacking of a Lufthansa jet is the volume's lead article. Adapted from a lengthy release of the West German Government's Press and Information Office, this compelling "case history" of terrorism serves as a dramatic introduction to the translations that follow.

The second section is devoted to specific examples of terrorism as practiced in various areas of the world. The history and evolution of terrorism in Latin America and Northern Ireland are explored in the first two summaries. "The Palestinians and the Network of International Terrorism" is a detailed examination of Palestinian terrorist organizations, including their origins, philosophies, and connections with other groups. "Terrorism and Reaction" focuses on terrorist ideology and governmental anti-terrorism measures in West Germany.

The current interest in female criminology is reflected in a pair of essays taken from a West German anthology on female terrorists. "Women in Isolation" postulates theses about the behavior of women who join terrorist organizations, while "Police-

ical Socialization and Conditions of Custody" concentrates on the female terrorist's psychological development and efforts to rehabilitate her. Both articles address the emancipation issue.

Proceeding from specific terrorist applications to more general topics, the next group of summaries presents varying perspectives of terrorism and antiterrorism. The articles range from the theoretical aspects of terrorist doctrine and practice to expedients for combating terrorism. "How Effective Is Terrorism?" is a West German discussion of the effectiveness of terrorism and its chances of success. Another theoretical approach is reflected in "The Concept of Terrorism," which, although somewhat basic, provides an impression of terrorism from an East European country, Yugoslavia. "The Personality of the Terrorist," another West German offering, analyzes terrorist behavior from a psychological standpoint and presents a criminological assessment of it. An eleventh "how to" manual from West Germany, "Conduct and Negotiations in Hostage Situations," contains advice on selecting a negotiating team and recommends a methodology for the team to use. This section concludes with "International Terrorism--Challenge and Defensive Measures," a broad survey of terrorism's causes and effects, together with suggested countermeasures.

The legal aspects of terrorism and antiterrorism are discussed in a series of five summaries. "The Idea of Terrorism in Comparative Law," originally presented at a conference of jurists in Belgium, compares antiterrorism provisions in the penal codes of several nations. "Political and Judicial Approach to Terrorism and Anarchistic Criminality in the Federal Republic of Germany" examines the political and legal implications of terrorism, stressing antiterrorism legislation. "Terrorist Criminality" delineates terrorist activities and antiterrorism provisions in Italian law. The last two summaries in this section deal with highly specialized legal conditions. Another Belgian article, "Terrorism and Extradition in Belgian Law," traces the legislative history of that nation's extradition statutes, and a pamphlet issued by the West German Ministry of Justice explains a 1977 law intended to limit contact between apprehended terrorists and the outside world.

Since international agreements appear to offer the most potential for eradicating terrorism, the volume concludes with two articles outlining attempts at international cooperation. "The United Nations and International Terrorism," a West German contribution, deals with antiterrorism initiatives of that world body, particularly resolutions prompted by Eastern nations. The final article, "International Conventions on Terrorism: A Se-

lected Review," is not a translation, but rather a compilation by NCJRS staff members of the highlights of selected international covenants against terrorism.

Publication information is presented at the end of each summary for those wishing to refer to the documents in their original language. All of the documents contained in this volume, with the exception of the final selection, may be borrowed from NCJRS on interlibrary loan. The identifying NCJ number after the foreign-language title on the first page of each summary should be included when requesting document loans. Please address requests for document loans to:

NCJRS Document Loan Program
Box 6000
Rockville, MD 20850

Reader comments on the usefulness of the International Summaries series, as well as recommendations on specific themes to be explored, are essential to insure that the Summaries adequately meet the needs of the criminal justice community. Your suggestions for potential sources of material to be translated (e.g., foreign anthologies, journals, etc.) are particularly welcome. In this connection, your attention is invited to the reader survey at the end of this volume. Please take a moment to complete the survey, then detach and mail it. It is preaddressed to NCJRS, and no postage is necessary.

ACKNOWLEDGMENTS

The National Criminal Justice Reference Service acknowledges the cooperation of the following publishers in granting permission to translate and summarize the documents in this volume:

Bundesminister für Justiz, West Germany

Deutsche Gesellschaft für Auswärtige Politik e.V., West Germany

Droste Verlag GmbH, West Germany

Editions de l'Université de Bruxelles, Belgium

Europäische Verlagsanstalt GmbH, West Germany

Jugoslovenska Udruženja za Krivično Pravo i Kriminologiju, Yugoslavia

Kriminalistik Verlag GmbH, West Germany

Politica Estera, Italy

Presse und Informationsamt der Bundesregierung, West Germany

Revue de Droit Pénal et de Criminologie, Belgium

Rowohlt Taschenbuch Verlag GmbH, West Germany

Walter Rau Verlag, West Germany

The efforts of several staff members are worthy of note: Joan Brantley identified the documents for translation; Monique Smith coordinated the translations; John Stone assumed responsibility for final editing, layout, production, and the introduction. Cover design is by Susan Carpenter.

--Marjorie Kravitz
Supervising Editor

Part I

Terrorism: A Case History

The Events and Decisions Connected With the Kidnaping of Hanns Martin Schleyer and the Hijacking of the Lufthansa Jet "Landshut"

Dokumentation zu den Ereignissen und Entscheidungen im Zusammenhang mit der Entführung von Hanns Martin Schleyer und der Lufthansa-Maschine "Landshut"* (NCJ 52970)

Editor's Note: This is a summary of a release issued by the Press and Information Office of the Federal Republic of Germany. An English translation of the complete press release (NCJ 54271) was issued by the Press and Information Office as well.

The First Week: September 5-11

Before the assault. In the late afternoon of September 5, 1977, Dr. Hanns Martin Schleyer, president of the Federation of German Employers' Associations, was on his way home to Cologne-Braunsfeld from the Federation's offices in Cologne proper. Escorting Schleyer's Mercedes limousine were three West German police officers, traveling immediately behind Schleyer and his chauffeur as they drove westward on Friedrich-Schmidt-Strasse toward the Schleyer residence at number 10 Raschdorffstrasse.

Since 1975, the Baden-Wurttemberg Ministry of Interior had considered Schleyer a likely target of an assault or kidnap attempt by one of the ultraleft terrorist groups operating on the continent. By August 1977, however, the indications that Schleyer was especially endangered were so strong that the Baden-Wurttemberg officials, with the concurrence of the Federal Ministry of Interior, ordered maximum protection for him.

At work, at his residences in Stuttgart and Cologne, West Germany, and at his vacation cottage in Meersburg, Austria, Schleyer was continuously attended by teams of bodyguards. The three police officers assigned to him in Cologne lived in the same area as Schleyer and accompanied him throughout his daily routine. The residences at Stuttgart and Meersburg were guarded around the clock by at least one two-man team of officers.

*Summarized from the English translation by K.B. Leger.

The assault. As the Schleyer car turned right onto Vincenz-Statz-Strasse, just before 5:30 p.m. and only yards away from Ranchdorffstrasse, it was forced to a sudden stop by what appeared to be an accident. A yellow Mercedes was angled across the roadway, blocking the sidewalk and half the street. To the left of the car, a blue baby carriage lay overturned on the ground. Unable to stop, the escort car collided with the rear of Schleyer's limousine.

Within seconds, both cars were surrounded by five persons who, in the confusion, had emerged unchallenged from left of the cars. Armed with at least one machine gun, two shotguns, and assorted high-caliber pistols, they immediately opened fire, killing the chauffeur and the three bodyguards. Unharmed, Schleyer was dragged from his car and forced into a white Volkswagen bus parked on the corner. The bus raced off, turning first onto Friedrich-Schmidt-Strasse, then onto Junkersdorfer-Strasse in the direction of Koelner Weg. Witnesses followed the bus for a short distance, but lost it in heavy traffic on Junkersdorfer-Strasse.

The Cologne police were alerted at 5:30 p.m. When the first patrol cars arrived at the scene approximately 2 minutes later, the responding officers encountered incredible carnage. Schleyer's Mercedes had 7 bullet holes, the escort car approximately 60. The bodies of the chauffeur and two of the three bodyguards were found in the cars. The fourth lay on the pavement to the right of the escort vehicle. Showing evidence of multiple, point-blank gunshot wounds, the bodies were literally blown to pieces in a hail of gunfire that, based on evidence gathered at the scene, consisted of a minimum of 7 12/70-caliber shotgun blasts, 44 9-millimeter machinegun rounds, and 50 cartridges of .233 dum-dum ammunition. The slain officers managed 12 shots from their service revolvers before being overwhelmed by the kidnapers' massive firepower.

The search begins. Alerted by witnesses to the direction of the escaping bus, the operations center of Cologne police headquarters diverted scores of officers to the crime scene and the surrounding area. As the search for Schleyer's abductors widened, adjacent police districts and several helicopters were enlisted. Just after 6 p.m., the Terrorism Department of the Federal Criminal Police was informed of the assault, and subsequently the department's permanent operational group was mobilized and sent to Cologne to support the local authorities.

Meanwhile, the first press report of the ambush and kidnaping broke on the Associated Press wires in Cologne, only moments after Federal Chancellor Helmut Schmidt learned of the assault. Within the hour, the first radio report of Schleyer's abduction was broadcast, and the events took on a national dimen-

ation. The Federal Ministry of Interior and the Chief Public Prosecutor put the Federal Criminal Police in charge of the investigation, and in turn ordered an alert in the adjacent States of North Rhein and Westphalen.

At 7:30 p.m., as the alert was being extended to the entire Federal Republic, a television news program broadcast the make and license number of the kidnap vehicle. Fifteen minutes later, a witness directed the police to a building in Weiner Weg, where the bus and an apartment used by the kidnapers were found.

The first message. Parked in an underground garage, the bus held the first clues to the identities of the kidnapers and the first version of what would become an often repeated warning: the Federal Government was to stop searching for Schleyer or he would be killed immediately, with no negotiations regarding his release. The message was signed by the Red Army Faction (RAF).

Informed of the message at around 11 p.m., Chancellor Schmidt began a series of telephone consultations with the Federal Justice Minister, the Federal General Prosecutor, and the chairmen of all the political parties and parliamentary factions of the Bundestag. By midnight of that first day, a decision was reached that would set a pattern for the coming weeks of negotiations: the terrorists' initial demand would not be met; the search for Schleyer and his abductors would continue unabated.

RAF lists its demands. The following afternoon, the daughter of a Wiesbaden minister found a letter in her father's mailbox addressed to the Federal Government. Instructed later by an anonymous caller to deliver the letter, the minister contacted the local authorities and soon the Federal Criminal Police called for the envelope. In addition to a communique from the terrorists, the envelope contained a handwritten letter from Schleyer and two photographs of the kidnaped industrialist, one a personal picture and the other taken after his abduction.

The terrorists' message who especially detailed all efforts to locate Schleyer were to cease, and 11 suspected or convicted terrorists, being held by German authorities--Andreas Baader, Gudrun Ennslin, Jan Carl Raspe, Verena Becker, Werner Hoppe, Karl-Heinz Dellwo, Hanna Krabbe, Bernd Rosmer, Ingrid Schubert, Irmgard Moeller, and Guenther Sonnenberg--were to be released, taken to Frankfurt airport by 8 o'clock the next morning, given DM100,000 each, and flown out by noon to a destination they would specify. Further, the full text of the communique was to be broadcast without alteration during the television show "News of the Day", some 12 hours before the released prisoners were to be transported to the airport.

Schleyer's brief letter assured the authorities he was alive, well-treated, and convinced he would be shot or released solely on the weight of the Government's response to the RAF demands.

The Government's response. In the early morning hours before the terrorists first communicated their demands, Federal officials, anticipating the kidnapers' objective, ordered searches of the prison cells of jailed radicals and the offices of leftist lawyers known or suspected to be in sympathy with the underground movement in Western Europe. Steps were also initiated to isolate, from each other and all outside contact, those prisoners already sentenced or being tried for terrorism and those suspected of complicity in such activities.

During the evening news of the second day, rather than broadcasting the terrorists' communique as RAF had demanded, the Government announced that the material forwarded by the Weisbaden officials had not been received in time. During the same newscast, however, a Bonn official mentioned the letter in an interview, saying the kidnapers demanded the release of "about 14 persons."

Meanwhile, the Federal Cabinet met through the late evening and early morning, mapping out the dynamics of the Government's response. Schmidt outlined three aims: liberate Schleyer alive, apprehend the kidnapers, and maintain the Government's freedom of action and confidence at home and abroad by not releasing the prisoners. These goals, the Cabinet agreed, should be pursued simultaneously.

Advisory groups established. To insure coordinated political decisionmaking, Schmidt created two advisory committees, the Small Situation Management Group, headed by Schmidt and made up of the Interior and Foreign Ministers and selected State Secretaries, and the Large Political Advisory Group, also chaired by Schmidt and consisting of the leaders of the various political parties and factions in the Bundestag, as well as the government chiefs of the four States having custody of the prisoners whose release RAF had demanded. Charged with evaluating developments and guaranteeing the exchange of information, the groups would meet as often as twice daily to consider opinions and advice relevant to Government decisionmaking during the crisis.

But the major decisions had already been made, setting a crisis management pattern that would prevail throughout 7 weeks of uncertainty. The search, Schmidt and his advisors had decided, should be expanded and intensified, while the Government gained time through protracted negotiations. Ultimatums, demands, and deadlines should be deferred through constant revo-

gotiation. Rather than being freed or made accessible to one another or their lawyers, the jailed terrorists should be kept in isolation.

Is Schleyer alive? The tactics of delay soon emerged, along with a measure of frustration. As the Government's efforts to confine the prisoners in solitary became entangled in constitutional questions, the Federal Police sought to determine whether Schleyer was still alive. Attempting to contact the terrorists by radio in an open broadcast during commercial airtime, the police asked the kidnapers to forward Schleyer's tape-recorded responses to two questions only he or family friends could answer correctly: What is the nickname of Edgar Obrecht, Schleyer's brother-in-law, and what is the present name of the Euler grandchild and where does she live?

Three hours after the broadcast, a Protestant clergyman in Mainz received a telephone call from RAF. The brown envelope now in his mailbox, the female voice said, should be passed immediately to the police.

RAF reiterates demands. The envelope, like the first one from the terrorists and several more still to come, contained separate letters, one from the kidnapers and two from their captive. In its letter, RAF characterized the Government's proof-of-life request as a ploy designed to gain time for a military solution to the problem. Proof that Schleyer is alive, the kidnapers stressed, would be forwarded only after the police search was ended, the prisoners were collected, and confirmation was broadcast on television that evening by one of the jailed terrorists. Schleyer's first letter, which was also videotaped, contained bits of news and gossip taken from radio broadcasts of the day--topical information that indicated he was alive, at least through noon of that day. Schleyer's second letter simply assured the Government that his abductors would keep their promises, although all delays were harmful.

Schleyer is alive. Again, after 3 hours passed, a bishop in Mainz received a call from RAF, and a second envelope was forwarded to the police. It held Schleyer's tape-recorded replies to the Government's first round of proof-of-life questions; his brother-in-law, said Schleyer, was called Noki by his sister, now deceased. Mathematician Euler's grandchild is named Euler-Chelinsknd and now lives in Zagol.

Satisfied for the moment that Schleyer was still alive, the police directed a midnight broadcast at the kidnapers, telling them that, due to the late submission of the tape, it could

not be played back on the air, and suggesting that to avoid misunderstandings and undesirable delays, a contact person should be designated when the terrorists trust. The police also informed RAF that at least one of its demands would be met, and the the next morning the Government's near-total news blackout was lifted momentarily to allow the publication--38 hours late--of the terrorists' initial list of demands.

RAF's next ultimatum. What transpired during the remainder of the first week only served to reinforce the cyclical process the negotiations would come to reflect. As the police, in an early afternoon broadcast to the terrorists, argued that their compliance with RAF's demand that morning indicated the Government's willingness to cooperate, the terrorists were delivering their second ultimatum, this one by way of the Agence France Presse office in Bonn.

The latest communique outlined a new timetable for the release of the prisoners: (1) the Government's decision on their release must be broadcast no later than 8 o'clock that evening; (2) confirmation by one of the prisoners that they are ready to be flown out must be received by 10 o'clock the next morning; (3) their departure in a long-range jet with maximum fuel load must be effected by noon the next day; and (4) the Government must comply immediately with the remaining demands from the previous messages.

Faced with these new deadlines, the large and small advisory groups met and the police ventured one or two furtive broadcasts, while the search for Schleyer continued. But as the third deadline approached and passed unmet, the terrorists, seemingly prepared for each contingency, moved to widen the negotiating cycle beyond the thus far unrewarding track of the Federal Government.

Payot and von Brauchitsch. Two hours after the meeting deadline expired, an envelope addressed to Eberhard von Brauchitsch, managing partner of the Flick Corporation, was delivered to the Flick plant in Dusseldorf. The envelope contained a handwritten letter from Schleyer to his friend von Brauchitsch, emphasizing the dangers of the Government's approach to the situation and subtly enlisting his aid in the negotiations. Schleyer wrote:

> As you can see, I am still alive but would very much like to know more about the decision of the Government, which obviously holds all the strings . . . but has imposed a news ban. The request for an intermediary is pure nonsense, because my kidnapers are

not going to expose themselves . . . not even to a contact person. A triangular contact procedure is therefore not feasible. . . . The determination of my kidnapers to stick to their word, also in a negative sense as far as myself is concerned, is beyond doubt. Right now they are still waiting for the Government's decision. Perhaps a decision will have already been made by the time you receive this letter; if not, I would be very grateful to you if you could convey my thought to our friends.

Although, through Schleyer, RAF clearly had rejected the idea of a go-between, von Brauchitsch, acting on his own behalf and that of other friends of Schleyer, contacted Denis Payot, a Geneva-based attorney whom the terrorists had earlier suggested as an escort for the jailed terrorists on their flight from Europe. The Government was kept informed of the steps von Brauchitsch developed for saving the industrialist's life, and within hours, in a complete reversal of their earlier position, the terrorists announced in a call to Deutsche Presse-Agentur a willingness, in principle, to "accept new conditions or to enter into new negotiations via Geneva."

By the end of the first week, Payot had firmly established himself as the official intermediary. A month-long tedium of proposal and counterproposal, negotiation and renegotiation, soon commenced.

The Second Through the Fifth Week: September 12-October 9

The cycle continues. As if to presage what would become weeks of fruitless negotiation, the Government's first move following the terrorists' concession on the intermediary was to request further proof-of-life, a tactic the Federal police would resort to increasingly throughout the remainder of Schleyer's ordeal. Moreover, this endless cycle of ultimatums, deadlines, requests, and counterdemands, passed almost exclusively via Payot, was punctuated by several interesting though irresolute developments.

Prisoners interviewed. During the second week, the terrorists demanded that their jailed compatriots be queried as to their willingness to leave West Germany and their preferred destination. The police systematically interviewed Sonnenberg, Schubert, Baader, Ensslin, Raspe, Moller, and Becker, all of whom agreed to leave the country, although only Baader suggested possible destinations--Algeria, Vietnam, Libya, Iraq, and the People's Republic of Yemen.

Because Baader had mentioned Algeria or Libya as a destination, a cabinet minister was dispatched to the capitals of both countries, although there was no indication that the Government had now changed its mind with regard to releasing Baader and the others. Having passed on to RAF the results of the prisoner survey, the Government soon received fresh instructions from the kidnapers: as far as the flight route was concerned, either Italy, Yugoslavia, Libya, Egypt, Sudan, or the Gulf States are acceptable. Flights via Israel, Morocco, or Ethiopia are excluded, and further, the Government should contact the countries listed by Baader for permission to land.

RAF member arrested in The Netherlands. That the search for Schleyer's abductors and their associates had not been curtailed, but rather expanded, was made plainly and very publicly clear in the course of the third week, with the arrest of Knut Folkerts in The Netherlands following a shootout with the Dutch police.

Two days before the Schleyer kidnaping, a young woman, later identified as Sigrid Sternbeck, used a stolen driver's license to rent a Ford in Utrecht, The Netherlands. Four days after Schleyer was taken, she returned the car, only to rent another the next day, September 10. Earlier a second woman, believed to be Angelika Speitel, had rented a Ford in The Hague, also using suspect identification. When she returned on September 19 to extend the rental agreement, the agency stalled her while the police were alerted. As the police arrived, Speitel fled to the street, where a male companion shot and badly wounded a pursuing officer before the two escaped in a waiting Opel.

Shortly before the incident, a man had left a travel bag at a cafe near the rental agency. Police later found the fingerprint of Sternbeck on an item in the bag, along with a tape recorder, cassettes, writing pads, and envelopes.

Then, on September 22, less than an hour after the Dutch and West German Interior Ministers had discussed the need for cooperation in the search for German terrorists in The Netherlands, Knut Folkerts, suspected of complicity in the Schleyer kidnaping and other crimes, attempted to return the car Sternbeck had rented in Utrecht. As the Dutch police closed in to arrest him, Folkerts opened fire, killing one officer and seriously wounding another before being subdued and taken into custody. A woman waiting close by escaped.

In addition to a Colt combat pistol stolen from a Frankfurt gun dealer, two fast-loading revolvers, and a hand grenade, Folk-

erts carried an Austrian identity card stolen from the registrar's office in Tirol and four DM100 notes taken in an August 1977 robbery of the National Bank in Essen.

Except for a cryptic message condemning Payot's "playing us along slowly," 5 days of silence followed Folkerts' arrest. Then, on Tuesday of the fourth week, the Agence France Presse office in Bonn received an envelope containing a picture of Schleyer and a message from RAF: if the Federal Government is still interested in saving Schleyer's life, all searches in France, The Netherlands, and Switzerland must be halted.

Later that same day, the Federal Interior Minister telephoned his counterpart in France and both agreed on continued investigative cooperation between the two countries.

Raspe interview: "dead prisoners." As the French and West German Interior Ministers spoke, Jan Carl Raspe was being interviewed by Federal officials at Stammheim prison in Stuttgart. Should the countries Baader listed earlier refuse to accept the prisoners, Raspe said, then Angola, Mozambique, Guinea-Bissau, and Ethiopia should be contacted. And in what would later become particularly prophetic, Raspe added that the long duration of the negotiations seemed to indicate the Government's preference for a "police solution," which he warned would lead to a "political catastrophe," namely, "dead prisoners."

Hijacking in Japan. As the fourth week wore on, what had been done in The Netherlands, at least in terms of RAF morale, would be undone in Japan. Early on the morning following the Raspe interview, Japanese terrorists hijacked a Japan Airlines flight, demanding that nine imprisoned anarchists be released and flown to Algeria. In less than 24 hours, the Japanese Government acquiesced, in marked contrast to the West German Cabinet, which during the same time met to discuss Folkerts' arrest, deliberate a proposed prisoner isolation, accept the European Convention on the Suppression of Terrorism, and approve still another proof-of-life demand by the police.

Schleyer's last letter. The first 5 days of the fifth week passed with no contact between the Government and RAF. The daily advisory group meetings went on and the Berlin Senator of Justice, acting on the new-approved prisoner isolation law, ordered the isolation of 19 suspected terrorists being detained in Berlin. Then, on Saturday, Payot received an envelope mailed in Paris and containing a photograph of Schleyer and what would be his latest and last letter. Schleyer wrote:

I said in my first statement after the abduction that the decision on my life is in the hands of the Federal Government, and accepted whatever this decision may be. Yet, I spoke of a decision, and did not think of vegetating in constant uncertainty, which has lasted for more than a month. The way the Japanese acted, which is known to me in detail, proves the correctness of my abductors' claim that there are countries that are prepared to accept the prisoners. . . . I cannot much longer cope with this no longer comprehensible situation of being kept up in the air, especially after the Japanese Government's decision . . . a decision of the Federal Government--as I demanded it on the first day--has become urgent. The more so since I am firmly convinced that my abductors will not much longer go on like they have.

The Sixth and Seventh Weeks: October 10 - 19

Lufthansa hijacking. The remainder of the fifth week was consumed by more tense interviews with Baader, Ensslin, Raspe, and Mueller. Ensslin's discussions with Federal representatives were the most intense, and extended on into the sixth week, as she continued to deride the conditions of her imprisonment and the Government's efforts to "divide the prisoners and the kidnapers and play them off one against the other."

As Ensslin spoke, 4 Arabs traveling on forged Italian passports and carrying 2 pistols, 4 grenades, and approximately 500 grams of plastic explosives were preparing for a flight from Palma de Mallorca, Spain, to Frankfurt. The two men and two women boarded the plane unchallenged, commandeered it after takeoff, and forced it to proceed inland. Via the air traffic controller at Milan, Italy, the skyjackers' demand became known: the release of all "comrades" imprisoned in West Germany.

The last leg of the Schleyer affair had begun.

New demands via Genova. Diverted first to Rome, then to Cyprus, the aircraft was soon shadowed by a second Lufthansa jet carrying officials of the Federal Interior Ministry and the Federal Criminal Police, as well as a select group of West German border guards trained in the tactics perfected by the Israelis at Entebbe, Uganda.

After refueling at Cyprus, the plane headed toward the Middle East, only to be turned away by Lebanon, Syria, Jordan, and Kuwait. As it landed in the Persian Gulf nation of Bahrain, an expanded list of RAF demands was being transmitted through Poyot: release the 11 jailed terrorists in West Germany as well as 2 Palestinians imprisoned in Istanbul, and pay $15 million in cash or Schleyer and the Lufthansa passengers and crew will be executed immediately.

Stalled at Dubai. After less than two hours in Bahrain, the jet departed and headed for Dubai, a Persian Gulf sheikdom. Although the runway at Dubai Airport had been barricaded to prevent a landing, it was opened at the last moment, and the plane landed. The hijackers demanded refreshments and an authorized negotiator. The State Secretary of the Defense Ministry of the United Arab Emirates assumed responsibility for the negotiations, asking that the terrorists release the women and children on board. "Captain Mohammed," as the hijackers' leader was called, refused.

For 2 1/2 days, the aircraft sat motionless on the sun-baked runway at Dubai Airport. The hijackers demanded penicillin for a sick passenger, but refused medical aid, and later were themselves refused 11 tons of fuel they had demanded. During the second day on the ground, Flight Captain Schumann requested food and medicine for the passengers, and addressed an urgent telegram to Chancellor Schmidt: "The lives of ninety-one men, women, and children depend on your decision. You are our last and only hope."

Special Cabinet meeting: Five hours after the jet landed at Dubai, the West German Cabinet met in special session to chart, as before, the Government's response to the latest hostage situation. Again, as in the earlier discussion of Schleyer's kidnaping, the pertinent issues were weighed: (1) the danger to the lives of the hostages, (2) the threat to society inherent in releasing known terrorists and murderers, and (3) the prejudicial impact such a release would have on future cases of political blackmail.

In the end, the Government's decision regarding the fate of the hostages in Dubai reflected its principal attitude on Schleyer: do everything possible to protect the hostages--short of releasing the prisoners--to include exhausting all negotiating possibilities and a rescue attempt by the police.

Murder in Aden. Leaving Dubai suddenly on Sunday morning, the jet first flew toward an island belonging to the Sultanate of Oman, and then on to Aden when Oman refused permission to land. Although the airstrip at Aden had been closed to prevent a landing, the hijackers forced Captain Schumann to land the plane in the sandy terrain beside the runway. Schumann left the plane to inspect for possible damage caused by the landing. When he returned to the cabin, "Captain Mohammed" approached Schumann, forced him to kneel in the aisle, and then, in full view of the passengers, shot him in the mouth.

Rescue at Mogadiscio. With Schumann's body lying in the aisle, the jet again took off, landing early Monday at Mogadiscio, the capital of Somalia. Following extensive discussion, the West German Cabinet decided that, in agreement with the Soman Government, a police action should be carried out to release the hostages. Negotiations were immediately begun with the terrorists in order to gain enough time to position the second jet carrying the West German commandos.

The special Lufthansa jet landed secretly at Mogadiscio after nightfall on Monday. Together with Soman forces, the commandos immediately began making preparations for an assault on the captive aircraft. Rushing the plane just after midnight, the border police unit forced its way on board after blasting off the jet's doors with explosives. The terrorists offered fierce resistance--three were cut down by sharp-shooters, while the third was taken alive. All the hostages survived.

Suicides in West Germany. Within hours of the rescue in Somalia, Andreas Baader, Jan Carl Raspe, and Gudrun Ensslin, all in isolation at Stammheim, committed suicide--Baader and Raspe by gunshot, Ensslin by hanging. Irmgard Moeller, also at Stammheim, stabbed herself but survived.

Schleyer dead in France. As the West German commandos were being welcomed home the next day as heroes, the Government received a last message from Schleyer's kidnapers:

> After 43 days, we have put an end to the deplorable and corrupt existence of Hanns Martin Schleyer. Mr. Schmidt, who--in his power calculations--has speculated on Schleyer's death from the very beginning, can now pick

him up. He is in a green Audi 100 with Bad Homburg license plates which is parked in the Rue Charles Peguy in Mulhouse.

The car, with Schleyer lying dead in the trunk from three bullets in the head, was located in Mulhouse a short time later.

Presse und Informationsamt der Bundesregierung, 5300 Bonn 1, West Germany. 1977. 92 p.

Part II
Terrorism Around the World

Terrorismus in Lateinamerika--Motive und Erscheinungsformen*

(NCJ 53143)

By Fritz R. Allemann

Introduction

Terrorism is an old tradition in Latin America. It was employed by political bandits and hired assassins, and it occurred during the wars of liberation as well as in civil wars. Today, the term usually refers to the "urban guerrilla." This recent phenomenon cannot be explained in terms of any one country's development; rather, it is the last phase of a continentwide movement which followed Fidel Castro's victory. The words "last phase" refer both to chronology and the logical development of the urban guerrilla after the rural movement failed. It was not a forerunner, but the offshoot of a subversive wave that was already ebbing.

From Rural to Urban Guerrilla

Castro's victory after 2 years of guerrilla warfare was generally considered an epochmaking event. It seemed to point the way to power for the hitherto unsuccessful revolutionaries south of the Rio Grande. Castro's companion, Ché Guevara, wrote a guerrilla manual based on his experiences, in which he outlined a new political concept. That concept was systematized by Régis Debray, a colleague of Castro and Guevara. Two theses formed the nucleus of Debray's Revolution Within the Revolution: a determined minority could fan revolution from a distant "focal point" even before conditions were completely favorable, and rural areas were to be chosen as the focal point.

Efforts to repeat the Cuban performance on the continent miscarried, however. Guevara himself failed to create "Vietnams"

* Translated from the German by Helga Bennett.

on the American continent. This was more than just one man's failure: Guevara's disciples were forced to reexamine the focal point strategy, and the emphasis on rural areas was abandoned. Revolutions were to be started in the cities instead. Urban locales seemed to be a good starting point, especially where they contained the majority of the population as well as the economic strength of the nation. Accordingly, the "Southern cone" of Latin America became the cradle of the urban guerrilla. The theoretical basis of urban guerrilla activity was explained by the Brazilian Carlos Marighella and its practice perfected by the Tupamaros of Uruguay.

An important principle of Guevara's doctrine was retained: the revolutionary vanguard was not to wait passively for the appropriate time to act. Like the focal point, the urban guerrillas were to create the necessary revolutionary conditions. Also, the idea of the conscious and systematic escalation of the class struggle through brute force was adopted.

In 1960, Guevara still believed that if a government had attained power legally, the guerrilla movement could not succeed, for "not all legal means of struggle" would have been exhausted; however, a 1964 essay of his reflected a different view. The guerrilla movement, once the last resort against illegal and despotic government, became an instrument of provocation. An apparently constitutional government was now held to be more dangerous than outright dictatorship because it created the illusion that peaceful change was possible. This illusion had to be destroyed; the exploiters had to be forced to show their true colors, and their dictatorial inclinations had to be provoked.

Before 1933, the German Communist Party had thought that the destruction of the Weimar Republic by the Nazis would facilitate the Communist revolution. The same principle was followed by the guerrillas in their wars against "bourgeois-democratic," even "social-democratic" governments. In fact, Guevara hoped that his Bolivian insurrection not only would involve the entire continent, but also provoke American "imperialism." This would have lent the appearance of a national liberation struggle to an otherwise ill-defined social movement.

The basic revolutionary idea runs without interruption from rural to urban guerrilla, and then to terrorism. Means and forms change, but motives and hopes remain the same. Therefore, the development of terrorism must be viewed in the light of the rise and fall of the "classical" guerrilla war, as tested by Castro, popularized by Guevara, and systematized by Debray.

Early Forms

Cuba. The continuum from Castro's guerrilla warfare to urban terror is found not only in ideology, but also in strategy. Many urban

guerrilla practices had been tested initially in Cuba and Venezuela. Castro's war had not been fought by his mountain army alone. In the towns, especially Havana, a growing urban organization provided supplies and created disturbances through sabotage or plain terrorism, and was responsible for the demoralization of Batista's army. Castro's victory is attributable to psychological factors at least as much as to military ones, and urban guerrillas may claim a large share of the credit.

Official Cuban revolutionary history takes little notice of this fact. This is due to a desire to magnify the efforts of Castro and his partisans, but there are also political reasons: many urban leaders had "bourgeois" (democratic) leanings and were alienated by Castro's Communist policies.

Guevara's Guerrilla Warfare is skeptical of urban guerrilla methods and critical of terrorist acts. In Guevara's opinion, urban units are expected to provide help for the rural focal point (supplies, communications) and should not strike out on their own. Sabotage is important, but the benefits derived from it should be carefully weighed against its effects. In practice, however, such fine distinctions were not always made. Castro's demand that guerrillas supply their own weapons led to terrorist attacks on police officers and soldiers who were unwilling to give up their arms. As for sabotage, the interruptions in Havana's power supply interfered with the production of armaments and proved that Castro's supporters were everywhere.

The first kidnapings of foreigners and airplane hijackings were carried out in Cuba, although publicity rather than specific demands was the purpose. In 1958, Juan Manuel Fangio, a famed race driver, was kidnaped and therefore prevented from participating in a race; he was well treated and released. Raúl Castro, Fidel's brother, organized the kidnaping of 45 U.S. citizens to protest the maintenance of Batista's planes at the U.S. base at Guantanamo; the hostages were well treated and later released. Finally, Raúl Castro learned to exploit the weaknesses of civil aviation. He had three planes hijacked, but there was no question of threats and demands; again, the hostages were well treated and released. The dual purpose of publicity and psychological warfare had been accomplished.

Venezuela. Similar aims were pursued by the leftist revolutionaries of Venezuela. Prominent foreigners were kidnaped, two airplanes and even a freighter were hijacked, and an exhibition of French paintings was burglarized. These acts attracted attention, and sometimes were even considered amusing. However, this cannot be said of the actual terrorist acts in Venezuela, e.g., the realization of a slogan that a police officer was to be killed every day; the indiscriminate bombings; the cooperation of guerrillas and professional criminals (the University of Caracas provided

shelter for both). Terrorist "excesses" were later declared counterproductive even by leaders of the insurrection, and one particularly bloody action is considered responsible for the overwhelming reelection of the rather unpopular government. Later terrorist acts led to a wave of arrests that crippled the movement, and the murder of the brother of the foreign minister caused the Communists to break away from the revolutionaries and seek legal ways to enter government.

The Terrorist Temptation

The same fatal mistakes were made by both the Venezuelan revolutionaries and the urban guerrillas of the 1960's and 1970's. This suggests that terrorism is not simply a degenerate form of urban guerrilla warfare but rather is inherent in it. To be sure, the rural guerrilla sometimes toyed with the idea of systematic terror: Guevara was tempted to use it, and in Colombia the terrorist tradition remains strong. But the partisans rarely used such means. Their guerrilla war resembled standard warfare in that the tactics of ambush and surprise attack were directed against a military enemy. This changes radically when the battlefield is moved to the city. Since the traditional means of barricade warfare have become obsolete, direct confrontations with government forces no longer occur.

On inaccessible terrain, a group of insurgents can maintain itself for years against superior forces; in the city streets this is impossible. Urban locales require that direct attack be replaced by indirect methods of disturbance and demoralization. Terrorism is the simplest of such methods: attempts on the lives of individuals, bombings, "expropriations," kidnapings, and murder threats. Each of them arouses uncertainty and proves the government to be powerless against an invisible foe.

Brazil. These ideas were initially formulated by Carlos Marighella in his Minimanual of the Urban Guerrilla, which is the counterpart of Guevara's 1960 manual. Marighella was convinced that terrorism was essential to the revolutionary effort, but he thought mainly in terms of bombings and arson of U.S. firms. Many of the other methods he recommended, however, were also clearly terroristic: "executions" of political opponents, "U.S. spies," and informers; sabotage of trains, expropriations of banks, and kidnapings.

Marighella did consider terrorist activity for the sake of publicity, but he was more concerned with obtaining hostages to exchange for incarcerated "revolutionary comrades." While the kidnaping of U.S. citizens protests American imperialism, it also permits exchanges. The 1969 kidnaping of U.S. ambassador Elbrick served both purposes: 15 prisoners were freed, and the Government had to aid in the publication of a revolutionary manifesto. The

kidnaping of diplomats then became a specialty of the Brazilian underground. The ruthlessness of Marighella's brand of terror was undoubtedly related to the impossibility of legal recourse to the military regime. However, it also helped increase the brutality of the dictatorship.

Uruguay. In Uruguay, one of the few Latin American countries with a fairly solid democratic tradition, matters were quite different at first. It was possible to work within the law, but for that very reason the activists of the National Liberation Movement, the Tupamaros, despaired of ever gaining sufficient support for their radical brand of socialism. Consequently, they initially avoided extremely bloody acts, and instead sought to harm the image of government and public officials: banks were robbed not only for the money, but also to obtain evidence of fraud, and prominent persons were kidnaped and interrogated with the same aim. Although the rules of the organization forbade indiscriminate attacks, the need existed for provocation to destroy the "democratic illusion," and sooner or later the terror was bound to become bloody.

Terrorist Self-destruction

Uruguay. The turning point came with the kidnaping of the American police advisor, Daniel Mitrione, in 1970. Unlike their Brazilian colleagues, the Tupamaros made excessive demands, and when they were not met, Mitrione was "executed." Abraham Guillen, an important analyst of urban guerrilla tactics, considered this to be a twofold mistake: the Tupamaros had fallen short of their political aim and, "in their newly acquired role as murderers," they had suffered a political setback by alienating the mass media. It was a mistake to boast of the existence of people's prisons, thereby reminding people of a "parallel system of repression." The validity of those charges could not be denied even by the Tupamaros. Although they conducted additional kidnapings, they made no more demands on the government.

Then, in 1972, a new terrorist offensive was launched, coupled with murderous attempts on military and police personnel. Parliament declared an "internal state of war" and the military took command. In a few months, the entire underground network--arsenals, "people's prisons," hospitals, etc.--was destroyed, but so was Uruguayan democracy. The destruction of the "democratic illusion" had been achieved, but the Tupamaros were also destroyed in the process.

Guatemala. The Guatemalan experience again proves the self-destructive tendency of terrorism. Far from mobilizing the masses,

terror tends to isolate the revolutionary vanguard from the masses. As a further example, the murder of the kidnaped German ambassador, Count von Spreti, signaled the demise of the urban guerrilla in Guatemala.

Argentina. For a time it seemed that Argentina would prove the exception to the rule, although terrorism there assumed extreme forms. Murder, bank robbery, and bombings were the order of the day, and kidnaping was epidemic. And terrorism was not used to obtain the release of prisoners, but to extract exorbitant ransoms. This should have had dire consequences, but at first the strategy was successful, and in 1973 the military regime was forced to allow free elections.

The anomaly of this course of events is explained by the fact that the terrorist underground in Argentina seemed to represent a reformist-populist mass movement with which many Argentines identified: Peronism. There were radical leftist groups in the underground, e.g., the Revolutionary People's Army (ERP), but most of the terrorist groups traced their origins to Peron. Peronism was supported by most of the people, and the crudest means seemed justified as long as they served the will of the majority. The military regime eventually recognized that only two choices were available: democratization, or hardening of the dictatorship, which it did not want.

The subsequent election of Hector Campora immediately opened the prison doors for all terrorists of leftist as well as Peronist persuasion. However, the expected "national pacification" did not occur. The ERP was first to take up arms. Within the Peronist camp, disagreement spread among the various factions, which were held together only by the powerful image of their leader. Terrorist means were used to settle the differences.

During the underground years, the "special units" had gradually adopted the methods of their leftist companions, as well as their political convictions. The nationalist Montoneros had become a quasi-Castroist outfit and joined with the local Marxist group. On the other hand, the radical right fringe of Peronism, under the Minister of Welfare, had built up a political gangster organization to "cleanse" the party of Marxist elements. Peron's triumphal return was accompanied by bloody battles among hostile factions of his followers, and Campora's forced resignation only sharpened the differences. A break was inevitable; upon Peron's death, the Montoneros again went underground and, together with the ERP, prompted a wave of terror that nearly caused civil war.

Subversive action now reached new heights. The euphoric period following the end of the military regime had been used by the guerrillas to solidify their organization, and they now staged terrorist acts on a gigantic scale. They formed a rural

focal point to aid the urban guerrilla and for a time successfully fought the army. This made it seem as though the escalation of terrorism to "revolutionary war" was indeed succeeding.

But now that terrorist activity was directed against a freely elected government, however weak and corrupt, popular support began to disappear, and terrorism became self-destructive. Democracy was destroyed as well: in 1976, a military coup made the previous state of siege permanent and suspended all remaining constitutional processes.

Antiterrorism

Compared to the new regime, the old dictatorship resembled a monument of liberalness. Of course, there had been illegal acts such as torture, but they were "transgressions" against a basic constitutional order. Illegal acts now became habitual.

But even this situation would seem to be of less consequence than the appearance of "antiterrorism." It is not a new phenomenon: in Brazil, "death squads," composed of police officers sent to murder individuals who could not be brought to justice, were used against the urban guerrillas. Similar groups existed elsewhere. "Antiterrorist organizations" such as the Argentine Anti-Communist Alliance (AAA) had been formed even before the military coup and seemed to be closely allied with the police and the army. After the coup, the initials AAA disappeared, but the terror spread, notwithstanding the assurances of the new president that all forms of terror would be wiped out and the "power monopoly" of the state restored.

In fact, the "uncontrolled" terrorist elements today seem to be made up principally of members of the security forces, especially the military and police secret services. Raids against suspected guerrilla sympathizers are carried out by armed personnel in civilian clothing, riding in army or police cars without license plates. This represents the complete breakdown of all public order. It is the terrible consequence of the thesis that the "legal fictions" must be destroyed so that "open capitalist dictatorship" or "fascism" might pave the way for revolution. In no cases were the leftist terrorists able to benefit from the terrorism against the right that they frivolously provoked.

In Manfred Funke, ed., Terrorismus--Untersuchungen zur Strategie und Struktur revolutionärer Gewaltpolitik (Terrorism--Investigations of the Strategy and Structure of Revolutionary Political Power, NCJ 53136), 1977, p. 173-197. Droste Verlag GmbH, Martin-Luther-Platz 23, Postfach 11 22, 4000 Düsseldorf, 1, West Germany.

Terrorism in Northern Ireland--An Overview

Terrorismus in Nordirland--Ein Überblick* (NCJ 45629 and 45630)

By Robert Krumpach

PART I - HISTORICAL BACKGROUND AND THE CURRENT SITUATION

INTRODUCTION

General

Even a brief glance at the chain of events in Northern Ireland provides a picture of the devastated landscape of inhumanity, hate, and cruelty in this part of Great Britain. From 1969 to the fall of 1977, nearly 1,800 people were killed, including almost 500 police officers and soldiers. Approximately 12,000 murders were attempted and over 20,000 persons wounded. About 30 percent of the police force has been wounded.

In the course of the terror, there have been about 9,000 explosions, countless fires, and over 20,000 shooting incidents reported, as well as approximately 70,000 houses and stores destroyed. Thousands of attacks--many carried out in military fashion--have been directed against police stations and army posts.

Causes of the Conflict

Since, at present, only 1 percent of Northern Ireland's 1.6 million people actively participates in the conflict between Protestants and Catholics, one cannot truly speak of a civil war, in spite of outward appearances. The present condition of Northern Ireland is caused primarily by:

*Translated from the German by Charles Orne.

- The historic, traditional struggle of the Irish against the English-British presence on Irish soil.

- The social backwardness of the lower classes, in which Catholics far outnumber Protestants.

- The low political status of the Catholic minority, which makes up approximately one-third of the population.

For the foregoing reasons, one can also no longer speak of an antiquated religious war: groups with largely political motives have emerged, groups which have declared war on the state and on every part of the structural order of the community.

THE HISTORICAL BACKDROP TO THE STRIFE IN NORTHERN IRELAND

Early English Initiatives

In the 12th century the English began to establish a foothold. Scottish and English Protestants settled in Northern Ireland in the 17th century without being able to assimilate with the Irish successfully. Since the Reformation had barely touched Ireland, the division of the island into Catholics and Protestants was insured, thus laying the foundations for the brutal battles that have shaken it up to the present time. A social and economic polarization followed the religious polarization as the island's wealth became concentrated in the north. Famines struck Ireland, and tens of thousands died. More than half of the population emigrated, resulting in progressive socioeconomic deterioration over several generations--a deterioration abetted by the exhibitive colonial policies of the English, whose aristocracy comprised the overwhelming majority of landowners.

Catholic Versus Protestant

When Great Britain united with Ireland in 1801, a third conflict developed out of the "internal" conflict between Catholics and Protestants. Battles with underground resistors, tactics of political coercion, and power struggles often disguised as a problem of religion also made trouble for the British throne.

The British used brutal means to suppress the Easter uprising of 1916, but were compelled during the civil war to grant freedom to the southern part of the island, including the northernmost county of Donegal. Independence was granted step by step beginning in 1921. Great Britain assured the Protestant inhabitants of six of the nine counties of the former province of Ulster that they would remain under the throne ("United Kingdom of Great Britain and Northern Ireland").

The remaining 500,000 Catholics in Northern Ireland provided the basis for one of the central problems of today's conflict, because in fact two minorities demanded their rights as they do to this day: the Protestants of Northern Ireland in overwhelmingly Catholic Ireland as a whole and the Catholic population in predominantly Protestant Northern Ireland. The Protestants with their two-thirds majority in Northern Ireland discriminated against the Catholics not only in voting rights but also in everyday matters. Discrimination became particularly evident in the awarding of jobs and living quarters. In time the bitterness of the Catholic minority grew; radical words found ready ears, and the civil rights movement finally turned to intentional confrontation with the forces of "law and order."

Attempts at Reform

As sharp disturbances broke out in Belfast and Londonderry in 1968, the Government of Northern Ireland attempted to institute a program of reform. The Government received no support from its own ranks, however; through a general strike, even Protestant workers attempted to thwart any reform offering equality for Catholics. The altercations became so intense that the police lost control, and Northern Ireland's Prime Minister James Chichester-Clark was obliged to call for British soldiers in August 1969. The establishment of detention centers further poisoned the atmosphere to the point where any further attempts at reform foundered on the resistance and obstinacy of both Catholics and Protestants.

Every path to agreement was barred. Accordingly, the British Government found itself obligated in 1972 to dissolve the Stormont, the regional parliament of Northern Ireland. Within the framework of the new constitutional provisions introduced in 1975, the Protestants, led by Pater Yan Paisley, head of the Presbyterian Church in Ulster, sought to reduce Catholic representation in the regional parliament to only three seats.

THE CURRENT SITUATION

Security forces in Northern Ireland must deal with four terrorist organizations: the Irish Republican Army (IRA) on the Catholic side, and the Ulster Volunteer Force, the Ulster Defense Association, and the Red Hand on the Protestant side. The IRA aims to destroy the existing order in Northern Ireland and unite it with the Republic of Ireland. The three Protestant groups are fighting to preserve the present system and its close ties to Great Britain.

The IRA

Organization. The IRA is organized militarily and has about 25,000 members. The hard core comprises 1,500 to 2,000 men who operate out of the territory of the Irish Republic because the border is poorly guarded; the general staff also works out of the Republic of Ireland, although the IRA is banned there. Membership alone is grounds for 7 years' imprisonment; in addition, inviting someone to join the IRA carries a further sentence of up to 3 years.

The IRA is divided into two camps, an official Marxist-Leninist wing and a provisional wing. The "Provos" dominate in Northern Ireland and concentrate on the fight against the British, while the Marxists operate on the premise that the union of Northern Ireland with the Irish Republic will automatically take place in the course of the revolution they are spearheading.

The IRA considers itself at war with Great Britain. Indicative of this military posture was the "truce" between the IRA and the British Government in 1975, which resulted in the dissolution of the detention centers and the release of almost 1,000 internees.

Strategy. The strategy of the IRA is based on proven guerrilla tactics from all continents: create insecurity among the population--even provoke panic--and disrupt the order of the state (and destroy it) through attacks on its nerve centers, to include rendering the police apparatus inoperative. The authorities in turn are expected to overreact as much as possible, thereby giving the IRA grounds for further acts of violence. Although the IRA's attacks seek to upset the finely structured technical foundation of society, the massive influx of British troops up to now has been able to prevent large disruptions of public services. The full measure of the terror is evident not nearly so much in burnings and bombings as in the all-encompassing psychological menace.

The IRA expresses its intention to "execute" all persons working in the service of the crown against the interests of the IRA--hence the shootings of the judges Canahan and McBirney in 1974. Members of the IRA who are killed are always given a "hero's burial," accompanied by a three-gun salute, within view of police and army forces. In truth, however, the IRA does not adhere to its own precepts, for it kills many more ordinary citizens than people in the service of the crown; numerous victims are apparently members of the IRA's own ranks. The words: "informers will be shot" are written on the walls of many houses. Whoever openly speaks of reconciliation between Catholics and Protestants is threatened with death on grounds of "treason and collaboration with the enemy." This also holds for women who speak out against violence and press for reconciliation.

"Sentences" and "punishments" have to this date been carried out through shooting, knifing, bombing, maiming of kneecaps, and various other forms of tortures. About 700 cases of "heavy kneecapping" (assault from the rear, resulting in a completely stiff leg) have come to light, many of them associated with forced confessions.

Protestant Terrorism

Militant Protestants also reap with a vengeance. In October 1976 three men forced their way into a Belfast hospital and killed Maire Drumm, a leader of the Sinn Fein, the political wing of the IRA (she was proud when her name was read backwards: "m(m)urder I am"); at every opportunity she had let it be known that British soldiers would be sent home in coffins and that Belfast would be reduced to rubble.

Neither Catholic nor Protestant terrorists appear successful in winning the support of large numbers of citizens, probably because the extremists' acts of terror create such fear and horror that sympathy is impossible. Evidently, intent to punish is not a primary motive for killings and tortures, since many of them appear to be the result of a pure desire to commit bestial atrocities.

Terrorist Psychosis

Close observers claim that many terrorists display characteristics of paranoia. Psychiatrists hold that this affliction predisposes one to a system of logic that cannot be weakened by opposing arguments. After talking to members of the IRA, I agree entirely. Several frightening reasonings emerged in the course of my conversations with IRA members. They included references to successful partisan and guerrilla activities throughout the world, and making the English pay for centuries of oppression of Irish and other peoples. They even cited the mythical stories of banishment from paradise and fratricide with the ensuing great enmity between peoples, as well as the existence of Russian and American bombs as justification for the IRA to use bombs ("historical necessity" in both cases).

When I suggested that terrorism can never accomplish anything positive, the reply was to the effect that the Germans can think what they like--it does not damage our friendship. The IRA members contended that only the Irish understand what it is like to always be at fault because one is Irish; moreover, according to the Old Testament: "An eye for an eye, a teeth for a tooth"! And why do students and terrorists in Germany, Italy, France, and Spain also throw bombs?

The strife between Catholics and Protestants has also contributed to a certain general rowdiness, an atmosphere congenial

to adventurers and criminals who are often indistinguishable from the terrorists.' Prosecution is extremely difficult due to the lack of informers and witnesses; victims of torture are usually glad to still be alive, and witnesses fear reprisals.

The Police in Northern Ireland

The Royal Ulster Constabulary consists of approximately 5,500 men and women, supplemented by a highly motivated volunteer police reserve of about 5,000. They take enormous risks and refuse to abandon police stations despite constant military attacks--they intend to show that the police do not give in to the terrorists.

The Army in Northern Ireland

British army troops in Northern Ireland number about 15,000. Friction often arises between police and soldiers because their training differs considerably. Soldiers are rotated to Northern Ireland for only 4 months' duty, which often leaves them ill prepared to deal with terrorists, who in turn capitalize on counter-terrorist acts in order to justify their own activities.

Army officers, on the other hand, are superbly trained, having had instruction at Sandhurst in preparation for possible civil war and economic and political chaos. Yet it is still difficult to know what to do against grenade-throwing children--use lead bullets, hard rubber bullets, or do nothing at all.

Effects on the Population

Anxiety, fear, pessimism, and lethargy have become widespread in large segments of the population. In Belfast and Londonderry, the damage to the population is irreparable although, as in wartime, people try to retain a semblance of normality. Even if the terrorists cannot attain the popular support they desire, the citizens of Northern Ireland appear helpless to oppose the horror that pervades their land. Demonstrations and repressive measures alone are inadequate. Effective political and social strategies are required more than anything else.

Of particular importance, something must be done for the youth. When adults must struggle with difficult problems all their lives, the education of the young suffers. In Northern Ireland, this is especially true in social and political matters. Young people think it is "fabulous" and chic to engage in sprees of violence, killing, maiming, robbing, dictating business hours for storekeepers, and blackmailing taxi drivers, innkeepers, etc. They see such activity as a way to ease their inhibitions and vent their aggressive drives.

Government authorities have found it especially difficult to control young people for fear of a massacre and the resulting effect on world opinion. Life for children is particularly difficult in the Catholic slums--the "troubled areas," or ghettos--where police and army personnel seldom venture, and if so, only during daylight when heavily armed. Mothers make terrorist uniforms for their children and given them wooden guns to play with. Children have been known to set other children on fire.

Psychological disorders, learning disabilities, nervous tension, and chronic diseases lead to early dependence on drugs and alcohol. Young people in the ghettos do not know the meaning of peaceful existence. When they join the Junior Wing of the IRA at age 13, they believe in nothing--nothing but force.

Alcoholism, as well as the problems it generates--ignorance, uncertainty, unemployment, poverty, criminality, and apathy--is rampant. Although it may seem cynical, there is simply no difference between the situation of an unemployed Protestant and that of an unemployed Catholic, yet they live completely isolated from each another. The religious aspect of the conflict is actually a veneer masking the social roots of the general misery. One could more accurately describe the trouble in Northern Ireland as civil-war-like conflict between workers, since most of the buildings and homes destroyed are in the working class neighborhoods. It is not surprising that no strong workers' party has been able to emerge in Northern Ireland.

Yet, in spite of everything, the army and police have managed to avert a total collapse.

PART II - TERRORIST TACTICS, POLICE ACTIVITIES, AND THE POLITICAL SITUATION

Terrorist Tactics and Techniques

The terrorists possess not only some of the most modern weapons, but also simple homemade items. According to American sources, the largest number of weapons comes, from supporters among the 20 million Irish-Americans. Qaddafi's Libya, which makes a practice of supporting terrorists worldwide, also supplies a large number of weapons. In addition, terrorists obtain considerable amounts of "protection money" from blackmailed storekeepers and innkeepers, as well as huge sums from train robberies and other forms of criminal activity.

Snipers using deadly American rifles have killed vast numbers of ordinary citizens, as well as high judges and other public officials. Other terrorist weapons include flamethrowers, Molotov cocktails, handgrenades, mortars, Claymore mines, and Russian

ground-to-ground rockets. Booby traps of every conceivable variety are concealed in autos, milk cans, flashlights, and cigarette packages. Although the terrorists' purpose is to create general bomb panic and to kill and injure evacuation teams, many victims are children. The terrorists fashion bombs from a large variety of materials, such as weed killer, powdered sugar, and Coca-Cola bottles. The situation becomes extremely dangerous when police, army forces, or firefighters arrive on the scene to find themselves victims of snipers or additional explosions; they are sometimes unable to detect clever deceptions in time.

Just as the terrorists use all manner of timers, tripwires, and remote-control devices to ignite their bombs, police and army forces use remote-control vehicles to neutralize bombs and various modern detection devices to locate them.

Special Aspects of Police Activities

Police in Northern Ireland operate on the principle that they must protect themselves in order to protect the population. Consequently, police and army stations are heavily fortified with thick concrete walls, observation points, curved metal surfaces to deflect thrown objects, steel shutters on the inside of windows made of special glass, wire mesh around an entire building to repel rockets, and ramps on the streets in front of the building. Buildings are equipped to withstand a siege of several days.

The most dangerous duty stations are largely reserved for single men, who go on and off duty at irregular intervals. The army provides armored vehicles and helicopters for this purpose. In addition, police and army personnel wear bulletproof vests when leaving their duty posts in uniform.

The British have perfected a system of perimeter security involving sensors and listening and observation devices that can be placed up to 18 miles from the post in question. Citizens have made use of confidential telephones connected to an automatic answering service at police headquarters in Belfast. A multipurpose telecommunications center--one of Europe's largest and most modern--opened in Belfast in 1974 to aid in the fight against terrorists.

Strict regulation of detention and search procedures has in many cases prevented charges of police brutality or illegal treatment. Every detainee must undergo a medical examination immediately; regulations for interrogations, mealtimes, transportation, etc. are followed without exception.

The activities of the criminal division of police primarily center around murder-related crimes, only 20 percent of which result

in apprehension and conviction owing to the paucity of witnesses willing to testify. As for sectarian murders, the police consider most of them solved upon identification of the victim. In many cases, terrorist groups claim responsibility for such murders.

One aim of the terrorists in their battle against the forces of law and order is to keep the latter's nerves constantly on edge, to allow them no regular free time, and to turn the business of tracking terrorists into a frantic, haphazard bait-and-hunt.

Police officers and soldiers are paid for all overtime work and untaken vacations and receive various benefits in compensation for the heavy physical and psychological demands of their jobs. Special committees care for widows, orphans, and perform other valuable services.

Political Situation and Problems

Despite the Irish Republic's intention, as expressed in its constitution of 1937, to reunite with Northern Ireland, many Catholics on both sides of the border are not eager for immediate reunification. There is hesitant talk of changing the constitution in order to remove at least one historical basis for the Protestants' "siege mentality," but Catholics for the most part do not want to renounce the idea of unification. Yet neither does the Republic of Ireland wish to see British troops withdrawn at this point--they are needed to prevent the entire island from becoming embroiled in a bloody civil war.

Reunification would also reverse the present situation by placing Protestants in the position of the stubborn minority--a position now occupied in Northern Ireland by Catholics. Furthermore, in view of the present Protestant majority in Ulster, there is no way to reunite the two parts of Ireland by democratic means. It is also unrealistic to envision an independent Northern Ireland, since it could not support itself. Great Britain commits enormous sums to prevent a total economic breakdown and to bolster the chronic financial deficit resulting from low productivity. Among the industries suffering, tourism is particularly hard hit. The mother country has assumed liability for damage to persons and property, since commercial insurance policies do not cover damage resulting from insurrections or similar conflicts.

The first reaction of Englishmen to this "slaughterhouse" in their own land is the desire to get rid of it as soon as possible; it only burdens British finances. The British public in general has tended to regard Northern Ireland as just one of the colonies rather than as a part of Britain itself.

Every concession made by the British Government leads to a fanatical intensification of the other side's will to resist. Government officials have compared Irish terrorists to American gangsters and Nazis. The British political strategy simply cannot handle the challenge of Northern Ireland. That the opposition largely concurs with the Government's policy on Northern Ireland testifies to both the indifference and disdain with which all British parties regard Irish issues and Britain's widespread feeling of helplessness in dealing with them.

Although Mairead Corrigan and Betty Williams won the Nobel Peace Prize in 1977 for their women's peace movement, the results of their efforts proved fleeting. Others have tried in vain to curb the activities of youth gangs. Various European countries have expressed sympathy, but none had taken the initiative to act as a nonpartisan arbitrator to help reduce Great Britain's burden. President Carter's request that Irish-Americans stop supporting the terrorists has had as little effect as his promises to lend economic aid once the civil unrest winds down.

CONCLUSION

There appears to be no solution. Certainly the recent meetings between Catholic and Protestant terrorists offer no hope: the prospect of a regime of united terrorists can only be regarded with horror.

The terror will continue, as will direct rule from London; self-government is not in sight. The Irish question, the most stubborn tragedy in European history, remains unsolved.

Kriminalistik, v. 32:21-25, January 1978, for Part I (NCJ 45629); v. 32:65-68, February 1978, for Part II (NCJ 45630). Kriminalistik Verlag GmbH, Akademiestrasse 6, Postfach 10 26 40, 6900 Heidelberg 1, West Germany.

The Palestinians and the Network of International Terrorism

Die Palästinenser und das Netz des internationalen Terrorismus* (NCJ 53144)

By Rolf Tophoven

The Credo of Force

International terrorism is a phenomenon of relatively recent origin, rooted in the Arab-Israel conflict. In May 1972, three Japanese Red Army commandos hired by the Popular Front for the Liberation of Palestine (PFLP) fired into the crowd at Lydda International Airport near Tel Aviv, killing 26 persons and injuring 80. That brutal attack brought to light a network of international cooperation involving politically motivated agents of violence. There had been earlier contacts and "mixed" actions, but the scope of Lydda surpassed any previous terrorist manifestation.

In an analysis of the events, Time magazine stated "an action could be planned by Palestinian Arabs in Germany, executed in Israel by terrorists hired in Japan, with weapons acquired in Italy, produced in Russia, purchased by an Arab diplomat with Libyan money." This pattern appeared more and more. Other proofs of the complexity of terrorist groups were the attack on OPEC in Vienna in 1975 and the hijacking of an Air France jet to Entebbe in 1976.

Origins of international terrorism. Anarchist and anti-imperialist principles are among the moving forces behind international terrorism, which is closely connected with the violent actions of Palestinian organizations against Israel. Israel--the concrete object of attack--and the all-purpose idea of "world revolution" are focal points. This terrorism originated with the underground organizations of the Palestinian commandos known as

*Translated from the German by Helga Bennett.

the Fedayeen whose hijackings, unlike the Latin American variety, were massive attempts at political blackmail. The Fedayeen intended to "create a kind of artificial field of guerrilla activity" and make the entire world a stage for their struggle against Israel. Terrorism seemed a legitimate weapon, and the expansion from national to international war permitted a rapprochement with revolutionary groups throughout the world. In this connection, George Habash, the leader of the PFLP and a Maoist, declared that "no geographic, political, or moral boundaries" existed for the "operations of the people" in their revolution against imperialism, Zionism, and Arab reactionaries.

These proponents of violence, then, do not consider the support of the people important, as did the leaders of the "classic" guerrilla movement. International terrorism is directed and carried out by a small, elite group that does not rely on broad popular support. And yet, without popular support a guerrilla organization quickly sinks to the level of a gang, since it lacks the principles and norms to insure order. An orderly system is essential in a national liberation movement, for its existence depends on the support and sympathy of the people. In the final analysis, people do not want complete chaos and negation. Despair and rebellion may lead to the rise of a guerrilla movement, but they do not contribute to victory unless a positive new order is proposed which eventually can assume the mantle of legitimacy.

The principles of the Palestinians. The radical and militant Palestinians, however, do not rise above the level of terrorist action; their political objectives are often inconsistent and nebulous. They adhere to the theory of "permanent revolution" --in order to stir the revolutionary ardor of the people, the revolution must be maintained, and setbacks, tactical defeats, and loss of personnel and materials are minor considerations as long as the opponent is kept under steady pressure.

PFLP spokesman Habash has said that an uninterrupted fight against imperialism and Zionism is necessary since a long and bitter war lies ahead. This statement combines the ideas of the "permanent revolution" and Mao Tse-tung's long war philosophy. The Marxist PFLP thus forms the link between the Palestinian Arabs and "revolutionary forces" throughout the world.

In 1972, a conference was convened by Habash in Beirut to improve international cooperation among revolutionary groups. It is not clear what actually was accomplished, but contacts and exchanges of information have intensified. This is confirmed by a number of spectacular terrorist actions carried out since then "in the name of Palestine" but outside of the Middle East. Also, it is unlikely that the Fedayeen's success in drawing the world's attention to their problem could have been achieved without the

tolerant support of the Arab states. Attitudes have changed somewhat since the Yom Kippur war of 1973, but the position of nations like Libya, Algeria, Iraq, and South Yemen is likely to make peaceful solutions difficult. With the aid of these countries, Habash's so-called rejection front seeks to impede any rapprochement among conflicting parties.

The Palestine Liberation Organization. The foregoing notwithstanding, the Palestine Liberation Organization (PLO) under Yasir Arabfat has come to be considered "moderate" and accorded international status as the "only legitimate representative" of the Palestinian people and their interests. This proves how important it is for a guerrilla movement to have a true, political goal. Even the Israelis now believe that pacification of the region will be impossible without a solution to the Palestinian problem. On the other hand, however, Arafat and his PLO remain problematical, inasmuch as they have not changed their basic stand against Israel. This has made it impossible for Israel to negotiate. The PLO's attitude is understandable in light of the actual long-term goals of the Fedayeen: to regain the permanent national rights of the Palestinian-Arab people--without peace or recognition of Israel.

Furthermore, Arafat's stand is influenced by the rise within the PLO of the guerrilla element Al Fatah, which favors a hard line. A 1977 conference could not conceal the division within the PLO, and it is not even certain that Arafat should now be considered the leader of all Palestinians. It would be a mistake therefore to exempt the PLO from the organizations with terrorist potential, and certainly Arafat's organization must be examined more closely than perhaps has been thought necessary since the fourth Middle East war.

The Network of Global Violence--Connections with Other Groups

Since the attack at Lydda, the network of violence has become more elaborate as a result of the efforts of the PFLP and the Wadia Hadad group which specializes in foreign operations, especially hijackings. The position of the Venezuelan "Carlos" (Ilyich Ramirez Sanchez) has long been overrated--it is Hadad who directs operations. There is ample proof of Hadad's and Habash's ties with foreign anarchists. In 1976, two members of a Dutch Marxist organization were arrested as they were reconnoitering an air route for the PFLP. Similarly, the hijacking of an Air France airliner to Entebbe was the combined effort of terrorists from many extremist organizations. The points of contact among Palestinian organizations and the international underground and extreme leftist groups are ideological as well as pragmatic. These groups operate in Europe, Latin America, Japan,

the Middle East, and the Persian Gulf countries, and maintain close ties with Uganda and Somalia. Relations are especially close with Habash's and Hadad's groups, but exist as well with Al Fatah and Ahmed Jebreel's PFLP-General Command. Foreign groups known to maintain relations with Palestinian guerrilla and terrorist organizations include West German anarchists such as the Baader-Meinhof and successor gangs, the Second of June Movement, and various "revolutionary cells"; the Irish Republican Army; Turkish underground organizations; Latin American groups; the Dutch "Red Help"; the Eritrean Liberation Front; the Liberation Front of Oman and of the Persian Gulf; and the Japanese Red Army.

Cooperation among these organizations covers the following areas:

- Financial support.
- Aid in the procurement and forgery of passports and other documents.
- Supply of armaments, weapons, explosives, and ammunition.
- Training in specially designed camps.
- Participation in political indoctrination and propaganda courses.

Financial support. Investigations have shown that in 1974 Palestinian guerrillas received subsidies of approximately £ stg. 120 million. Libya's Muammar el-Qaddafi apparently paid the Palestinians an annual stipend of £ stg. 40 million, £ stg. 5 million for the 1972 Munich Olympic Games massacre, and additional funds raised from taxes levied against Palestinian and United Nations personnel working in Libya.

Forgery. The PFLP operates a forgery service for anarchist groups all over the world. The forgeries often involve authentic documents stolen by foreign terrorist organizations.

Armaments. Palestinian organizations supply terrorist groups with weapons, including rockets, bazookas, and antiaircraft weapons. The Palestinians, in turn, are supplied by foreign groups.

Training facilities. Numerous training camps and shelters for terrorists have been established. Most of them are located in Libya, Iraq, and the People's Republic of Yemen. Qaddafi has

formed a special commando troop, the Arab National Youth Organization for the Liberation of Palestine, under the leadership of Haroun Hadad, and a special secret service whose members are trained for kidnapings and sabotage. Several hundred terrorists receive training in Libya each year. They are given flight instruction and taught the use of light weapons and antiaircraft rockets.

Another Arab country that supports Palestinian radicals and rejects peaceful solution of the Middle East conflict is Iraq. Habash's PFLP, Wadia Hadad's Arab Liberation Front, and the "Black June" organization under Abou Nidal are all supported directly or indirectly by Baghdad. Military aid plays an important role in Iraq's connections with the underground. The regime not only supplies weapons, but also permits training in their use on Iraqi soil by Iraqi military instructors. The training courses usually take 2 weeks and include the use of weapons and explosives. Captured terrorists have confirmed the foregoing facts.

Of particular interest to international security forces is the participation of foreign anarchists in these military training programs. Hadad maintains close ties with Iraq as well as with anarchists in The Netherlands, Latin America, and Germany. Important information concerning the relationship between German terrorists and Palestinian underground cells surfaced in connection with the kidnaping of Peter Lorenz, President of the Christian Democratic Union--German instructors were utilized in a training camp in South Yemen. The German leader of the Entebbe operation presumably received his training in the Middle East as well. He possessed professional knowledge which, at the time, could be acquired only through Hadad's group.

Political indoctrination and propaganda. There are also connections in the area of politics and propaganda. Palestinian commandos support the activities of friendly underground groups by supplying intelligence information gathered in the Middle East. Palestinian representatives regularly participate in political and propaganda seminars as well as in conferences with foreign organizations. Palestinian student groups at universities abroad are used to recruit members. These relationships are generally used for mutual aid in preparing attacks. Furthermore, refuge and escape routes are provided.

International character of terrorism. Specific examples of the international character of terrorism are:

o Palestinian ties with the Turkish underground. Support for Turkish organizations is provided chiefly through military

advisors." They train Turkish youth in the essentials of guerrilla warfare, kidnaping, and hijacking. In 1971, the murder of the Israeli Consul-General in Turkey by members of the Turkish People's Liberation Army (TPLA) was praised by Al Fatah, and the Turkish alliance with the Palestinians was emphasized. In 1972, the Turkish Army reported that an Al Fatah boat had been captured with 14 Turkish terrorists on board; they had been trained in Lebanon by members of Al Fatah. In 1973, during a raid into Lebanon, the Israelis captured a Turkish terrorist who had been training with Al Fatah and was able to provide details about Turkish-Palestinian connections. Later that year, French police arrested 13 terrorists, among them members of the TPLA who were preparing an attack on the Israel embassy in Paris.

o Fedayeen ties with the Iranian underground. In 1971, a joint declaration of Al Fatah and the Iranian National Front indicated the existence of a close relationship. As early as 1968, Iranian resistance groups established contact with the Palestinian underground. Iranian revolutionaries were trained by the Fedayeen and trained others on their return home. In 1976, when Iranian underground cells were destroyed, confiscated materials proved that weapons and armaments had been received from Libya and from the PFLP.

o The Palestinians and the Eritrean Liberation Front (ELF). In 1972, the secretary of the ELF declared in an interview that Libya and Al Fatah provided the majority of financial and military support to the ELF. Connections also exist with other Palestinian organizations, e.g., the PFLP-General Command.

o The Fedayeen and the Japanese Red Army. A common ideology and agreement on methods connect the Palestinians and the Japanese Red Army. Cooperation started in 1968. Red Army members have been trained in the Middle East and participated in militant actions of the PFLP. Although the relations between the Red Army and the PFLP were clarified by the investigations following the attack at Lydda, many more incidents involving Palestinian and Red Army members can be cited, including the hijacking of a Japan Airlines jet in 1973; the attack on the Shell Oil Comany storage facilities in Singapore in 1974; the occupation of the Japanese embassy in Kuwait in 1974; and the discovery of Japanese terrorist in a Palestinian camp captured in Lebanon in 1976.

Summary and Conclusion

The Fedayeen are waging a special form of guerrilla warfare. They should not be compared with other guerrillas such as

the Viotcong, Uruguayan Tupamaros, and Irish Republican Army who fight only on their own soil. What distinguishes the Palestinians from other guerrillas is their "exportation of violence," as represented by airplane hijackings and activities outside of the Middle East.

Terrorist activities are encouraged by "supportive powers," most notably Libya and, more recently, the regimes in Baghdad and the People's Republic of Yemen. There is probably no central controlling entity, but various organizations work together as the occasion demands. Countries such as the Soviet Union, North Korea, China, and Cuba may be considered potential "supporters" because their ideological sympathies, in the long run, are responsible for the international character of the present forms of terrorism. During the last few years, the "original cell," the PFLP, has established "outposts" in many countries of the world. These units can go into action any time in the interest of the Palestinian cause and "world revolution," with logistical and technical assistance provided by the supporting nations.

Another result of this new kind of terrorism is the involvement of various governments in the negotiations following such terrorist activies as hijackings. This can complicate and strain relations between countries, making ordinary decisions difficult if not impossible, especially where economic considerations forbid antiterrorist measures.

Yet another new feature is the so-called service terror-groups that basically have no interest in global actions are forced to aid in the execution of violent acts in exchange for needed assistance. The Fedayeen are therefore responsible for the birth of global violence. Individuals like Habash recognized the importance of "publicity effect" and used it when the guerrillas' effectiveness began to wane against Israel's armed forces. It drew the world's attention to the Palestinians and their problem, and led to their massive support by the Arab states as well as by some Western and all East European nations. Certainly the practice of terrorism has made it clear that highly industrialized nations and their societies are particularly vulnerable. In addition, antiterrorist action is complicated by the fact that revolutionary movements, although starting from very specific causes, tend to become identified with philosophical and ideological theories. The PFLP, for instance, no longer seems primarily concerned with its original goal, the destruction of Israel. Rather, it has become involved in a general fight against imperialism and capitalism. And as long as such

justification for violence can be used, it will be impossible to eradicate terrorism. Furthermore, the failure of some countries and the United Nations to formulate effective antiterrorist measures serves as yet another incentive for those who advocate terrorism.

In Manfred Funke, ed., Terrorismus--Untersuchungen zur Strategie und Struktur revolutionärer Gewaltpolitik (Terrorism--Investigations of the Strategy and Structure of Revolutionary Political Power, NCJ 53136), 1977, p. 198-223. Droste Verlag GmbH, Martin-Luther-Platz 23, Postfach 11 24, 4000 Düsseldorf 1, West Germany.

Terrorismus und Reaktion*

(NCJ 52966)

By Iring Fetscher

Background of Terrorism in West Germany

A number of conditions and motives led to the cold and unscrupulous terrorism recently practiced by the members of the Red Army Faction (RAF) in West Germany. The roots of terrorism can be traced to postwar Germany when the population, weary of the privations of war, set aside all attempts at social reform and moral reconstruction in favor of attaining economic prosperity and political stability. In the mid-sixties, a new generation that had not experienced the war felt increasingly dissatisfied with the political opportunism and moral indifference of the government. Many of the students turned to Marx and Lenin for answers and staged sitins and marches to protest current political events and conditions such as the Shah of Iran's visit to Germany, the Vietnam War, and the South African and Latin American dictatorships. At that time, acts of violence were confined exclusively to material objects, and many of the mass media showed a certain amount of sympathy with the protestors' plea for a more just and humane society.

However, this sympathy quickly faded when some of the protesting groups, partly in response to police brutality, resorted to armed violence. At first, the long-haired hippie rebels dominated--throwing a bomb or Molotov cocktail was a kind of spectacular joke, and they attempted to avoid endangering human lives. But the Baader-Meinhof group, which began to organize in the early seventies, was of a completely different persuasion. These disillusioned intellectuals became inconspicuous "city guerrillas," clean-cut and flawlessly adapted to their environ-

*Translated from the German by Sybille Jobin.

ment. As cold blooded professionals, they were the first to introduce firearms to the terrorist scene and use them indiscriminately and without hesitation.

Although there can be no question of condoning present terrorist activities, part of the fault may be found in German society of the fifties and sixties--its moral indifference, profit seeking, and lack of understanding contributed to the harsh attitude of the protesters.

Errors in Terrorist Reasoning

In contemporary West German society, terrorism is an unsuitable means for bringing about social change. The terrorists' reasoning process contains several flaws:

o False assumptions: RAF political writings express the belief that the German population is deeply intimidated by its fascist, capitalist rulers; therefore, acts of counterterror, i.e., those of the terrorists, are required to encourage the oppressed population to offer armed resistance. This attitude is based on two false assumptions. First, the great majority of Germans prefer life in a free and democratic country within the capitalist framework to such socialist pseudodemocracies as East Germany or Russia. Second, far from espousing the terrorist cause, the population has violently rejected it and demands severe punishment of extremist groups.

o "Character masks." RAF ideologists are always careful to point that they do not consider the victims of their abductions and assassinations as individuals, but as "character masks," i.e., representatives of the corrupt capitalist system. This kind of abstraction, which callously brushes aside the death of a human being, is undoubtedly more inhumane than the supposed inhumanity of the system they are fighting. Moreover, even Marx, who coined the term "character mask," was well aware that representatives of the capitalist system are themselves victims of economic laws and cannot be held directly responsible for their actions. He also knew that such assassinations are useless because one character mask is easily replaced by another.

o Relation to other revolutionaries. RAF members believe their terrorist activities are related to the anti-imperialist fights for freedom in certain colonial countries or to the anti-fascist resistance during the Nazi era. In reality, there are significant differences. Thus the leaders of great partisan movements such as Ho Chi Minh, Ché Guevara, and Régis Debray were well aware that their success was dependent on the massive and

far-reaching support of the people. In West Germany, on the other hand, only a minute fraction of the population backs the terrorists. As far as the comparison to the antifascist resistance movement is concerned, it is obvious that conditions under Hitler were hardly similar to those of modern Germany. Although by no means ideal, today's constitution offers more freedom and rights to the individual than any earlier German constitution. Above all, there are adequate provisions for peaceful dissent and reform.

o Teachings of history. In their conviction that terrorism will lead to a freer society, the extremists are patently ignoring the teachings of history. Isolated acts of terrorism, far from increasing a country's freedom, have tended to strengthen reactionary forces and frequently even served as a pretext for enacting conservative laws. In addition, the history of the labor movement reveals that true social change must be supported by the masses, whereas spectacular acts of terrorism tend to be committed by small and exclusive groups of social outsiders. Accordingly, Marx, Engels, Rosa Luxemburg,* and even Lenin considered terrorism an unsuitable method of political combat in times of peace.

o Ideology. In terms of ideology, the terrorists consider themselves "dialectical materialists," social critics in the Marxist tradition. This method of reasoning would seem to imply that they have included their own position in the society they are attacking as part of their critical analysis. In truth, however, they have been completely blind to their own shortcomings (the obvious senselessness of some of their actions) and to the personal motives (sense of superiority, struggle for leadership among the various leftist groups) which underlie their actions. Instead, they prefer to consider society as living in total blindness from which their own judgment has remained miraculously exempt.

o "The ethics of intent." Many terrorists adhere to what the German sociologist Max Weber described in 1919 as "the ethics of intent"; this principle maintains that only the purity of the intention and nobility of the concept, not the results of the action, are morally relevant. Hence, the well-meaning and idealistic revolutionary is not to be blamed for the harmful effects of his efforts to redeem a thoroughly corrupt society. Weber himself was careful to point out that political actions should be governed by "the ethics of responsibility," which realistically weigh the possible results of an intended action and then assume responsibility for them. Weber likens the terrorist of pure intent to the religious fanatic. The terrorist is unable to see the world as it really is, so he lives in a land of political romanticism.

*Editor's Note: extremist coleader of an abortive revolt in Germany in 1919.

Reaction of the German People to Terrorism

The hostility of the population toward terrorist provocation has been so extraordinarily violent that Chancellor Helmut Schmidt, speaking in Hamburg in September 1977, speculated as to whether "a mania for order" may not be part of the German national character. Although numerous politicians and newspapers urge moderation, the ordinary person finds it hard to accept that the police in a constitutional democracy may be at a disadvantage against unscrupulous terrorists, and that even criminals may enjoy certain constitutional rights.

A Freudian interpretation can serve to explain this violent reaction, which is matched only by the public outrage against sexual offenders. Psychoanalysts view it as a kind of hatred projection. The individual diverts unconscious aggressions, originally directed against him, to the criminal who becomes identified with one aspect of the individual psyche. In the condemnation of the criminal, inner conflict is reduced. In the case at hand, terrorists represent the pursuit of unselfish goals; they are the embodiment of the nation's conscience. Or, in Freudian terms, terrorists have succeeded in using the aggressive id to realize the claims of the superego, to which the ego--the advocate of reason and reality--has become completely subservient. To the average citizen, terrorists are irritating because they prove that, given an act of heroic willpower, it is possible to live up to the claims of the superego which many of us prefer to ignore. Consequently, the terrorist becomes a living reproach to all those who feel condemned by their own superego. But since the terrorist is also an obvious criminal, a welcome opportunity exists to call for the symbolic destruction of the voice of the superego in the person of the terrorist. Support for the death penalty is therefore a silencing of the bothersome superego persuasively clad in moral terms.

Nevertheless, the widely held view that terrorists are motivated by altruistic reasons is erroneous. Although they may not seek professional success or economic profit within the framework of the existing society, they do strive to satisfy personal needs, which they try to pass off as "the common interests of a suffering humanity." For example, they can act out their aggressions without restrictions; they possess a definite popularity with the mass media; they enjoy the feeling of self-righteousness and exclusiveness. There is no easier and quicker way than terrorism to reach these goals. Yet, it is not these attributes, but the seeming moral integrity of the terrorist that causes resentment in the population.

Antiterrorist Measures

A number of concrete measures have been taken to prevent terrorist activities and facilitate the prosecution of offenders. In many cases, however, the measures adopted have been rash, and frequently the suggestions of various political groups and individuals have been even more extreme.

Stronger law enforcement agencies. In the attempt to react to terrorism quickly and efficiently, the German Federal Government and the individual States have substantially raised their security budgets to strengthen the police departments. They have improved technical equipment, weapons, and the interaction between Federal and State police. This more effective collaboration is particularly important since a diffuse, federalized police system is necessarily at a disadvantage in dealing with organized crime. In 1973, the Bundeskriminalamt (German equivalent of the FBI) became "the official center of information and communication" of the Federal Republic. Since then, it has been authorized to prosecute international terrorists, gunrunners, and drug dealers without involving local police. Since the abduction in 1975 of Peter Lorenz, Chairman of the Berlin Christian Democratic Union, an elite fighting unit has been dealing exclusively with terrorism. In addition, a special division of the Border Patrol, originally intended exclusively for guarding the borders, has been trained to combat violent crime. These measures are necessary and useful, since more efficient identification and prosecution of terrorists reassures the German public and acts as a deterrent against further crimes.

At the same time, the fact should not be overlooked that police and courts have enjoyed a substantial amount of success. The number of terrorists presently under arrest is 103, and 123 trials against terrorists have been concluded. Yet, an estimated 100 hardcore terrorists are still at large, 30 of whom have been identified and are wanted by the police.

Stricter legislation. An additional practicable and unobjectionable expedient is stricter legislation regulating the ownership and purchase of firearms. To insure greater effectiveness, other European countries, especially Switzerland, also must restrict the legal means of acquiring deadly weapons.

The recent changes in the code of criminal justice are far more objectionable in nature. They seem too hasty, following immediately as they do the frustrating experiences of the recent terrorist trials. In giving additional prerogatives to the prosecution, these reforms have upset the delicate balance of defense and prosecution rights. For instance, the prosecuting at-

torney may now demand that a particular witness or expert appear in court without the consent of the judge. The prosecutor has also gained access to the defendant's confiscated mail and documents--a privilege which previously was reserved for judges only. In the Baader-Meinhof trial, for example, the prosecuting attorney had access to documents dealing with the trial strategies of the defense attorneys. Although the prosecution was obliged to return the documents, it no doubt used this information to advantage during the trial.

Restricted defense rights. At the same time, the rights of the defense have been restricted in three significant ways:

(1) A defense attorney must be barred from the trial if he is suspected of involvement in the defendant's actual or projected crimes. Although this provision may seem justified to laymen, legal experts know that enough laws already exist for punishing attorneys involved in criminal actions. The new provision can be too easily abused and may also constitute an infringement of the constitutional right to the free exercise of a profession.

(2) The contact ban, which was hastily made into law in September 1977, provides that in the case of "an acute threat to life, limb, or liberty of a person" in which a terrorist organization is suspected to be involved, any communication between imprisoned terrorists and their defense attorneys or between the defendants themselves can be suspended for a period of 30 days. The ban is administered by the State governments, and, in some cases, by the Federal Department of Justice. It expires after 2 weeks unless reconfirmed by the appropriate court. The law, which obviously was provoked by and custom-tailored to the Hanns Martin Schleyer kidnaping, poses a threat to the division of power by giving undue authority to the executive branch of government.

(3) A third legal alteration permits the conduct of the trial in the absence of the defendant, provided that the latter is directly responsible for the absence. This provision is aimed at the Baader-Meinhof strategy of delaying the trial by means of hunger strikes, and it again may seem justified to the average citizen. However, in absentia trials break with a legal tradition that, with the exception of the Nazi era, has been followed in Germany since 1877.

Proposed legislation. In addition to these actual legal changes, there have been proposals which are even more dubious: the supervision by a judge of all written and oral communication between defendant and attorney, the legalization of the state's witness (or witness for the prosecution) concept as currently used in

the United States, the prohibition of all communist groups or parties in West Germany, and even the restoration of capital punishment. These measures are objectionable, not only because they are ineffective or unconstitutional (or both), but also because they push Germany to the brink of just that kind of police state the terrorists want to create.

Hostility toward sympathizers. A final aspect of the public reaction in the wake of terrorism is the abundant hostility directed against the so-called sympathizers. The term has recently been applied just as indiscriminately as the favorite terrorist epithet "fascist," and some clarification is urgently needed. Are people who feel pity and human compassion for misguided fellow beings to be labeled sympathizers? Should we brand as sympathizers all those who support the political goals of terrorism, or only those who actually assist in criminal acts? Although only the latter group should be prosecuted, priests, politicians, and writers who express any kind of compassion for terrorists have been subjected to mounting harassment. In the same manner, many persons with communist leanings have been ostracized. Genuine hardcore supporters of the terrorists, who do not participate in criminal acts, but furnish cars, apartments, and weapons, do in fact exist, although their number is decreasing (presently an estimated 5,000 persons). It is imperative to put an end to their activities (through argument or force), for the success of the terrorists depends substantially on such support within the population.

Conclusion

In conclusion, the greater threat to German democracy does not come from terrorists, but from an overreaction of the German public and politicians. Will we abolish the constitution to save the constitution? If this to happens, terrorists will have achieved their goal--a police state worth fighting against.

Europäische Verlagsanstalt GmbH, 1977, 148 p. Neutz-Kolker Str., D-5000 Cologne 21, West Germany.

Part III
Female Terrorists

Frauen in der Isolation*

(NCJ 54520)

By Margarete Fabricius-Brand

Introduction

How does a woman become a terrorist? This is the frequent mass media reaction to the brutal actions of female terrorists. Such a reaction is not surprising, for female terrorists dramatically contradict the traditional image of the sensitive, powerless, docile woman in our society. But this does not explain the terrorist phenomenon.

Nor are answers forthcoming from women's groups in political parties and unions, or from the women's movement. Their unofficial statements reflect confusion because of the feeling that women have been unable to cope with their problems, and outrage because the female terrorists' deeds are exploited by those who believe that politically emerging women cannot deal with pressure and therefore resort to terrorism.

The reticence of women's groups to attack this confused view is in part a reflex reaction to today's politically heated atmosphere in which every critical word arouses suspicion of sympathy with the terrorists. Pondering how to state an opinion about terrorism rather than what causes it hinders solution of the problem.

Difficulty in Explaining Terrorist Behavior

I encountered two basic difficulties in attempting to find an explanation for the terrorists' behavior. First, the empirical material on female terrorists is very limited, primarily because

*Translated from the German by Kathleen Dell'Orto.

they refuse to talk to psychologists, but also because many experts remain aloof from the situation for fear of defamation or are kept away due to the security risk.

Accordingly, nothing specific is known at present about the developmental processes of individual female terrorists. In contrast to the following generations, relatively exact data on the women of the first generation of terrorists, the old Red Army Faction (RAF), indicate that their highly differentiated personalities, in a process of destruction, lost the ability to deal with reality. No individual assessments can be made, however.

Some exact information also exists on the second generation, the Second of June Movement. The source of this information is principally the autobiography of the urban guerrilla Bommi Baumann, How It All Began, which concludes with the appeal:

> The demand that they throw away their guns is viewed by the revolutionaries as concession or even betrayal. But it should encourage them to embrace a constructive guiding principle, to be receptive to new knowledge and experiments . . . so that we will not be buried in the ruins of the collapsing system. The other side already thinks of destruction enough.

Baumann's book was seized by the Munich Public Prosecutor in conjunction with a particularly spectacular police campaign to suppress published works which portrayed terrorism favorably.

Little is known about the most recent group of terrorists, except that they are very young women and some of them once worked for leftist attorneys.

The second difficulty I encountered was the discovery that scientific attempts at explaining terrorism in women are extremely inferior, a fate shared with many other women's issues.

Difficulties also arise from the traditional separation of disciplines and the subdivision of disciplines into schools. In the field of psychology human beings are reduced to atoms and their intrinsic nature held responsible for their behavior, while "environment" is believed to affect them mysteriously from outside. It is not considered that the environment results from the activity of each human being, but that psychological development is a gradual process of transforming external activity to internal psychic forms.

Individual "external activity" is thus the point of departure for psychological explanations. The ways in which individuals arrange their lives must be observed for this to show which emotional and productive needs they develop and satisfy. Satisfac-

tion of needs is possible only when human beings interact cooperatively, and only by doing so can individuals develop positive emotions.

THREE THESES ON FEMALE TERRORIST BEHAVIOR

First Thesis

My first thesis is that terrorists withdraw entirely from productive society. Their terrorist endeavors neither permit them to develop meaningful social relationships nor allow them to participate fully in the work environment.

Social environment. The actual lives of female terrorists can only be described generally, through negative contrast to the lives of other women. Their existence is classified as "life in the underground," i.e., they continually must be on their guard when eating, sleeping, living, and loving. The constant tension, haste, insecurity, and fear that result from being pursued affect lifestyle and fulfillment of vital emotional needs. Such needs are socially important because every individual forms numerous human relationships, e.g., friendships and marriage. These relationships make individuals feel accepted. Psychological stability develops, and this feeling of emotional security and trust allows people to experience themselves, others, and their environment in a positive manner.

At the social level, terrorists have limited access to satisfaction. The supply of partners for romantic involvement or even friendship is reduced to those living underground; marriage and family are usually unattainable. Basic needs such as security and affection must be completely ignored or can only be partially fulfilled.

Work environment. In the work areas, similarly, terrorists only enter into limited relationships and, to a great extent, deny their productive needs. Most adults in our society interact with their environment by working for a living. Production in middle class, capitalist circumstances does not give rise to a unified society in which individuals follow a common goal; in fact, business seeks to increase profits by raising production. Excluded from product planning and use, workers are rendered superfluous by increased production, e.g., through high-level technology, and are forced out of their jobs. This situation makes a mockery of the assumption that through their work, and only through it, do human beings fulfill themselves and reach their highest level of development.

The major difference between terrorists and other citizens is that the former have withdrawn entirely from the world's production and reproduction process and so are isolated from society and its goals. Society, of course, has no common goal and most citizens share only to a limited extent socially produced material goods by consumption through wages. Even though numerous groups wish to alter this situation in the direction of socialism, it is still accepted by most people. The form of material production thus determines the forms of interpersonal relations.

Terrorists refuse to participate, which results in an inability to realize individual interests and needs. Consequently, they cannot improve their living conditions, which makes them useless to society and uproots them entirely.

At work people face challenges which require the application of certain knowledge and skills. Such knowledge and skills are imparted to individuals during the course of their development through contact with other people, e.g., parents and teachers. In this way, individuals also share in the wealth of society created by previous generations. In cooperation with others, skills are developed further, enabling individuals to control the circumstances of their own lives while contributing to the total development of society.

This process is designated as satisfaction of "productive needs," in contrast to the purely individual fulfillment of emotional needs. Terrorists certainly have developed many skills: the long period during which they evade apprehension cannot be attributed solely to their large circle of sympathizers or to the well-functioning system of international collaboration. As for cooperation in work, the terrorists of the RAF or other groups work well with each other and perhaps have even gained new skills for mastering life in the underground.

But there is a decided difference between their approach to life mastery and that of other people. At work most individuals enter into cooperative relationships and pursue common goals with others in unions, parties, and interest groups. In this way, they attempt to further their material, political, and cultural influence. Terrorists do not strive for this goal. They do not try to advance themselves in association with society. For lack of a common goal, cooperation with other people is not possible; positive relationships in which the individual considers the needs of other persons, and eventually the other persons themselves, are not formed.

If cooperative relationships with others are lacking outside the individual sphere on the social work level, positive experiences of individuals with relation to themselves and others are decisively prevented. If living with other people has no more meaning, the high degree of negative emotions expressed as excessive brutality

is understandable; terrorists strike out at human beings whose flesh-and-blood existence they do not recognize.

Second Thesis

My second thesis is that the behavior of women terrorists must be discerned as the most radical form of rejecting personal interests, and therefore as a total lack of emancipation.

This thesis applies particularly to the RAF women. The nature of life in the underground prevents female terrorists from engaging in those private and nonprivate relationships which cause conflicts for women because they are suppressed as women in society. They are therefore dealing with a stage of the women's issue far behind that already reached in our society regarding the suppression of women.

The behavior of the female terrorists therefore cannot be described as emancipated. Although the men and women of the RAF performed the same tasks, e.g., getting apartments, weapons, and passports, or committing kidnapings and assassinations, the nature of the activity made the problem of social inequality between men and women irrelevant. Terrorist Beate Sturm misunderstood the nature of true emancipation when she said: "One thing was just great: that you were really an emancipated woman, that you could do a lot of things better than men. We just felt stronger."

Sexless revolutionaries. My suspicion is that most women in the RAF consider the fact that they are women meaningless; they prefer to think of themselves, and to be thought of, as sexless revolutionaries within their movement. Many factors contribute to the attainment of the revolutionary's abstract goal--a condition of specific unconsciousness--and this is a sex-specific problem in its most radical form.

Female members of terrorist groups live in circumstances which require a radical denial of their economic, cultural, and psychological needs. This renunciation is demanded continuously of women in our society; the reaction of women is depression and self-directed aggression to the point of self-destruction. These social mechanisms have been adopted by female terrorists, who thus display the negative self-image of the unemancipated woman--they are more timid, depressive, and inhibited than men. Assuming the role expectations of this self-image has actually caused women to develop characteristics appropriate to the image.

The increased psychological pressure on women gives rise to countless aggressions which they must suppress since acting out aggressions is not allowed. On those occasions when aggressions are expressed, moderation is frequently not possible. If women

venture into this "masculine" territory, they appear, and often actually are, more aggressive and brutal than their male colleagues. Women who abandon traditional behavior patterns in this manner anticipate the permanent rejection of their environment. They attack without having to show regard for anyone or anything, not even themselves or their future acceptance.

But is it not possible that female terrorists who resist traditional role stereotypes at least "accomplish something," namely, self-liberation? Women who submit without resistance during their entire lives think so and view female terrorists' deeds with secret admiration and envy. Many will suspect that female terrorists are not an appropriate model for them, even if they do not realize fully that between inactivity and terrorism there is another means of modifying society. This says a great deal about our society: alternatives for thought and activity are not encouraged. The government's reaction to terrorism strengthens this impression; individuals who refuse to keep their distance from terrorists are considered sympathizers. As a result of these circumstances and of women's subservient role, it is difficult to recognize female terrorists' self-denial and self-sacrifice, which are, however, expressed in their language and theory.

Loss of reality. Terrorists' activities take place less and less frequently in concrete life situations such as the workplace or the family or in cooperative efforts with other people. Without other relevant relationships, no one else need be considered. Their language, which can then rise to even higher levels of abstraction, is barely adequate to express their limited reality. Terrorists replace the notion that politics relates to the concrete needs of concrete individuals with abstract ideas about mankind and ideal circumstances.

The problem of women's equality within the RAF is not mentioned in RAF writings, implying radical denial rather than progressive solutions.

It should be emphasized that the process of reality loss in language and theory requires precise study, because in the lifestyle and language of the RAF, understanding of significant differences has disappeared, even of differences between life and death. The question arises of how the state intends to reach the dropouts from society in their ghetto who are secretly overjoyed at every obituary because no one brought the discussion into the ghetto. And one must keep in mind that ghetto inhabitants include not only indolent student dropouts, but also a growing number of unemployed workers without hope of being reintegrated into society.

Isolation of terrorists. Open discussion alone can promote contact with those who view RAF proposals as behavioral directives, but

such discussions are not sought. Given the isolated conditions of terrorists in prisons and statements like "terrorists should not be considered for resocialization," political discussions to reintegrate them seem unlikely.

The groups that advocate elimination of terrorists' "torture by isolation" do not alter the situation. They imply that those responsible for the isolating conditions in prison are also responsible for terrorists' isolation elsewhere and that the "freedom" of terrorists will be restored if this circumstance is remedied. But the groups fail to recognize that terrorists' isolation in prison is only the inhuman final phase and that by making the demand, they even prevent any other discussion. The means for changing prison conditions must be national and international law. "Free" activity of terrorists must be opposed, but that should not prohibit an offensive against their isolation in and from society.

Third Thesis

My final thesis is that political terrorism is the inadequate solution of female terrorists to the process of social status reduction experienced by women intellectuals. Consider this statement by the father of terrorist Gudrun Ensslin:

> Adolescents' failure to mature was manifested before 1967 in individual neuroses, depressions, and psychoses, usually treated unsuccessfully by psychotherapists and clerics and finally suppressed by prescribed drugs. I know of no exact statistics on suicides and on the number of young people in mental institutions.

This statement raises the question of why the denial of individual needs in the later 1960's took the form of political terror rather than individual illnesses.

One explanation holds that, in contrast to previous terrorist generations, this movement is an intellectual reaction to a process of reduction in social status manifested in the 1960's. The women intellectuals of the old RAF, who, compared to other women, had left their underprivileged state, encountered a societywide process of reduction in intellectuals' status. Even more desperately, they attempted through inappropriate means to retain some social power. The status reduction of intellectuals resulted from the transformation of science into a productive force, with the consequences that many intellectuals became part of the proletariat. This is apparent in the relative and absolute proportion of those dependent on wages.

Vastly overestimating the powers of the individual, private citizens attempted to turn back the pages of history; they bought

weapons and organized assaults to restore their lost power. The forming of a small exclusive group such as the RAF did not alter the fact that the individual members were trying to change the world all at once without regard to relevant organizations for modifying society or to existing conditions. The irony of this approach is that the misguided citizens of this middle class society were right: the situation in the Federal Republic and West Berlin really has changed, but not in the direction of reinstating individual freedoms and security.

In Susanne von Paczensky, ed., Frauen und Terror--Versuche, die Beteiligung von Frauen an Gewalttaten zu erklären (Women and Terror--Attempts to Explain the Participation of Women in Acts of Violence, NCJ 48063), 1978, p. 59-71. Rowohlt Tasenbuch Verlag GmbH, Reinbek bei Hamburg, West Germany.

Politische Sozialisation und Haftbedingungen*

(NCJ 54518)

By Helga Einsele and Nele Löw-Beer

Introduction

All appraisals of the German female terrorist must remain tentative. Definitive assessments will not be possible until it is known how these young women conducted themselves, not only at home, in school and in professional training, and in their personal lives, but also in political and, later, terrorist groups. What individual roles they assumed within the group must be determined as well.

Investigation of the so-called sympathizer groups is more interesting than studying a handful of active terrorists. The terrorist phenomenon's political side could probably be explained in terms of sympathizers because its range extends to numerous members for whom the individual psychological factors which drove others to extremes have played a less significant role; moreover, these sympathizer groups may produce additional terrorists. We are familiar with some individual terrorists and societal conditions, however, and can speculate how these young men and women became terrorists. Certainly the subject should be discussed now before all the details are clear, but great care should be taken to supply only discussion points, with questions left for later.

Women have always been involved in terrorism, even in leadership positions. They were involved long before general women's emancipation movements emerged, for example, in Russia in the last century. Those women were almost always daughters of the upper class and of the upper middle class.

*Translated from the German by Kathleen Dell'Orto.

Terrorism and Political Emancipation

Can terrorism be designated a phenomenon of political emancipation, so that conclusions can then be drawn about the special emancipation of women? Emancipation means liberating human beings so that they may come of age. Can political and purely destructive actions without the prospect of or any convincing plan for subsequent restoration be so described? Can politically motivated individual actions aimed at "self-liberation through action," as Ulrike Meinhof said, bring about individual emancipation?

When terrorist deeds were motivated by more than agitation for agitation's sake, which was the case for the first generation of terrorists, especially the women, the underlying cause was some sort of idealism rather than a proper perception of the world. Political solutions were not sought, and it was not asked whether destruction in a stable middle European society would not have the opposite effect of that desired, namely, a police or even fascist state rather than a more humane society. No attempt was made to work with the German citizenry through conventional means, which undoubtedly would have led to more realistic programs. The terrorists isolated themselves in exaggerated estimations of their own worth and remained secluded despite the warnings of sympathizers. Their relatively weak connections to the Third World are irrelevant, as no formulas for a developed industrial society can be found there. In short, a variety of political action which disregards usable political solutions cannot be viewed as emancipation.

Terrorism and Women's Emancipation

Female terrorists do not seem to want to liberate themselves from their traditional role as women through action; instead, they behave like other female deviants, e.g., those involved in the alcohol or drug scene or those who seek individual solutions to their problems through criminal action, with no connection at all to the women's movement. The motives for such action vary: boredom with life, disappointments, personal hate. Political goals undoubtedly are included also, but they are not connected with women's rights. The political isolation of the female terrorists was significant to them not as women but as advocates of particular political views which they shared with the men, along with the isolation itself. All of them despaired of their inadequate world and could not find a communal group to which they felt they belonged. Political impatience and despair pushed the young female German terrorists of the first generation into political extremes where they at least found small groups. This was some consolation after their failure to recover from the disappointment of their initial unsuccessful attempts.

Is there something specifically feminine in the basic attitude and behavior of the women? The group was small and most had been students, but no typical pattern of development can be discerned. Certain striking characteristics of this group, however could create the impression of a specifically feminine stamp. The intellectual leaders of the first generation were women; they were obviously the most decisive members of the group, prepared to go to any end, especially Ulricke Meinhof and Gudrun Ensslin. In the last terrorist generation, women even outnumber men. Is it coincidence that, when women predominate, the deeds are especially brutal?

The socialization of women in the family and school from an early age requires them to make extraordinary sacrifices, usually for others and at the price of feminine sacrifice. It is surprising how many female children, even in the middle classes, are raised to seek fulfillment in marriage and family life rather than in a profession, politics, or art. If the content changes, the readiness to stake one's life for an extrapersonal cause may remain. Furthermore, it is possible that women need an especially strong push to deviate from their traditional role so as to be capable of assuming leadership roles and engaging in violence. This, rather than emancipation, may be the sociological answer to the question of specifically feminine factors in female terrorism.

Psychological Speculation on the Individual Development of Women Terrorists

Women are less likely to act out their conflicts in criminal behavior. In terrorism, the reaction to personal frustrations occurs with less egoism than in crime or drug use. That is, the terrorists rationalize that they have higher goals than common criminals and drug users. This seems to be important for women and for terrorists in general.

The first generation. In the case of the better known first generation, we know of personal conflicts arising from family circumstances which resulted in part from the war-induced decline of the middle class family. But moral impulses and impatient despair combined with the inner drive to act instead of merely criticizing played a central role. Because of the need to overcome their individual problems by realizing their idealistic views of the world, the group members chose immediate political involvement as the approach to life best suited to them. The political awakening at the end of the 1960's inspired the hope that they could participate in the improvement of society. Their hopes were transformed to impatient despair by the ensuing events. The evident course, then, is blind impatience in pursuit of hopes, inclination to playing a role, nonpolitical self-liberation through action

born of isolation, elitist arrogance, and internal pressure of the self-centered group dwelling on the same discussion topics and growing ever smaller.

The second generation. The second group arose from the Socialist Patient Collective in Heidelberg which was composed of possibly neurotic young people who were told that disease can be cured through aggressive struggle. We know even less of the subsequent groups, except that most of the women came from the prosperous middle class which had become established when they were children. The politically immobile 1950's were dominated by the growth of material status and consumption. But such goals provided no meaning to the young people's lives and even prevented parents from giving their children the attention and warmth especially necessary for impressionistic young people. Perhaps it is because of this early insecurity that the present terrorist generation employs weapons so coldly and brutally and aims its fire at people who have nothing to do with their struggle and are, in fact, the people for whom the struggle is being conducted.

The third generation. The first generation suffered because the times were not ripe for idealism, and it therefore needed longer to become hardened. While the first generation had to find its own way, the third generation had models in the previous group. Its origins in prosperous society may be significant in that these children failed to understand that one cannot have everything immediately, but that there are limits. Spoiled children display cold, cruel reactions similar to those of abused children, assuming no deep inner attachment neutralizes the effect, and both are likely to become involved ultimately in grave crimes of violence.

To this is added the increasingly self-centered nature of the groups. The first group initially carried on a broad range of discussions, but the discussions narrowed because the group elected to pursue terrorist activity. This self-centered focus inside and outside prison, with continuous discussion of the same subjects, is partially responsible for the rapid decline in motivation, language, and actions which have placed the most violent third generation groups outside the range of human comprehension.

The terrorists' principal allies were the Palestinians, whose hate, rooted in the personally experienced, demeaning existence of their whole nation, became a burning torch which they passed on. Indeed, the third generation terrorists were outsiders from the very beginning, allied only with their heroes languishing in prison. The public rejection they encountered, expressed partly in severe sentences, led them to total confrontation in which hate overcomes conscience. It is doubtful whether this reaction to such very young persons could have the desired deterrent effect on any terrorist bent on martyrdom.

A further possibility should be expressed with caution: in individual cases the choice of partners paved the way to involvement. That is, erotic factors may have influenced those characterized by emotional underdevelopment or chaos, providing the group dynamics and emotional stimulus necessary for such extreme behavior.

Social Origins of the Women

Why is it almost exclusively the daughters of the middle class who engage in such activities? They alone can afford to deal in abstract idealism removed from reality. Men, and women, who are capable of concrete political analysis and reasonable political behavior also come from the middle class. But a certain political tradition and individual disposition are required. The best example is Rosa Luxemburg, a member of the middle class from a highly intellectual, liberal Jewish tradition, who was involved in the unsuccessful revolt of 1919.

As far as is known, only two workers' children are numbered among the German women terrorists, and just one of them, Verena Becker, is considered part of the hard core. We do not know how she joined or or how deeply she was involved before her liberation by the Peter Lorenz kidnapers. We only know that she was an intellectually dependent girl eager for human contact. After her liberation she became firmly entrenched in the Palestinian ideology and probably came into contact with the frenzied hatred which appears typical of individuals raised in refugee camps. That encounter's intensity clouded her vision so that the hate was transferred, without differentiation, to her own country.

Female Terrorists and Public Opinion

Women who abandon their traditional role must face the resistance of a male-dominated society which prescribes this role. Women who return to their hometowns from prison have a harder time than men in the same position. Women's deviations in the areas of sex and violence, although interesting to men, are least likely to be forgiven, for gentleness and chastity are still the highest female virtues.

In early criminology, this viewpoint frequently was amazingly naive: sexuality made these women criminals. What other aspect of their being could men discover at a time when women generally could not develop their intellects? As "scientific" criminology was then, public opinion today is largely formed by men, and many women accede to their views. A parallel to witch trials can be seen in the fact that women today are regarded as more reprehensible than men if they resort to violence.

But the special condemnation of female terrorists to a greater extent than males also has an immediate political purpose. It becomes one more pretext to reject the women's movement, just as terrorism, which is involved in only a fraction of our society's violent deaths, is used as a pretext for a general political shift to conservatism.

Rehabilitation of Female Terrorists

The question arises as to what should be done with the female terrorists who have already been or will be arrested? It must be assumed that they eventually will be capable of rejoining society and respecting its rules. Methods to achieve this end which are are becoming more uniformly accepted by experts are briefly discussed below.

Prison population. According to official information, 39 female terrorists involved in violent activities are known. Four of them are dead, 3 having committed suicide in prison isolation; 10 remain in prison; 24 are still free; and 1 served her term and did not revert to terrorism after her release. It can be assumed that 15 to 25 female terrorists will soon populate German prisons.

Standard treatment. Experience has shown that female terrorists cause fewer difficulties when they live according to the rules applied to all inmates and therefore have an easier time in prison. There has been only one escape, from an institution with a blatant lack of security where an especially negative attitude of the prison guards toward a group member had already been established.

Isolation from other prisoners has proven to be a mistake, since group pressure is a compelling constraint against continuation of the unrealistic terrorist discussions. Extended isolation will probably render any return to society impossible. Liberation from the terrorist group must be supported by treatment, which initially is contrary to the wishes of the parties concerned, who look down on the mass of prisoners. Strict security measures may be necessary at first, but certainly not incarceration in a special institution.

As soon as is feasible, the decision must be made to normalize the prison stay of these prisoners. Although eight female terrorists and a number of sympathizers have served sentences in Preungesheim Prison, no more than two were confined there at one time. They attempted to cause trouble initially, but soon learned that the other prisoners would not go along. The atmosphere of the particular institution plays an important role. The women, with an open-door policy by day, eventually led a fruitful life in the prisoner community and fought hard for their rights

and interests. While they were aggressive at times, their actions were justified and they occasionally became useful members of the prisoners' committees.

The ultimate result of this treatment can only be a matter of speculation. As mentioned above, one of the ex-prisoners still maintains decided, albeit legal, involvement in social issues. The others to be released shortly can be expected to behave similarly. We still believe that Gundrun Ensslin would have acted differently if she had possessed an opportunity for socially oriented political action. She became politically involved after her first release and ceased this activity when her petition for a pardon was refused. She then went underground and probably made the fateful Palestinian and Third World contacts. Correctional experts accurately predicted the dangers of concentrating so many terrorists in Stammheim Prison, but it was not until the catastrophe occurred that anyone agreed with their suggestions.

Special treatment. Incarcerated female terrorists not only must be permitted to participate in prison life, but they also require special treatment, including individual psychotherapy and intensive discussion of historical and political realities. The discussion must be structured so as to be acceptable to them; practically speaking, this means that penal institutions must be open to political groups whose orientations are determined through careful preliminary selection rather than constant supervision. Political discussions amenable to the prisoners could be sponsored by the institution, with the leading experts in the field invited to participate.

Conversion of female terrorists from unquestioning conformity to their cause to a form of behavior acceptable to society, with realistic critical involvement only seems possible in this way. The positive strength of terrorists is their involvement. These positive forces must be stripped of their negative destructive form and redirected into positive cooperative effort. This must be done cautiously in a manner which considers human dignity, as the administration of justice is prescribed by the Constitution.

In Susanne von Paczensky, ed., Frauen und Terror--Versuche, die Beteiligung von Fraven an Gewalttaten zu erklären (Women and Terror--Attempts To Explain the Participation of Women in Acts of Violence, NCJ 48063), 1978, p. 24-36. Rowohlt Taschenbuch Verlag GmbH, Reinbek bei Hamburg, West Germany.

Part IV
Some Perspectives of Terrorism and Antiterrorism

How Effective Is Terrorism?

Wie wirksam ist Terrorismus?*

(NCJ 54883)

By Fritz R. Allemann

INTRODUCTION

Although a great deal has been written about terrorism, the question of whether political violence is effective or not has received very little attention. Cogent reasons are usually cited for avoiding this question. First, there are understandable inhibitions against viewing criminal acts of any kind as possible political instruments; and second, terrorism is, without exception, the work of extremely small minorities, even in those places where the usual handful of activists is surrounded by a wide range of occasional supporters and silent sympathizers as is the case, for example, in Northern Ireland or the Basque provinces of Spain. The notion that a few criminally inclined outsiders could constitute a serious challenge to a government through sensational surprise attacks, or achieve any sort of meaningful political effect, is apparently cast aside as unthinkable by those who are concerned with the problems of terrorism.

In fact, those who subscribe to this view can support their position by pointing out that, at most, terrorism can achieve only a few tactical and perhaps sensational successes, but it has never attained a revolutionary breakthrough anywhere. Terrorism can intimidate governments at times and cause some concessions, but it cannot topple them.

LESSONS OF THE LATIN AMERICAN "URBAN GUERRILLAS"

Time after time, the terrorists' astonishing partial successes have subsequently led to their catastrophic defeats. This becomes particularly clear when one considers the fate of the

*Translated from the German by Robert J. Jobin.

Latin American "urban guerrillas," whose cleverly planned and precisely executed operations aroused worldwide attention for a few years and provided a working model for European terrorism.*

Brazil and Uruguay. First consider the partial successes. In 1969-70 the underground organizations in Brazil appeared to be particularly successful. They had perfected the technique of kidnaping foreign diplomats, they freed large numbers of their associates from jails, their manifestos appeared in the mass media, and they discredited the government.

In neighboring Uruguay, the government also found itself in a foolishly helpless position in dealing with its "city guerrillas," the Tupamaros. The Tupamaros understood better than any other terrorist organization how to expose the ruling class. With the help of a first-class intelligence network that penetrated the highest levels of society and government, the Tupamaros were able to seize not only weapons and money, but also important documents through which they could inform the public of the corruption of the ruling class. In addition, this group enjoyed greater popularity than is usually accorded terrorist organizations.

The experiences in both Brazil and Uruguay convinced terrorist organizations in the industrially developed societies of North America and Western Europe that a system of tested and transferable "recipes" had been assembled which could be used by any activist minority. The rural partisan insurrections in countries like Cuba, Guatemala, Venezuela, Colombia, and Peru had already created an intense desire for identification in radical leftist circles located in the so-so-called imperialistic metropolises, but even romantics soon had to recognize that opportunities for a Che Guevara-style guerrilla to succeed simply did not exist in Europe or the United States. Nevertheless, the means of warfare that were developed in Brazil and Uruguay appeared to be a practical model to the impatient members of the later Baader-Meinhof

*One of the most comprehensive self-portraits and attempts at a justification of the Red Army Faction is appropriately enough entitled "The Concept Urban Guerrilla," by Alex Schubert, urban guerrilla, in Tupamaros in Uruguay--The Red Army Faction in the Federal Republic (Berlin: Verlag Klaus Wagenbach, 1971), 108-130. The concept serves to create a semantic illusion concerning the terrorist character of the recipe: The guerrilla fights with military methods of guerrilla warfare against a military enemy; the terrorist terrorizes a civilian opponent.

group in Germany, diverse ultraleft terrorist organizations in Italy such as the "Red Brigades," and the "nationalist-revolutionary" combat groups like the Euzkadi Ta Azkatasuna* (ETA) in the Basque region of Spain and the Irish Republican Army (IRA) in Northern Ireland.

Terrorist failures. By 1972 the picture in Brazil and Uruguay had changed drastically. In Uruguay the Tupamaros had been completely eliminated as a potential quasi-military force. In Brazil, similar successes had been attained by the government a couple of years earlier. In both countries the turning point came when the army took over the campaign against subversive forces from the disorganized and intimidated police force. The success of the Brazilian and Uruguayan governments was due to the reciprocal terrorism practiced by supposedly "uncontrollable" army units (which actually was tolerated and in many cases directed by the military leaders). Finally, it was the widespread use of torture, more than anything else, that provided the information necessary to destroy the conspirators' network.

In both cases (and later in Argentina), misjudgments on the part of the terrorists also hastened their defeat. The counterattack by government forces came at a time when the terrorists were in the process of remodeling and expanding their organization to include activities in rural areas.

Such repeated failures during otherwise promising stages of the terrorists' development suggest that more than simple miscalculation was involved. In fact, these examples lead to the conclusion that a terrorist philosophy actually aimed at the destruction of an existing system must eventually revamp its original conceptions completely. There comes a time when terrorist strategists clearly recognize that even numerous cleverly devised minor forays simply are insufficient to overturn an established system which is accepted by the majority of the population.

If the terrorists do not want to lose sight of their ultimate goal, they must determine how the anticipated revolt of the masses can be attained through the activities of a small avant-garde. And if the first phase of city terrorism is successful, the desire to begin the second phase--mobilizing the silent sympathizers to active participation--becomes irresistible. The organization's numerical gains are automatically lost in the diminished compactness and impenetrability that had previously constituted its strength; it is this loss that simplifies the task of the opposition.

*A Basque term meaning "Basque Country and Freedom."

VICTORY IN THE MIDST OF DEFEAT

These observations seem, at first glance, to support the thesis that terrorism cannot succeed. They indicate that, while an activist vanguard utilizing criminal expedients can in fact harass a government for a time, it cannot cope with such an opponent in the long run, because the secretive nature of its organization inevitably isolates it from the population. If the vanguard tries to end its isolation, it then necessarily relinquishes the original advantages of its secretiveness and exposes itself to the risk of greater vulnerability.

Long-term results. It would be a mistake, however, to conclude that terrorism can achieve only short-term results. In the cases of Brazil and Uruguay, the terrorists accomplished one of their formally proclaimed goals. If they failed to destroy the governments themselves, they in any case abolished the form of government alleged by its advocates to be the major impediment of revolutions--democracy.

Democratic institutions, however imperfect, existed in both countries before the emergence of terrorism. There is no doubt that the escalation of terrorist activities served not only as the official excuse for the intervention of the armed forces, but also as the actual reason for their involvement in the political struggle and the extended suspension of constitutional processes. If the terrorists were unable to threaten the social system effectively, they certainly succeeded in including the political structure of the system in their own ruin. This was performed according to the expressed intent of the terrorists. Their motto, "the worse it is, the better," is always used by extremist and violent political movements sooner or later.

Even when this rationale is not expressly proclaimed as the goal of such a group, it still underlies their activities. They proceed, in a logically questionable but psychologically understandable manner, from two contradictory premises: on the one hand, that democracy provides an effective means for masking government repressions; and on the other, that democracy, being a form of "bourgeois" dictatorship, has an inherent tendency to increase its latent fascist inclinations. Each premise can serve as a motivation for armed conflict, and since any state provoked by long-term armed conflict is forced to increase its repressions, the classic situation of the self-fulfilling prophecy exists.

Reaction to terrorism. If the reaction to terrorist provocations leads to the destruction of democratic and constitutional guarantees, numerous examples have shown that the terrorists

themselves are the first victims of the changes, whether they intend them or not. An ignorance of realities that is apparently the unavoidable result of extended underground existence often causes terrorists to remain unaware of well-established facts. Thus, after the military seized power again in Argentina, members of the "Montoneros" who had left the country candidly admitted that they had underestimated the severity and effectiveness of the military government, not withstanding the earlier catastrophe of the Tupamaros and the failure of the resistance against the Pinochet government.

There may be disagreement about the extent that the collapse of democracy in Uruguay and Argentina can be characterized as a "victory" of terrorism in the midst of defeat. But these events indisputably constitute an important historic effect of terrorism. At the same time it must be noted that the anticipated reaction to the resulting reign of violence, popular indignation, and revolution has not been witnessed anywhere until now, and that there are no indications that such reactions will occur in the near future.

This retrospective glance at terrorism in Latin America is of interest for the following reasons. It is only there that the course of terrorism has reached its logical conclusion, and that its full consequences may be surveyed. On the other hand, most of the terrorist campaigns in Europe--especially those that follow most closely the model of the "urban guerrillas" on the other side of the Atlantic--have not yet moved beyond the first phase. In Italy, for example, the closer cooperation of the parliamentary powers stemming from the most recent terrorist activities seems to have strengthened the nation's shaky democratic institutions, rather than hastening their collapse.

PROSPECTS AND LIMITATIONS OF TERRORISM IN STRUGGLES FOR NATIONAL AUTONOMY

Organizations like Spain's ineffective GRAPO are, in fact, merely weak copies of Latin American and, more recently, middle European models; they therefore are scarcely worth special attention. The circumstances are different, however, when one considers terrorism involving struggles for national autonomy: the Basque ETA in Spain, the IRA in Ulster, or the Palestine Liberation Organization (PLO) in the Near East.* Their effectiveness and potential for success can only be measured in terms of their particular perspectives.

*Other terrorist groups in areas occupied by "national minorities" (e.g., Brittany and Corsica) will not be considered here since their effectiveness is hardly noticeable.

Although such groups utilize the same techniques as other terrorist organizations, the fact that their nationalist goal differs from the motivation of social revolutionaries explains their conflicting strategical perspectives. It has been shown again and again that an appeal to an ethnic community that is oppressed or at least feels itself oppressed is much more effective than an appeal to the solidarity of a particular class in a society. It is even more effective if this class, like the working class in industrial countries, has long considered itself a full-fledged member of its community. While a self-proclaimed "proletarian" vanguard is relatively isolated from the start--and this isolation tends to be of a progressive nature--the nationalist terrorists can rely on an infinitely greater circle of sympathizers and active supporters. This is true at least in those places where the population they claim to represent is in fact victimized daily by tangible and humiliating injustices. The general involvement of those around them facilitates the survival and the recruiting activities of the terrorists.

The IRA. For nationalist groups like the IRA, which has pervaded every aspect of public life, the mere quantity of violence is of lesser importance than its "quality." When the quality of violence becomes more significant than its quantity, terrorist activities enjoy a new dimension. In such cases even the most brutal acts of violence are condoned by a large part of the population, which tends to defend those responsible. Neither the deployment of troops nor the passing of emergency laws has had a calming effect on Northern Ireland for more than short periods of time. Attempts to put an end to the killing by organizing protest actions such as the short-lived women's peace movement have been as unfruitful in the long run as the various attempts at a political solution involving constitutional or legal reforms intended to stop the systematic discrimination against the Catholic minority. Such well-meaning efforts are bound to fail in a climate overheated by the reciprocal terrorism of secret Protestant societies and volunteer militias.

Although the IRA has not succeeded in forcing the English to withdraw, the operations and reprisals of both sides have placed them in an indefensible position. The IRA's hope that the English will eventually tire of their unpleasant role and try to shed their responsibilities through some shabby pretext cannot be dismissed as entirely implausible. And if this ever occurred, terrorism would be able to claim an impressive victory.

The ETA. In spite of the powerful wave of support for the ETA in the Basque regions of Spain, that organization has been less

successful. Even in the last years of the Franco regime, the heavy hand of the dictatorship proved to be at least strong enough to prevent conditions from deteriorating into the untenable situation of Northern Ireland. This certainly is attributable to some extent to the ultimate goal of the movement --an independent socialist Basque nation formed by the union of the seven "historic provinces." That goal appears much more utopian than the IRA desire to end the division of Ireland through the union of Ulster and the Republic and to eliminate the numerical superiority of the Protestant settlers (which has been the source of a number of abuses) by incorporating them into a union whose members would be predominantly Catholic. A small, sovereign Basque state on the Bay of Biscay could not survive economically, and the Basque population still would constitute only a minority in the region. Most important, an independent Basque state on the Spanish side of the border would constitute a threat to France, since three of the seven provinces concerned have been on French territory for centuries.

One major success of the ETA movement is indisputable. Had there been no terrorist activities, the Spanish government either would have totally ignored the Basques' demands or, in any case, would have delayed any attempt to satisfy them. The proven impossibility of pacifying the region by any means other than peaceful negotiations definitely contributed to the willingness of the Spanish government to make such an attempt after the Franco era concluded.

The PLO. The campaign of the Palestinians must serve as the most eclectic example of how nationalist terrorism can achieve political relevance. The PLO began with an unsuccessful guerrilla war against Israel before undertaking a dubious international campaign which included hijackings and the attack on the Israel olympic team. In the process, the organization was clearly willing to accept the negative image that such methods were sure to produce. If they sought to generate fear more than to court good will, one would have to acknowledge a certain amount of success. But the increasing international recognition the Palestinians have gained is not the result of terrorism alone: the use of oil as a weapon has probably contributed more to that recognition than the activities of the terrorists.

CONCLUSION

The necessarily sketchy nature of this survey of some of the more important terrorist fronts that have been opened in

recent decades raises the question of to what extent our observations allow us to reach any fundamental conclusions about the possible effectiveness and chances of success for this form of conflict. It appears to be too early for meaningful determinations. At least the terrorist offensive has achieved merely temporary and purely tactical successes in the Western European democracies. But, on the other hand, none of these countries has succeeded in putting a stop to the violence practiced by activist minorities, i.e. eliminating terrorism permanently. As long as this has not been achieved, it must be assumed that further escalation, utilizing new methods and, consequently, creating new opportunities for subversion, could evolve.

Europa-Archiv, 12th series: 343-358, 1978. Verlag für Internationale Politik GmbH, Stockenstrasse 1-5, D-5300 Bonn 1, West Germany.

Pojam Terorizma*

(NCJ 20534)

By Milivoje Karanović

DEFINITIONS OF THE CONCEPT OF TERRORISM

Due to the diversity of ideological and political views the world over, the concept of terrorism means different things to different people. Indeed, various definitions of the concept exist.

Etymology of the Word "Terrorism"

Considerable space could be devoted to the etymological and historical background of the word "terrorism," as well as the psychological and physical manifestations connected with the word. Terrorism, it is sufficient to say, comes from "terror," but its meaning is much more broad.

Objects of Terrorist Attacks

The following are most frequently considered acts of terrorism:

o Acts against the state, its institutions, and representatives. Those who subscribe to this interpretation consider acts of terrorism against a state and its institutions as being the motive of many secret organizations whose objective is to terrorize entire societies, regardless of their socioeconomic and political systems. However, those structures must be considered before

*Translated from the Serbo-Croatian by Svetolik Djordjevik.

it can be determined whether or not an act against the state is terrorist. Greece is an example of justified terrorism.*

Accordingly, acts against the state, its institutions, and representatives cannot be described as terrorist when terrorism is the only way for oppressed people to gain their legitimate rights as recognized by international law and especially by the United Nations Universal Declaration on Human Rights.

o Acts against property. Supporters of this interpretation consider that attacks on property, e.g., airplane hijacking or bombing of large industrial or commercial establishments, constitute terrorism. This definition is insufficient, however.

o Acts against psychological well-being. The purpose of a terrorist act is to instill fear in passive individuals, according to advocates of this definition of terrorism. However, this interpretation also lacks too many other basic elements contained in the concept to denote and define this social phenomenon completely.

Perpetrators of Terrorist Acts

Several definitions of the concept of terrorism depend on who commits the act. Each of the different interpretations involves the following groups:

o Red and white terrorism. The acts of the Jacobins during the French Revolution and those of the Communists during the October Revolution are called "red terrorism," while the acts of the proponents of the 1815 Restoration and the Russian counterrevolution of 1919-20 are described as "white terrorism." These terms are devoid of objective criteria, however, since their meaning depends on "whose ox is being gored."

o Individual and group terrorism. Some observers consider individual and group violence to be terrorism. Such acts as airplane hijacking, hostage taking (including kidnaping of diplomats), and attacks against civilian property are identified as terrorist. According to the United Nations report cited previously, any threat or act of violence committed against a political objective by an individual or a group is considered a terrorist act. This interpretation is suspect, however, since an ideology and the realization of that ideology are basic to an understanding of terrorism. This means that terrorist acts are only one of the ways in which an ideology achieves realization.

*See Report of the Ad Hoc Committee on International Terrorism (New York: United Nations, 1973), 22.

o The rule of force. According to this view, chiefs of state always terrorize their political opponents. This definition is incomplete, however, since terrorism can be practiced even against legitimate states and governments. Documents submitted to the United Nations Ad Hoc Committee categorize as state terrorism such activities as mass jailings, torture, massacre of entire groups of people, repression, bombing of the civilian population, and destruction of a country's economic base. These forms of terrorism are present in colonialism, race discrimination and apartheid, punitive aggression by one country against another, and the exploitation of a nation's natural resources by another nation. The perpetrators of this form of terrorism can be domestic as well as foreign governments.

Other Definitions of Terrorism

The French Revolution, Russian nihilism and anarchism, the Irish liberation movement against the British, and the Polish revolt against the Russians are examples of historic events connected with the phenomenon of terrorism. To brand all of them as terroristic is erroneous, however. Nihilism and anarchy are socially harmful and therefore terroristic. Liberation movements, on the other hand, represent progressive aspirations and so must not be equated with terrorism. The existence of political terrorism cannot be denied, but to insist that every act against the state is terroristic, regardless of how repressive the state may be, is too narrow and one-sided, and consequently cannot be accepted.

The Scope of Terrorism

There are two types of terrorism, domestic and international. Several writers on terrorism have offered definitions of those two types of terrorism, but most are incomplete. The same may be said of the definitions submitted to the Ad Hoc Committee by various Third World countries and the West. None of them draws a clear line between domestic and international terrorism although such a line must be drawn.

By way of an acceptable definition, then, criminal acts committed within a country by one of its citizens against fellow citizens or the state, but devoid of foreign elements, are considered domestic terrorism. International terrorist acts, then, would involve one of these elements.

THE ESSENCE OF TERRORISM

Various individual and collective definitions of terrorism do not provide a complete account of the essence of this social phenomenon. The essence is hidden--it is found in the psychological relationship between the perpetrator and the act.

The Aim of Terrorists

People have desires and goals, many of which are beyond their means and capabilities. Most of us accept this and observe the moral and legal constraints of society. The few who do not accept them include terrorists. Terrorists do not want to work to meet their physical and spiritual needs. Instead, their goal is exploitation, repression, or extraction of some political concession. That is why they want to gain the power, even by force if necessary. To govern is merely their secondary ambition i.e., a means of achieving their primary goal.

The Organization of Terrorists

Every organization needs leaders. The size and character of the membership determines the number of leaders and their hierarchical order. Leaders must distinguish themselves from others by exhibiting leadership qualities, and the success of the organization depends on their abilities. Their role is extremely important and great powers are invested in them.

The question of personal and group interests and conflicting demands is always present in any organization. Nevertheless, people organize--legally and illegally, honorably and dishonorably. Since the aims of terrorists are dishonorable, their organizations are dishonorable, whether they are legal or illegal.

A terrorist can act individually. However, experience has shown that there is an organization behind that act, which can be a government (dictatorial or fascist), a group, or a party. These organizations can act legally or illegally. Accordingly, terrorism is the act of an organized body which has an ideology, an aim, and a program to realize that aim.

Fear of Terrorism

Various outside stimuli produce pleasant or unpleasant reactions in human beings. Pleasant experiences create a sense of security, whereas unpleasant ones generate feelings of danger. Greater danger results in less security for people or their property; insecurity fosters fear. Consequently, facts, phenomena, or circumstances are present in the outside world which are per-

ceived as dangerous and which produce insecurity that leads to fear. The visible manifestations of that fear are tense or limp muscles, cold sweat, and other physiological reactions.

In addition to these visible manifestations of fear, there is anxiety, which can provoke worry and loss of concentration in those who do not resist. It is easy to impose one's will on frightened persons. Terrorists recognize this fact and use it. They create uncertainty and fear in nonresisting people by force. Individual or mass brutal killings typify this kind of terrorism (fascist or dictatorial force). Examples include public executions by hanging or shooting, burning of inhabited buildings, and bombing, which is used in reactionary terrorism. Explosives are left in public places accessible to all so that fear of victimization by terrorism is instilled in people. Consequently, terrorists act and nonresisting persons experience insecurity that triggers fear, creating fertile ground for the terrorists to impose their will on the citizenry.

Violence

Violence is an essential element in all types of terrorism. It follows people through their lives and emerges as force which they use on others. Humanists have opposed this heritage. Mahatma Gandhi, the father of nonviolence, wrote "What happens if you do not retaliate, and only stand fast between the offender and your protege. . . ? I promise, he will use violence against you, but your friend will remain unhurt." This teaching, which is based on Ahimsa, a religious philosophy, is suspect, as is Nietzsche's philosophy of the superman, which was the foundation of fascism.

There is a need to define the term "violence," regardless of the designation and content of an individual act. The concept "violence" is not defined in criminal law or in legal theory. Force and the threat of force are referred to as subjective ideas not involving culpability, and so they are not considered part of a criminal act.

Since criminal law does not contain a clear definition of the term "violence," encyclopedias may be a better source for such information. One of them characterizes "violence" as a force applied to somebody "to get something from him, or to cajole him, or to make him do something he otherwise would not do." The Short Political Encyclopedia states: "Violence is the use of force to require others to behave contrary to their consciences, i.e., to achieve an objective. The force used is primarily physical in nature, but it can be of a different kind as well." Both of these definitions leave something to be desired, however.

In a legal sense, "violence" involves the illegal use of force, threat, or slander on one person by another, so that mental processes, life, or limb are threatened. The result can be either dangerous or destructive to life and limb. Attack violence can be direct or indirect, and can take any form. Accordingly, force, threat, and slander are means of expressing violence. That is, these terms cannot be considered synonymous with "violence," which is in fact the common denominator of all three.

Slander adversely affects the psychological well-being of a nonresisting person, and psychological well-being certainly has social value. Therefore slander should be considered a form of violence. Violence which involves slander constitutes a terrorist act provided other necessary elements of terrorism are present. Legal theoreticians view violence as a means of committing crimes against property. This interpretation is wrong, however, since property cannot be attacked--only the owners of the property or the existing social order can be attacked.

Classification of Terrorism

The essential elements of terrorism are the objective of terrorists, the degree and scope of their organization, and their method of operation. Assuming that the objective of terrorists is the most important element, terrorism can be classified by the status of terrorists and by the types of terrorism.

The Status of Terrorists

The status of terrorists can be determined by their place in society. If they support the nation's rulers, they act from a position of power. If, on the other hand, they are opposed to the existing social order, they act against the legal authorities. Those who rule nondemocratic regimes act as terrorists from the position of power, while political groups and parties, as well as aggressors in international conflicts, act as terrorists against legal authorities. The former may be termed power holders and the latter opponents of legal authorities.

Power holders. Nondemocratic, exploitive regimes often use force to frighten the citizenry in order to maintain order. The advocates of the ruling class in all exploitive societies are also considered power holders. So are slaveholders in slavery, feudal lords in feudalism, and capitalists in capitalism. In time the conditions of the oppressed class improve, but such people are often subjected to terrorism. International aggressions often end with one country conquering another and the establishment of a conqueror-conquered relationship.

Colonialism is another form of power holding since there are the rulers and the ruled. The status of the people under colonial rule is very low in areas where they are denied basic human rights and exposed to terrorism.

Opponents of legal authorities. Political groups and parties with differing ideologies are often opponents, if not enemies, of the legal government. Since their goals are opposed to those of legal authorities, conflicts are created, and they use various means, from slander to force, to accomplish their objectives. There are not only legal and illegal groups and parties within a country, but also groups and parties that operate against their country from abroad.

Outlawed groups frequently cite political disagreements with the government as the reason for their activities, although the real reasons are different. Accordingly, each case should be studied carefully so as to determine with absolute certainty whether or not terrorist acts are committed against the state.

Types of Terrorism

Depending on its objective, terrorism can be grouped into four categories:

(1) State terrorism. The ruling class seeks to preserve the status quo. If it uses force to exploit and subjugate, state terrorism is present. State terrorism can be directed against its own people (undemocratic, dictatorial), or against another country.

(2) Quasi-revolutionary terrorism. This type of terrorism is committed by political parties and groups. Such groups do not strive to better society, but only to further their own selfish interests. This is typical of the multiparty systems of the West.

(3) Reactionary terrorism. Some people seek a return to the social orders of the past, terrorist acts performed toward that end are called reactionary. A case in point is Yugoslav emigre groups abroad which resort to terrorism against Yugoslavia.

(4) Compromising terrorism. This type of terrorism refers to terrorist acts of a political group or element against its enemy on the territory of a third party. Taking hostages, kidnaping diplomats, and airplane hijackings exemplify this type.

Definition of Terrorism

In conclusion, terrorism may be defined as systematic and organized violence against nonresisting persons to create fear in them for the purpose of retaining or gaining governmental authority, or for the purpose of using that authority for exploitation or oppression or to extract political concessions.

Jugoslovenska Revija za Krimologiju i Krivicno Pravo, n. 14:219-234, April-June 1978. Jugoslovensko Udruzenje za, Krivicno Pravo i Kriminologiju, Grancanicka 18, 11000 Belgrade, Yugoslavia.

Die Persönlichkeit des Terroristen*

(NCJ 20554 and 36797)

By Wolfgang Middendorff

PART I - GENERAL CONCEPTS

Definition

We talk a lot about terrorism nowadays, but seldom ask what the word itself actually means. To begin with, "terror" signifies "fright," and, according to the Brockhaus Encyclopedia, terrorism is the violent form of the political struggle for power. One must distinguish between government terrorism, military terrorism, and the terrorism practiced by revolutionary and extremist groups, which are particularly abundant in the 20th century. These latter groups practice selective assassination attempts as well as random and anonymous acts of violence "in order to induce a state to commit reciprocal acts of terrorism, to shake our confidence in the existing system, and to intimidate the majority of the population."†

History

The so-called nihilist movement of the previous century in Russia, which was not necessarily negative at first, later set the destruction of the state as its only goal. An 1869 document entitled "The Catechism of the Revolutionary" begins as follows:

*Translated from the German by Robert J. Jobin.

†Brockhaus Encyclopedia [in German] (Wiesbaden, 1973), 10:578.

> The revolutionary is a doomed man. He has neither personal interests nor personal affairs, neither personal feelings nor personal ties; he has nothing to call his own, not even a name. Every part of him is ruled by a single and exclusive interest, the revolution. He has to practice surviving tortures, and he must be ready to die every day. Laws, conventions, and the moral precepts of a civilized society mean nothing to him. His only purpose in life is to destroy the corrupt social system in which he lives as soon as and as thoroughly as possible. Everything that advances the victory of the revoution is morally acceptable to him, and everything that gets in the way of it is immoral and criminal.*

"The Catechism" does not mention the positive goals of the revolution; its sole purpose is to suggest the means to comprehensive and ruthless destruction. An alliance with the highwayman, who is considered the only real Russian revolutionary, is recommended.

Reference to criminals as the natural allies of revolutionaries is not limited to "The Catechism." In the early stages of the revolution, plans already existed for robbing mail transports and poisoning parents to obtain inheritances to finance revolutionary activities. Later writings anticipate actions intended to create general confusion, provoke jail breaks, and accomplish the liquidation of informers in the ranks of the revolutionaries. "Expropriation" was understood to be the procurement of funds through robberies, especially bank robberies. It was clear to the revolutionaries that their goal could not be attained in the near future; however, they wanted to keep the population in a state of turmoil through repeated acts of terrorism.

Rationale

Today, terrorism is a worldwide phenomenon, and it is essential to be aware of the rationale that terrorists in many countries cite as justification for their acts of violence. Individuals and groups usually claim that the necessity to defend themselves against government "brutality" vindicates their terrorist actions. Thus, a sort of self-defense is organized against the state and its institutions. Criminologists and so-called peace researchers have given terrorists a great deal of philosophical assistance in formulating these arguments. For example, the procedings of the XXIII International Conference for Criminology, held in Venezuela in 1974, contained very little discussion of

*Quoted in Avram Yarmolinsky, Czars and Terrorists [in German] (Hanover: Verlag fuer Literatur und Zeitgeschehen, 1957), 189-191.

CONTINUED

1 OF 2

modern crimes of violence such as the taking of hostages and the hijacking of airplanes. Instead, almost without exception, the main interest converged on what was referred to as the "institutionalized violence" of the state and its detrimental effects on the freedom of the individual. In the course of the discussions, the concept of violence was so exaggerated that the original legal and criminological meanings of the word were lost. Some representative applications of the term are worth citing in order to characterize this ideological trend. "Violence" occurs when one loses time in a government office. Continuing job training is "violence" directed against the worker, who must learn new skills merely to enable the company to increase its profits.

And what about peace researchers? The Norwegian peace researcher Johan Galtung defines violence as that which effectively hinders the individual in fully realizing his potential. Galtung speaks of "structural violence," which is also a form of social injustice, as opposed to "institutional violence" resulting from confrontations with organized institutions. Structural violence may be observed in action when a million husbands keep a million wives in a state of ignorance. And finally, according to Galtung and others, the destruction of property is only "a blow against the bourgeois in ourselves, an escape from our chains, an act of communication."* As absurd as these ideas may seem to intelligent people, they play an important role today in the political discussions of various leftist gatherings in many countries. With arguments of this sort, any act of illegal violence can be made to appear legal and justified.

Forms

Past and present experience suggests that terrorist activities fall into eight categories: (1) individual acts of terrorism committed by single persons, often with revenge as the driving motive; (2) assassination attempts by groups--the most important and successful form of terrorism practiced by the Russian nihilists; (3) assassination attempts performed in obedience to orders from superiors and sanctioned murder; (4) terrorist bombings, such as those recently witnessed in Ireland; (5) arson, developed as an effective means of terrorism by Russian revolutionaries in the 1860's and continued in modern times; (6) kidnaping; (7) airplane hijackings, whose effectiveness as a means of extortion has decreased in recent years; and (8) bank robberies, used since 1879, when the Russian revolutionaries robbed a branch of the czar's treasury, as a means of obtaining funds.

*Johan Galtung, Structured Force [in German] (Reinbek: Rowohlt, 1975).

The category involving assassination attempts performed on command and sanctioned murders presents some problems of special interest that will bring us closer to our central theme, the personality of the terrorist. Consider, for instance, the brutal murder and mistreatment of prisoners in the Nazi concentration camps during the war. The studies of psychologist Stanley Milgram provide a partial explanation for the incredible obedience to orders which called for murder and torture. Milgram discovered an unexpected readiness on the part of the average citizen to inflict pain on his fellows on command in experiments involving the application of electric shocks. Milgram explained his results by postulating that every human being is inclined to aggressive behavior that constantly desires to be activated, and that each person has a deep-seated need to be obedient, without which an orderly existence in the community would be impossible.

He indicated that the most important finding of his studies was perhaps that normal individuals cannot resist commands which involve them in horribly destructive processes, even when the destructive effects of their behavior become apparent and they are ordered to commit acts that are contrary to fundamental concepts of morality. Further, the burden of the individual's sense of responsibility for such acts is reduced in cases where the responsibility is shared with others."

PART II - CRIMINOLOGICAL ASSESSMENT

Lack of Definitive Information

In attempting to explain and interpret the personality of the terrorist, we must be aware, first of all, that from a criminological point of view, very little is known about those who come in conflict with the law, whether they be terrorists or common criminals. As one criminologist put it:

> Considering the diversity of the criminal acts and their background, it cannot be expected that anything of general significance may be said about the "personality" of the offender. The results of comparison between officially known offenders and control groups can be stated as follows: first, the offenders appear more often and to a greater extent to be psychologically troubled, full of inner tensions; second, they are not inclined to analyse them-

"Stanley Milgram, "The Perils of Obedience," Dialogue, 3, 4 (1975): 16 ff.

selves and to deal with their difficulties on a philosophical level; third, they are more inclined, on the other hand, to blame others and to reduce their tensions through aggressive behavior.*

Other criminological studies have shown that there are no basic differences between the personalities of a murderer and an average citizen. Anyone can commit a murder under exceptional circumstances.

In the particular case of political murders and terrorists, the factual and documented material available is often sketchy. In earlier decades, these types of offenders were not examined by psychiatrists or psychologists, although examinations could have been performed in some cases. Today, terrorists usually resist examinations of this sort, or, as in the case of Patricia Hearst, the experts achieve contradictory results. Considering the limited material available, we must use our understanding of historical and criminological information to gain insight into the terrorist personality, which cannot be comprehended on a purely objective and verifiable basis.

Role of Intellectuals in Terrorism

The prominent role intellectuals have played in terrorist organizations in recent decades is evident in numerous examples from various countries. Political scientist Richard Clutterbuck has determined that a majority of guerrilla leaders had a relatively cultured and pleasant childhood. Ninety percent of the 55 included in his survey enjoyed an above average education and came from families with a middle or upper class income. Clutterbuck explained that the ideological and terrorist activities of these individuals stemmed partly from a feeling of guilt over their protected childhoods and privileged positions.†

Criminologist Arno Plack claims that a destructive disposition appears early in the life of a terrorist, and that individuals so disposed will find lofty goals time and again in order to release their aggressions. The ideals are interchangeable: the flags waved are only symbols of their inner conflict. According to Plack:

> A motive for violence, free of destructive emotions, would have to be governed by pragmatic reason. Whe-

*Anne-Eva Braunsch, General Criminology [in German] (Reinbek: Rowohlt, 1974), 268.

†Richard Clutterbuck, Terrorism Without a Chance [in German] (Stuttgart: Seewald, 1975), 170 ff.

ever finds his motivation for violence in pure reason must take care that the violent means he intends to use stand in a rational relationship to his propagated goal. The utter hopelessness of shaking the existing order through a few bombs can only conceal itself to a mind suffering from a tremendous quantity of pent-up aggression."

Terrorism and Revolution

The close ties between terrorism and revolution have been mentioned previously. Psychiatrist Alfred Hoche wrote in 1935 that "it is no accident that in all greater or lesser revolutionist activities, psychopaths with their insatiable need for sensation and commotion are sure to play a role."†

There is likewise a close relationship between terrorists, revolutionaries, and conventional criminals. Hans von Hentig demonstrated this relationship in his description of the personality of the 19th century French revolutionary Louis de Saint-Just, whom he referred to as a "criminal utopian."‡ Vera Figner noted in her memoirs that violence as a means of attaining political change evokes brutality, wakens the instincts of the beast of prey, and gives rise to outrageous breaches of trust. "Yes, it went so far," she wrote, "that one shuddered at the capacities of human nature."§ Finally, history has shown that, as a rule, a revolution can succeed only when revolutionary groups include both intellectuals and unscrupulous and ruthless criminals.

Female Revolutionaries

What about female revolutionaries? In the course of history a fair amount of material has been gathered about them. Hans von Hentig designated post-World War I experiences with female revolutionaries as an especially fruitful area for criminological research. According to von Hentig, it is under-

---

"Arno Plack, An Argument for the Abolition of Criminal Law [in German] (Munich: List, 1974), 56-58.

†Alfred Hoche, From the Workshop [in German] (Munich: Lehmanns Verlag, 1935), 68.

‡Hans von Hentig, "Saint-Just," Swiss Journal of Criminal Law [in German] (1920):80 ff.

§Vera Figner, The Attempted Assassination of Czar Alexander II [in German] (Berlin: Malik, 1926), 74-76.

attendable that deranged women get involved in revolutionary activities during periods of political instability. Their role is usually limited at such times to leading or inciting collective acts of desperation or carrying out political assassinations. Von Hentig believes that female revolutionaries who act out of feelings of resentment are especially important:

> The resentment of the unhappy woman may be gradually decreased through better fortune; otherwise, no recovery from the oppressing burden of inferiority is possible except through religious guidance, or sublimation in the form of artistic achievement or humanitarian activities. Women with incurable repressions are permanent revolutionaries; and whether they are satisfied to remain on the theoretical level of working out ideas for reforms, or decide to take an active role in political activities [depends on the external situation].[1]

Von Hentig points out that in peaceful times their repressions are concealed in professions that allow them to inflict pain or observe suffering. They become teachers, doctors, or nurses; they love and raise animals; they participate in child welfare programs; they fight prostitution; they fight for women's rights--they are always fighting. The autonomous of a personal deficiency may spur an intelligent woman to substantial achievements, and such a woman may pose a considerable threat in times of revolution.

The Problem of Distance

Behavioral scientists have demonstrated that inhibitions against killing exist and that these inhibitions take various forms. The individual who attacks his victim with bare hands must overcome the greatest internal resistance. The power of the inhibition against killing is inversely proportional to the distance from the victim. When an attacker uses a pistol or similar weapon, the physical distance is somewhat greater and the inhibition consequently smaller. The inhibition may be weakened by certain other influences. In the concentration camps of the Third Reich, murder was committed at very close range in countless cases; in these instances the additional factor of a superior's orders or approval lessened the burden of responsibility borned by the murderer. Habit and exposure to propaganda which portray the victim in an unfavorable light may also weaken the inhibition.

---

[1] Hans von Hentig, "The Revolutionary Woman," Archiv fuer Kriminal Anthropologie [in German] (1923):29 ff.

Bombing is the best example of the great distance factor. As a rule, those who plant bombs do not see the immediate results of their efforts. The Irish extremist Maria McGuire notes in her autobiography that it was a long time after she had been involved in terrorist activities that she finally thought about the cripples and widows.[1] Accomplices and helpers often have only a minimal sense of responsibility for terrorist assaults--their distance from the victim is often much greater than that of the immediate perpetrators of the crime. Finally, those whose role is limited to relaying orders are usually the most distant from the brutal action and, therefore, are inhibited to the least degree.

Combating and Preventing Terrorism

Numerous techniques have been developed to combat terrorist activities. They include fighting on the same level as the terrorists, i.e., through reciprocal terrorism and taking a hard line in any negotiations with terrorists. In the past, repeated attempts have been made to attack terror with terror under the motto "rudeness must be met with rudeness." It is a technique that has been tried with varying success in czarist Russia, and by the English against the Mau Mau in Kenya as well as the Irish terrorists. The statutory basis in England and in countries with the English legal tradition for special measures against terrorists has been provided in laws similar to the Internal Security Act. The English take the position that although there must be extensive legal provisions for every imaginable emergency, these provisions should be administered very cautiously.

In the Western World today there is a noticeable trend toward the hard line in dealing with the demands of terrorists. However, the West had paid a high price for the lesson it learned in its previous inclination to respond to terrorism with sentiment and sympathy.

---

[1] Maria McGuire, To Take Arms (London: Quartet Books, 1973), 118.

As for the prevention of terrorism, a society with a great sense of solidarity and strong common values is the least susceptible to the development of terrorism. Intellectuals must contribute more to the attainment of such a sense to counteract the efforts of certain radical intellectuals who are working for the decline of the social values for which the West created its liberal institutions.

Kriminalistik, v. 30:289-296, July 1976, for Part I (NCJ 20554); v. 30:357-363, August 1976, for Part II (NCJ 36797). Kriminalistik Verlag GmbH, Akademiestrasse 6, Postfach 10 26 40, 6900 Heidelberg 1, West Germany.

"Verhalten und Verhandeln bei Geiselnahmen" (NCJ 43859)

By Wolfgang Salewski

Basic Considerations in Planning a Negotiating Team

Specific departmental policies regulate the actions of the police when hostages have been taken. According to these policies, negotiations become an effective tactical means either of resolving the case or of exploring and making arrangements for other tactical measures.

Expert handling of negotiations is useful in gaining information about the perpetrators, their number, motives, goals, and personalities; the hostages, their number, behavior, condition, and ability to bear stress; and the situation. Skill in negotiating also gains time during which the potentially dangerous excitement when the hostages are first taken dissipates, the perpetrators are psychologically worn down, and the perpetrators' inclination to aggressive behavior toward the hostages is reduced by their contact with each other.

The goal of negotiations when hostages have been taken is therefore to illuminate the situation, investigate the perpetrators' personalities so that they can be identified and conclusions can be drawn about their potential behavior, gain time to wear down the perpetrators psychologically and physically, and induce the perpetrators to release the hostages.

To achieve this goal, an institutionalized negotiating team (not "lone combatants") is required. The negotiating team should be organized according to the principles of group dynamics and trained in active listening and social perception. Team members should have mastered conversational techniques for diffusing verbal

---

Translated from the German by Kathleen Dell'Orto.

aggression and exploring the perpetrators' attitudes and motives, learned covert delay tactics geared to specific situations, and be able to judge the particular situation from tactical as well as psychological perspectives.

Perpetrator Behavior

Current literature describes essentially three types of perpetrators for whom specified behavior can be defined--criminal offenders, politically motivated offenders, and mentally disturbed offenders. Differentiating among the three types is primarily a theoretical concern. For the practically oriented "man on the front line," the differentiation is more confusing than helpful in solving his problems. This is mainly because the types rarely occur in pure form. Moreover, behavior which cannot be comprehended is frequently relegated to the realm of mental disturbance. For practical dealings with perpetrators, knowledge of the emotional curve in the course of a hostage situation seems to be considerably more useful.

An empirical study of hijackers' behavior has shown that the perpetrators are extremely nervous and irritable at the beginning of a hijacking. This anxiety is intensified if they are prevented from achieving their goal, and attenuated if they have the feeling that events are progressing in their favor. In the course of time the hijackers gain more confidence and become quieter and more stable. If a hijacking lasts a long time, the hijackers very probably will become psychologically and physically worn down and will no longer be able to find enough energy to enforce their demands aggressively.

The negotiations therefore must be designed to preclude further escalation of aggressiveness and force at the beginning of a hijacking, develop a relationship between "real negotiating partners" in the further course of the hijacking, and provide the hijackers the opportunity to surrender without losing face.

Delay measures should only spring from the demands of the hijackers so that no situations are created which would agitate them. An agitated hijacker is hard to control and presents a greater risk to the hostages' lives. When there are several perpetrators, the rules of group dynamics apply, and security agencies are able to exert influence skillfully from outside.

Structure of a Negotiating Team

Sociopsychological research strongly suggests that when people work together in groups, three considerations are decisive in the functioning of the team:

- The size of the team. Empirical studies have shown teams work in a relatively conflict-free manner when they are neither smaller than five nor larger than seven persons.

- The structure of the team. Structure is considered the role distribution in the team acceptable to most team members. One team member usually assumes the role of leader. He is the one from whom the team expects coordination toward the common objective.

- The cohesiveness of the team. The common goal of the team determines its cohesiveness. The more the individual team members can identify with the goal, the greater the cohesiveness. It is the responsibility of the team leader to call attention constantly to the common goal.

Practical experience has shown that a negotiating team is superior to an individual spokesperson in many respects: the spokesperson can concentrate entirely on the perpetrators; several trained negotiators hear the perpetrators; contact with the special action leadership does not encumber the spokesperson, since it is made exclusively through the negotiating team leader; the spokesperson is advised by the team; and in emergencies the spokesperson can be replaced by a team member.

The following negotiating team composition has proven effective: one team leader, i.e., a connecting link between the special action leadership and the negotiating team, as well as a coordinator for the negotiating team; two or three individuals, trained as spokespersons, who assume auxiliary functions (radio, protocol) when not negotiating; one psychological advisor (a professional psychologist or an official trained in psychology); and if needed, an interpreter, clergyman, or family member of the perpetrators.

Spokespersons should possess sensitive social perception, be able to listen actively and concentrate, and tolerate high levels of stress. The spokesperson is the negotiating partner responsible to the perpetrators; he registers their demands, passes them on for consideration, and reports the decisions of the special action leadership to the perpetrators.

The Negotiation Process

The negotiating team is only capable of functioning if all decisions are reached by the whole team through its negotiating method. Differences of opinion among team members are transferred automatically to the manner of conducting negotiations and influence them negatively. Conflicts usually arise from awkward or misunderstood communication between team members. Each individual attempts

to convince the others of his views without really trying to understand theirs. But selection to serve on a team to conduct negotiations with persons who have taken hostages assumes that the team can function relatively free of conflict. For all problems which come up in the negotiating team, the following rules for reaching decisions apply:

- The team leader requests that each member of the team briefly describe the problem in question from his personal viewpoint. In that process all members refrain from judgments or criticism. When everyone has expressed his opinion, the team leader states his viewpoint and summarizes that the team as a group thinks of the problem.

- The team leader requests that team members develop the most constructive proposals possible for solutions and calls for activity and creativity by each of them. Judgments and criticism are withheld (brainstorming).

- The team leader works with the team on a solution with which all members can identify. At this stage judgments and criticism are allowed. Socalled democratic votes do not encourage identification with the decision, because in addition to the winners there are losers who will probably become part of the opposition.

Social Perception

Perception in interpersonal matters is not the objective discernment of the things which we see, hear, and feel: how we perceive our environment depends on physiological, individual psychological, and sociopsychological factors. In the context of conducting negotiations, sociopsychological factors are especially important. Social perception is understood to be the perception of people and their attitudes, motives, expectations.

For the spokesperson, it is important to know how he affects the perpetrators, i.e., how he is perceived by the perpetrators. It is equally important to know what views and motives provide the perpetrators' impetus and what they expect of the spokesperson. He must ask himself every time he does something whether his conduct is in keeping with the perceived goals of the opposition and whether it improves the negotiating atmosphere.

The Nondirective Discussion Technique

The goals of the nondirective discussion technique are to give the perpetrators the feeling that they and their demands are

taken seriously and to discern attitudes and motives which enable the special action leadership to predict future behavior.

The nondirective discussion technique is based on the principle of reinforcement. After a general opening question the discussion leader tries to maintain the discussion in an indirect manner. Through personal interest statements, the discussion partner is encouraged to continue talking. The spokesperson therefore should determine the direction, not the content, of the discussion. Through systematic repetition of key terms and "buzz words," he can uncover the perpetrators' backgrounds, motives, and deep-rooted attitudes.

In the nondirective discussion technique, only "open questions" are asked (what, how, which). The spokesperson constantly attempts, when reinforcement fails, to continue with statements already made by the discussion partner: "You said before . . ." He shows interest in the problems of the perpetrators and tries to meet them on their discussion level by not allowing role differences to become apparent. Above all he abstains from causing agitation and taking a firm position.

Rules for the Indirect Discussion Technique

- Opening: Phrase the opening question in general terms; the discussion partner must feel competent.
- Method: Keep the conversation going with reinforcement and guide it thematically; overcome failure of reinforcement with broad questions to gain more precise information in individual cases.
- General conditions: Strive for the discussion partner's level; show interest in his problems. At all costs avoid any particular agitation or taking a firm position.

The Conflict Discussion

The spokesperson should stress the reduction and avoidance of aggressions; openness and interest should be encouraged. Negotiations are usually conducted by perpetrators in a relatively aggressive manner. A good spokesperson avoids anything that can be considered in any way aggressive by the perpetrators. Furthermore, he makes an effort "to get a handle" on any aggressions generated by the perpetrators and deflect them. It is important to note that silence also can be a form of aggression.

It must be recognized that people react in various ways when conflicts arise: open aggression (attack), aggression directed

inward (self-accusation), rationalization, compensation, and diversion, as well as insight and discussion. Aggressions play a very important role in all interpersonal relations. They can be dealt with most successfully if they are approached openly and neutralized.

Schriftenreihe der Polizei-Führungsakademie, v. 4, n. 1/77: 58-65, 1977. Polizei-Führungsakademie, Zum Roten Berge 18-24, Postfach 48 02 30, 4400 Münster, West Germany.

Der internationale Terrorismus--Herausforderung und Abwehr*

(NCJ 53145)

By Rolf Tophoven

Revolutionization of Warfare by Guerrillas and Terrorists

The concept of warfare has changed dramatically since World War II, especially at the level of guerrilla action. Virtually every country has been forced to develop new strategies against terrorist activities. The terms "subversive warfare" (guerrillas) and "terrorism" often overlap. In the initial stages, before a guerrilla movement is firmly established and capable of overt aggression against the enemy, terrorism is frequently used. How else can the support and interest of the population be roused? It is only when the movement becomes strong that terrorism is no longer essential. Guerrilla movements and terrorism therefore cannot be separated, but a distinction can be made between the methods used by guerrillas and terrorists. Although minorities and separatist groups also use guerrilla tactics against their governments to achieve political objectives, modern guerrilla wars fall primarily into three categories:

- Opposition to a foreign occupation force in the course of a regular war;
- Opposition to an occupation force after defeat in a conventional war; and
- Opposition to foreign, colonial governments.

Tactics of Guerrilla Warfare and Terrorism. Guerrilla warfare is characterized by a specific form of military tactics. It involves special use of troops, in highly mobile and commando

*Translated from the German by Helga Bennett.

operations, and operates by "small scale" strategy. Terrorism, on the other hand, is characterized by the actions of small groups in hiding. Strikes frequently are made against innocent people to instill fear and uncertainty. Terrorism functions anonymously and furtively, and its perpetrators invariably are prone to romanticizing, strident propaganda, and autosuggestion. The situation changes as soon as the terrorists begin to pursue political objectives or become the champions of special groups, whether those groups approve of their methods or not.

Antiterrorist measures. If antiterrorist measures are to be effective, terrorism must not be treated as mere criminal activity. Knowledge of the forces which motivate the terrorists and of their sociopolitical backgrounds and idols is essential. In particular, the successful popular liberation movements launched after World War II have been largely responsible for the present international terrorist scene.

In many instances, however, terrorists failed to take into account the radically different political and military circumstances under which the postwar guerrillas operated, and in so doing fell prey to an obvious overestimation of their type of warfare. Moreover, security forces in many countries have made significant strides in the development of antiterrorist measures, which has led to further miscalculations by the terrorists. Terrorist groups eventually realized that their methods had to be adapted to existing conditions and that the day of "classic" guerrilla warfare--rural guerrillas--was past: it was now the time of the urban guerrillas. This transformation into a true terrorist movement is extremely frightening because there is virtually no limit to the capabilities and methods of terrorists, including political blackmail by bacteriological and nuclear weapons. Opposing those threats is particularly challenging and requires the development of intricate security precautions.

The "Model Case": Israel's Fight Against the Fedayeen

With respect to defensive measures against terrorism, the events in the Middle East serve to illustrate the limitations and potential of terrorist power. Palestinian resistance since 1967 has taken two forms. It began as a "classic" guerrilla war against an occupation force, the Israel "aggressor," but the defensive capabilities of the Israelis quickly caused the Palestinians to turn to terrorism, an expedient which eventually spread to the rest of the world.

Palestinian resistance must be labeled "terrorism-guerrilla war." It has been an example for the anarchists of the world and has caused many countries to devise defensive measures for

their internal security. The entire world has been turned into a battlefield by the Fedayeen, and they have proved that a conflict--doomed to failure in the beginning--can be carried on successfully and spectacularly in neutral countries through the importation of violence. With due caution it might be suggested that this strategy is used by German terrorists.

International terrorism, as successfully practiced by the Palestinians, is a new kind of warfare. It is warfare without territorial restrictions and without armies as we know them. There are no boundaries, no neutral powers, no innocent civilians. And the effectiveness of terrorism--the danger it poses--is of course increased meaningfully when it is recognized and supported by countries of international standing.

In the "model case," however, Israel's methods of dealing with the terror have shown that the success or failure of a guerrilla movement depends on the specific political, military, economic, and administrative conditions in the area of conflict, as well as on the objectives of the terrorists and their degree of justification. A few adequate antiterrorist measures exist, and Israel thus far has developed the most effective ones. Israel counterinsurgency methods illustrate how a threat "from the dark" is to be met in specific instances, and they constitute a possible model for the defensive systems of other countries, especially West Germany.

Israel's Antiterrorist Measures and the Potential for Their Adoption

Time and again, terrorist attacks in Germany have been able to exploit the element of surprise. The "crisis staffs" could not react swiftly, although security services have improved since the events at the 1972 Olympic Games in Munich. The first prerequisite is a clear idea of how terrorist attacks are to be dealt with. The reaction span after a terrorist attack should be shortened considerably, and case studies should be made which examine a wide range of terrorist possibilities and offer a variety of solutions. Rapid confrontation by the authorities increases their advantage over the terrorists.

Israel versus the Fedayeen. After realistically assessing the long-term goals of the Fedayeen, Israel accepted the challenge of the Palestinian terrorists for what it was--a declaration of war--and struck back with the full might of its military and other security forces. This policy has demanded sacrifices and even caused the civilian population to be victimized, but its success cannot be denied. Nor can the growing Palestinian nationalism in the occupied territories since the Yom Kippur War be

blamed on Israel's uncompromising retaliation to terrorism. Political considerations, and most significantly changes in the situation since the fourth Middle East war, are primarily responsible. Even the most fervent Israel nationalist must now realize that the Palestinian question cannot be separated from the Mideast conflict as a whole. Consequently, the principal task of the Israel security forces and army involves the fight against terrorism, and in this task they have succeeded remarkably well.

The Fedayeen's 30-year threat to Israel's existence has done much to increase the effectiveness of Israel security forces and to teach the people to carry on in the midst of conflict. Antiterrorist measures are successful because they are part of an overall military strategy.

West Germany versus terrorism. West Germany thus far has been able to maintain a more flexible attitude than Israel toward terrorism. However, changes in this attitude are required because of the increasing involvement of third parties (as in the transnational Entebbe operation), which complicates defensive strategies and narrows the basis for national action. In September 1976, the German Foreign Minister made a motion in the United Nations that called for worldwide concerted action against terrorism. This proves that West Germany has begun to view the fight against terrorism as global. Even so, Germany can still afford to remain flexible and deal with terrorism case by case. For instance, in the case of the kidnaping of Peter Lorenz, President of the Christian Democratic Union, the authorities elected to comply with the kidnapers' demands, whereas in the attack on the embassy in Stockholm, the terrorists pushed their demands so far that it was considered impossible to comply without doing grave harm to the internal order of the nation. The question remains whether the terrorists could have succeeded in Stockholm had they been slightly more modest.

Israel: The "antiterrorist model." Every Israel soldier, police officer, and security guard knows that each attack is to be met forcefully and relentlessly. The only question is the particular tactical concept. Counteroperations usually involve rapid attacks by the authorities, with no time provided for negotiations since they are the goal of the Fedayeen.

West German use of Israel's strategy. West German attempts to learn a lesson from Israel must recognize that in Israel the entire army joins with police and security forces in fighting subversive elements, whereas in Germany antiterrorist measures are the sole responsibility of civil authorities and the police.

In addition, the frequency of terrorist attacks being much higher in Israel, German forces often are faced with unfamiliar situations which place them at a psychological disadvantage. But surely Germany could learn from Israel how to shorten the reaction time to acts of terrorism. Antiterrorist psychology certainly should not be overrated, but it does seem to be pertinent to the solution of the problem.

Aside from psychological considerations, knowledge of both the ideological goals and methods and tactics of the terrorists is important. The terrorists must not be underestimated, no matter how unrealistic their plans and aims may seem. This is a further lesson to be learned from the Israelis--they never underrated the Fedayeen.

Terrorists are guerrillas. It is for propaganda purposes that Israel refers to Palestinian commandos as "terrorists." In defending against them, however, they are guerrillas in the full sense of the word. This entails psychological and physical reorientation for the members of the various agencies involved in combating terrorism, including the army. Accordingly, the limitations of both conventional defense and official government opinion must be overcome. Israel's counterguerrilla strategy has been extremely successful in these respects. From the top military ranks to the lowest level, every soldier has had contact with the Palestinian terrorists--in theory if not in practice. The fruit of this preparation was the action at Entebbe.

The lesson of Entebbe and its importance in international measures against terrorism. The liberation of 103 Jewish hostages from an international terrorist commando group by Israel military units in July 1976 has been the most effective response to terrorism in recent years. Not only was the action carried out with precision, but it also demonstrated how seriously Israel approaches the task of fighting terrorism. The French Government, on the other hand, neglected to take any action when the French hostages were released, although the French were in a much better tactical position, having a military base less than 2 flight hours away.

The priorities of the French Government were further illustrated in 1977 when Abu Daoud, Palestinian terrorist leader and architect of the Munich massacre, was quickly released from custody in Paris at the request of several Arab states. This reflects the fragility of the agreement among the European Economic Community nations on common defense against terrorism. Economic considerations--in this case the interests of the French armament industry--influenced the decisions of the French Government.

The action of the Israelis at Entebbe, in any case, clearly showed that terrorism can be fought successfully. Of course, the Israel soldiers are not "supermen," and it would be doing them a disservice to permit enthusiasm to obscure the realities of the situation. The operation in Uganda proved that Israel had learned its lesson from the Yom Kippur war.

The psychological shock to the terrorists in Uganda was enormous. Israel's former close relations with Uganda made it possible for intelligence to gather precise information on local conditions, and the cooperation between intelligence and the executive elements of the army, along with the calculation of the psychological effect, were the most exemplary features of the Entebbe action. Furthermore, it can be assumed that the Entebbe operation has eliminated Uganda from the list of "havens" for guerrillas and hijackers. Israel's coup proved to terrorists that they are not secure anywhere, and the psychological importance of this lesson should not be underestimated.

The Roots of Terrorism and Possible Defensive Measures

Evaluating the psychological makeup of terrorists is among the most difficult tasks of defensive strategy. Nevertheless, it is particularly important that such an evaluation be made, since terrorists' views of themselves imply conclusions regarding probable future behavior and procedure. The driving forces and motives of terrorists may be roughly summarized as follows:

- Terrorists aim at publicity--they want the political attention of a nation or of the whole world to focus on them.
- Financial considerations are important--never before has political blackmail been so lucrative and successful.
- The increasing vulnerability of society is an incentive.
- Technological advances provide effective tools for terrorism.

The foregoing factors must be considered in planning antiterrorist defenses.

Solving the problem of terrorism has become a global task. In the final analysis, solutions lie in social and political changes which will act as preventive measures. Protection of people's rights to participate in political decisionmaking and to use their freedom creatively are essential for eliminating the romantic idealization of terror and the attraction it has

for some individuals. Obviously, such reforms and improvements stand a much better chance of being carried out in an open society than, for instance, in the Communist countries.

It must be emphasized that multinational agreements offer no solutions as long as some nations continue to encourage and promote terrorism. Such agreements must be implemented, however. Following is a list of the 10 most important antiterrorism measures that should be included in them:

(1) Punishment without delay of terrorists apprehended for kidnapings, hijackings, bombings, and attacks on innocent people or foreign diplomatic properties. Firm response to attempts at blackmail for the release of terrorists is essential. It is worth mentioning that the number of Palestinian hijackings has decreased due to adoption of international security measures for planes and passengers.

(2) Boycott of air traffic to and from countries that encourage terrorism.

(3) Denial by governments of the use of airplanes to flee to countries providing refuge. This is extremely important, even if it means sacrifices.

(4) Cooperation of the intelligence and security services of various nations because of the international nature of terrorism.

(5) Participation of the mass media in the fight against terrorism. The media must refuse to be used to advertise and glorify the terrorists and their cause.

(6) Attention of defense forces to the main weakness of terrorists--their dependence on the reaction of their opponent.

(7) Education of the people concerning the objectives and methods of terrorism.

(8) Profound knowledge of the theories of terrorism, as well as familiarity with its practice. Cooperation of the various scientific disciplines is vital to achieve a firm grasp of the complexities of the problem.

(9) Understanding of the fact that guerrillas and terrorists fail where their aims and actions do not represent the wishes of the majority of the people.

(10) Focus on the most vulnerable stage of any revolutionary movement, the conspiracy phase. If the defense forces can check the progress of the movement in its initial stage, it is unlikely that further subversive activity can be organized. This thesis is supported by the fate of the Palestinian commandos in their fight against Israel and by the results of actions against terrorists in the Federal Republic of Germany.

In Manfred Funke, ed., Terrorismus--Untersuchungen zur Strategie und Struktur revolutionärer Gewaltpolitik (Terrorism--Investigations of the Strategy and Structure of Revolutionary Political Power, NCJ 53136), 1977, p. 240-258. Droste Verlag GmbH, Martin-Luther-Platz 23, Postfach 11 22, 4000 Düsseldorf 1, West Germany.

Part V
Legal Aspects of Terrorism and Antiterrorism

La notion du terrorisme en droit comparé (NCJ 30540)

By Pierre Legros

Introduction

The study of terrorism in comparative law presents several methodological problems which call for a choice in the approach to research. Accordingly, I would like to describe the limits I set and the rationale behind them.

The analysis of a legal notion in comparative law imposes one basic preliminary requirement: the definition, scope, and meaning of the concept at issue to determine how it is subsequently dealt with in the domestic laws subject to comparison. It is frequently said that one can only compare comparable things. In the beginning, therefore, there is a choice to be made: agreement on notions capable of being compared. I say at the outset that this choice, where terrorism is concerned, is obviously a political one. Why?

If, during the war, General de Gaulle was a terrorist in the eyes of the Germans, if the Fedayeen are considered as such today by the Israelis, and, finally, if the British treated the members of the Irgun as terrorists in 1947, it is clear that, lacking a political choice, these are attempts to compare what is not comparable. But there is another difficulty in establishing comparability. In the traditional perspective of comparative law, it is worthwhile to compare a given notion across broad legal systems in order to derive a beneficial lesson for each domestic law. The exemplary quality of foreign law will induce the comparatist to adopt a system of proven worth.

---

*Translated from the French by Deborah Sauvé.

With terrorism, there are no different systems; there are only differences in the domestic application of a common system. From the very first, then, the comparison is elementary: without exception, all nations severely repress what each of them identifies, under diverse names, as "terrorism." Thus it appears that this is a particularly meager field of inquiry for comparative research.

Examples of Antiterrorism Laws

I would like to illustrate my observation by giving examples from the statutes of three countries having very different political structures.

First example. The organization of armed groups and participation in them and in attacks organized by them against "public" (Soviet) or private establishments or against individual citizens carries the penalty of deprivation of liberty for a period of . . . (article 59, Soviet Penal Code).

Second example. Any group formed with the intent of making an attempt on persons or property is a misdemeanor or a felony by the simple fact of the group's formation (article 322, Belgian Penal Code).

Third example. Whosoever, with the intent of making an attempt on the security of the State or the public order, commits acts leading to the destruction . . . of public or private b ildings . . . or other analagous acts, will be punished by . . . (article 260, Spanish Penal Code).

The repression of "terrorism" thus appears in each of these laws as a necessity vital to maintaining the established institutional order. Whoever attempts to shake the structures of the existing political regime is considered a terrorist. Let us go back to the laws of the three countries just cited.

Soviet Union. Any act leading to the overthrow, disruption, or weakening of the political power is considered counterrevolutionary . . . (article 58).

Belgium. Attempts with intent either to destroy or to change the form of the Government or the order of succession to the throne, or to cause the citizenry to take up arms, will be punished by . . . (article 104).

Spain. The Penal Code is particularly rich in its diverse description of deeds capable of disturbing the public order. Articles 223, 249, 250, 255, and 293 cover:

o Committing an offense against public security.

o Rebellion, i.e., the act of being in open hostility to the Government.

o Sedition, defined by a 1909 decision as "stirring up the workers against the bourgeoisie."

o Attempts to commit a crime, i.e., utilizing force to foster rebellion or sedition.

And I will skip over such offenses as illegal propaganda, public disturbances, etc.

Those nations therefore repress activities which directly or indirectly attack the established system. That is why, beyond the fact that a systematic analysis proved difficult in the time allotted, I decided to limit myself to the study of a representative sample of several broad legal systems which specifically address the notion of terrorism in their domestic body of laws.

But first, let us try to determine, through a comparative study, why certain countries felt it necessary to include the notion of terrorism in their domestic legislation, although they were legally equipped to repress terrorist activities by simply referring to the classic legislative arsenal, evidence of which was noted in the various bodies of laws. In fact, although our Belgian Penal Code does not contain a specific chapter dedicated to terrorism, it is clear that the activities of the Irish Republican Army, for example, would be restrained in Belgium on the basis of common law provisions contained in book II, chapter III: "Crimes Against the Domestic Security of the State."

The Rumanian minister Pella, writing in the New Belgian Law Revue in 1938, stated that terrorism consists of a group of misdemeanors or felonies, most of which are repressed by national laws. Let us take an example. It is unlikely that the Spanish Government waited until November 15, 1971, to prosecute activities called "terrorist." Yet it was a law dated November 15, 1971, that introduced into the Spanish military Penal Code a chapter entitled "Terrorismo." This provision is worded as follows:

> Those who, belonging to or acting in the service of agencies or groups whose end is to make an attempt against the institutional order and the public peace, provoke explosions, shipwrecks, destruction, floods, or other analagous things which cause disorder will be punished by . . .

One should be aware that article 260 of the ordinary Penal Code is entitled "Offenses of Terrorism and Possession of Explosives." Why, then, insert a special provision in the military Penal Code? I see two complementary reasons whose pertinence I have been able to verify through other bodies of law which we will examine later. The first reason depends on a need for effectiveness, the second on an urgency of circumstances.

The Need for Effectiveness

Authoritarian regimes properly fear a judiciary which tends to become independent of the ruling body. The judiciary, in performing its function of interpreting the laws, can use legal techniques to distort the scope and content of legal decrees, and in so doing effectively undermine the political intentions and objectives of the national leadership.

The legislative or the executive element in authoritarian regimes therefore has good reason to fear that a general law might be interpreted in such a way as to nullify its application. Accordingly, there is the risk that a law which is not fully applied will eventually fall into disuse, or that the interpretation would cause the judiciary to contradict itself. From that moment, it is more prudent and effective to furnish new and fresh material to the judiciary, which evidently will deal with it as the executive authority wishes. But an even more tangible need for effectiveness may be found in the Spanish example mentioned above.

It is obviously much more efficacious to authorize special courts--military tribunals--to deal with terrorism than to permit it to come under the purview of general law. The repression of terrorism was therefore inserted into the military Penal Code. Consequently it is a manifest desire for effective repression of crime that provokes the lawmakers to intervene. That desire is doubled by a process of intimidation which seeks to impress those under the court's jurisdiction with the abundance of laws. However, the second complementary need I mentioned seems more decisive: the urgency of circumstances.

The Urgency of Circumstances

A quick analysis of the statutes immediately reveals the sociopolitical context surrounding the promulgation of laws to curb terrorism. Let us consider a few examples.

Spain. The law of November 15, 1971, cited previously contains a significant provision intended to deal with the Basque revolt. This antiterrorism law specifically addresses the activities of

those who attempt to destroy national sentiment and attack national unity. Although it was a new provision intended to confront a recent situation, there were already adequate provisions under which these cases could have been prosecuted.

Belgium. In 1937 and 1938, following the assassination of King Alexander I of Yugoslavia and the formulation of numerous insurrectionist movements in Europe, penologists quickly became interested in the notion of terrorism. Plans for international agreements were worked out, as well as a proposal to create an International Penal Court for the Repression of Terrorism. Belgium was included in the planning since reinforcement of the penalties against terrorist acts was believed necessary. A new law modified chapter II, title I, book 2 of the Penal Code relative to misdemeanors and felonies against the external security of the nation --a characteristic example of the desire to intimidate.

South Africa. On June 12, 1967, the "Terrorism Act" was promulgated. Its preamble stipulated that, with the exception of sections 3, 6, and 7, the new law would be retroactive to June 27, 1962, and would apply accordingly to any act, principal or incidental, committed on or after that date. Following is the text of that law which, once again, was adopted at a time of serious political tensions:

(a) Any individual who commits or attempts to commit, in the territory of the Republic or elsewhere, an act capable of impairing the respect of the public order of the Republic or any part thereof; or who conspires with another individual to facilitate or provoke the execution of such an act or to executive such an act; or who incites, urges, aids, engages, encourages, or leads another individual to commit such an act; or who orders or advises another individual to commit such an act;

(b) Who, in the Republic or elsewhere, receives or attempts, agrees, or tries to receive training capable of being used by whomsoever would have the intention of impairing the public order; or who incites, urges, aids, encourages, or leads another individual to receive such training, or who orders or advises another individual to receive it, and who cannot prove incontestably that, if he received that training, or attempted, agreed, or tried to receive it, or incited, urged, aided, encouraged, or led another individual to receive it, or ordered or advised another individual to receive it, he did not have the intention of using that training in an act capable of having, in the Republic or in one

of its parts, any one of the effects mentioned in paragraph 2; or

(c) Who possesses explosives, ammunition, firearms, or other weapons, and who cannot prove incontestably that he did not have the intention of using these explosives, ammunition, firearms, or other weapons to commit an act capable of having, in the Republic or in one of its parts, any one of the effects mentioned in paragraph 2; is guilty of the offense of participation in terrorist activities and is liable to the penalties foreseen by the law for cases of treason; with the understanding that, except in cases when capital punishment is the sentence delivered, the obligatory punishment will be imprisonment for a minimum of 5 years, without prejudice to the other penalties which could be inflicted.

It was, in fact, during 1967 that 37 residents of the African Southwest were tried in an application of the provisions of the Terrorism Act. They had been arrested before the law's promulgation, and the charges against them were based on acts which would have been committed between June 27, 1962, and May 20, 1967. The necessity of making the law precisely retroactive to June 27, 1962, the beginning date of the acts attributed to the accused individuals, is therefore obvious.

Here again is an urgency springing from circumstances. And at this time, thanks to the lesson derived from a comparative study, I would like to draw a first conclusion. We have noted that, in several countries, laws required by circumstances repressed activities considered terrorist. It is incontestably a form of struggle which is developing and against which several nations are planning legislative measures.

Following is a recommendation made by the Council of Europe, published in the newspaper Ici l'Europe in 1972:

International Terrorism, doc. 3201.

The last 2 years have been marked by an unexpected and rapid escalation in terrorist activities. The Assembly has closely followed this evolution and has already recommended, in report 3146, emergency measures suitable to insure the security of civil aviation. The report of the Political Committee, presented by Mr. Eric Blumenfeld (Christian Democrat, Federal Republic of Germany), points out that we have been witness in the last year to a multiplication in criminal attempts and acts of piracy involving hostage-taking and massacres. Those acts of violence, absolutely contrary to

the traditions and practices in force in international relations, have taken such a form that it is the duty of politicians responsible for the security of the people to take measures against the propagation of terrorism. On the initiative of Mr. Waldheim, Secretary General of the United Nations, the question of terrorism was entered into the order of the day of the Security Council. In light of the disappointing reaction of the world community, the governments of Eastern Europe should seek a regional solution.

The Council of Europe is the largest and most appropriate political union for carrying out a coordinated action against terrorism.

Recommendation 684 asks the Committee of Ministers to define this common attitude, to invite the governments which have not yet done so to sign or to ratify the three Conventions (Tokyo 1963, The Hague 1970, Montreal 1971), and to invite the representatives of the Council of Europe to not maintain relations with organizations which consider terrorism as a means of legitimate combat.

We all know the danger of legislation enacted hastily in response to chance events. It is not by chance that two socialist countries, the Soviet Union and Czechoslovakia, have branded terrorism a criminal activity. Articles 93 and 94 of the Czechoslovak Penal Code provide, in fact, that the crime of high treason consists of a Czechoslovak citizen, in liaison with a foreign power or a foreign agent, acting to bring about disorder in the Republic, terrorism, subversive activities, or sabotage. Article 94 specifically addresses the crime of terrorism, i.e., an offense which is detrimental to the socialist organization of the State or the defensive capability of the Republic. Once again, an urgency of circumstances revealed itself during a period of precise political troubles.

Conclusions

Consequently, I believe that we can draw several lessons from this too-brief look at a few examples of foreign laws. There are two types of legislation against terrorism:

(1) That of countries which possess, in their legal arsenal, general common law provisions which curb attempts against the domestic and external security of the State. Those provisions are applied for political ends only in exceptional cases. If this necessity were to arise, specific provisions would be adopted. These are precisely the provisions contained in the legislation of totalitarian countries.

(2) That having a double function which derives on the one hand from a desire for effectiveness linked with a process of intimidation, and on the other hand from an urgency of circumstances.

Through several examples, we have been able to verify under what conditions and in what instances provisions repressing terrorism are established. We should be aware that dangers await all governments and should be careful to preserve democratic regimes from the temptation that the apparent facility of violent repression offers the lawmaker.

In Réflexions sur la définition et la répression de terrorisme (Reflections on the Definition and the Repression of Terrorism, NCJ 30533), Conference Proceedings, Free University of Brussels, March 19-20, 1973, 1974, p. 229-239. Editions de l'Université de Bruxelles, Parc Léopold, 1040 Brussels, Belgium.

Political and Judicial Approach to Terrorism and Anarchistic Criminality in the Federal Republic of Germany

Approche politique et juridique du terrorisme et de la criminalité anarchisante en République fédérale allemande*

(NCJ 54096)

By Eric J. H. Moons

The acts of terrorism committed by the "Baader-Meinhof Gang" and related groups during the past 10 years have caused deep concern in West Germany. It soon became apparent that this form of crime, often termed "anarcho-terrorism," created a series of problems, not only regarding effective police intervention, but more importantly, from a legislative point of view.

Preliminary Considerations

The concept of terrorism is not easily defined. Standard dictionaries which define it as "reign of terror, violent rule initiated by governments or revolutionary groups," may satisfy the philologist, but not the legal specialist. For the purpose of this study, terrorism is considered an extreme form of guerrilla warfare, or more succinctly as "any act of armed violence committed for political, social, philosophical, ideological, or religious reasons which violates human rights by employing cruel and barbarous means and by attacking innocent targets or targets without military interest."†

Are Acts of Terrorism Political Offenses?

It is commonly accepted that there is a difference between acts of terrorism and political offenses in the limited sense of

*Translated from the French by Sybille Jobin.

†Eric David, "Terrorism in International Law," in Reflections on the Definition and the Repression of Terrorism [French language] (Proceedings of a conference at the Free University of Brussels, March 19-20, 1973), 125.

the terms. To distinguish between them, however, is all the more difficult since as a legal phenomenon the "political offense" is just as hard to define as the concept of terrorism. In fact, some specialists claim that there can be no hard and fast judicial definition since the political crime is determined by the circumstances in which it occurs--for example, by the legality or illegality of the authority against which it is directed. What usually distinguishes political criminals from common offenders is the fact that they are inspired by noble motives, "by inner concern rather than corruption, courage rather than perversity, fanaticism rather than vice."*

Political offenses are commonly divided into two categories: "pure political offenses" which are aimed directly at the political order, and "relative political offenses" which, although infractions against common law, bear in intent and consequences the character of political offenses. It is this second category that usually poses the greatest difficulty in classification. The following guidelines, enacted by a Swiss court, may be of assistance in distinguishing between political and conventional offenses in the second category:

- The political offense must be directed against the political or social organization of the State. The political intent of the accused must correspond with the goals of an organized party.
- The offense must bear a direct and clear relation to the goals of that party.
- Although, properly speaking, the offense may be political in nature, it still can be considered an offense against common law because of the atrocious means employed to achieve the political goal.

In the case of conflicting charges or charges involving several offenses, the nature of the most severe offense determines whether the judge will classify it as political.

Anarchism and the Baader-Meinhof Group

The political and social theory of anarchism deals with the creation of order, not chaos--an organic order as opposed to the mechanical kind of order imposed from above or outside. The basis of anarchism is the individual and his voluntary agreement to live in a community. According to its great theorist Max Stir-

*P. Papadatos, Political Crime [French language] (Geneva, Switzerland, Libr. Dalloz, 1955).

ner (The Individual and His Property, 1845), the goal of anarchism is to free the individual from the political and social constraints and to guarantee his personal liberty. In our technocratic society, Stirner's work seems even more relevant.

Although there is some controversy over whether acts of anarchism should be considered political crimes, it may be appropriate to concede to anarchism its political motivation while denying it the favorable treatment accorded to true political crimes. Actions of terrorists such as Baader, Meinhof, Haag, and others frequently have been termed anarchistic. This label would certainly be objectionable to true German anarchists. The Baader-Meinhof group and its accomplices have been unable to devise a cohesive political doctrine, anarchist or otherwise. Their only recognizable goal seems to be the perpetuation of terror. Baader, Meinhof, and their accomplices therefore should be considered common criminals who use acts of terror to try to achieve a vague goal and do not seem to be inspired by any obvious political motivation.

General Judicial and Political Considerations

A free democratic state cannot offer absolute protection against terrorism (nor can a military dictatorship, for that matter). The German Government believes that the existing legal and constitutional framework offers sufficient weapons to fight terrorism effectively. The problem is that, in dealing with this type of offender, two fundamental principles of penal law lose their meaning. First terrorists rebel against the legitimate, constitutional government. In addition, they do not hesitate to risk their lives. Therefore, the fear of punishment and the efforts at social reintegration are ineffective controls. This leaves only a third principle of the penal law: the elimination or separation of terrorists from society. Since practically all democracies disapprove of capital punishment, and West Germany has even abolished it, there remains only the alternative of assigning lengthy prison terms.

In their fight against organized crime, the authorities need adequate weapons. In this regard, sophisticated equipment and training of the police force did not suffice. Above all, a rigorous coordination of the German federalized police system was necessary. Thus, particularly the Bundeskriminalamt (which, together with the Bundesamt fuer Verfassungsschutz, forms the German equivalent of the FBI) has been strengthened in the fight against terrorism and is now one of the most modern organizations of its kind.

Modifications of the Legal System

In fighting this kind of crime, however, the expansion of the police force is not as essential as the adaptation of existing legal tools to meet the terrorist threat. Hence, the lawmakers in West Germany have tried to modify the penal code, tightening the loopholes in the judicial system as much as possible. Following is a brief catalog of the most important legal measures:

o The revision of the penal procedure dated August 1973 sought to improve and strengthen the existing laws concerning arrests and detention. One important improvement is a precise definition of the term "danger of escape" so that the mere fact that the suspect has a fixed resident is insufficient to preclude preventative detention during the preliminary investigation. The concept of "danger of recidivism" is introduced for the first time and may be used to procure warrants of arrest and to justify detention while awaiting trial.

o The First Reform Bill of the penal procedure dated December 1974 provides for quicker judicial processing by authorizing possible omission of the preliminary investigation and final hearing by the public prosecutor. Concurrently, the procedure of expert testimony is handled with greater flexibility so that the expert need not be present at the trial in all cases.

o Several revisions of the penal code are intended to combat airplane hijackings, the taking of hostages, and certain forms of extortion, all of which are favorite terrorist devices. The penalties imposed are relatively severe.

o The legislature has also passed several bills prohibiting public incitement to violence. Any approval of or instigation to commit major offenses, especially in the form of descriptions of guerrilla warfare strategies (unless scientific in nature), is punishable under the law.

o In July 1976, the Antiterror Law was passed, providing for numerous modifications of the legal code, the court procedure, and the statutes regulating the conduct of attorneys. It prohibits the founding and supporting of a terrorist organization and generally tightens the provisions against terrorism. Hence, membership in a terrorist organization is now considered a misdemeanor (but not a crime as in some other European countries). Similar to membership in an ordinary criminal association, it is punishable by a prision term of 6 months to 5 years. Leaders and founders of terrorist organizations may receive jail terms of 1 to 10 years. The same law originally was intended to introduce the principle of state's witness (witness for the prosecution) into the German legal system. Thus, defendants willing to testify against other terrorists would be eligible for a reduced

sentence. Since both legislative chambers voiced objections, however, the proposals were excluded from the the final version of the law.

o When, in 1974, it became obvious that prisoners were using the contact with their attorneys to delay the trial and continue their criminal activities, the lawmakers introduced several articles restricting the rights of the defense. Consequently, the number of defense attorneys that each defendant may choose has been limited, and the policy of one attorney for each trial of an accused terrorist has been adopted. In addition, defense attorneys can be barred from trials if they are suspected of being involved in the terrorists' offenses or planned offenses. Suspended attorneys may not undertake the defense of other Anti-terror Law violators if the legal proceedings against the latter have already been opened. They may, however, defend criminals against whom proceedings have been initiated after their exclusion. It might be considered a weakness that, in such cases, the process of barring must be reinitiated.

o In addition, stricter control of the contacts between defendants and their lawyers has been imposed, but care has been taken not to hinder the defense's work too severely. Control of contacts is used only in cases involving terrorist offenders. The judge overseeing the control cannot be involved in the trial in any way and, with few exceptions, is not allowed to pass on information to the public prosecutor or other judges. Finally, the control is limited to written communication. Oral communication between accused terrorists and their attorneys remains confidential.

o In the wake of the abduction of Dr. Hanns Martin Schleyer, the contact ban became law in September 1977. In cases of immediate danger to life, limb, or liberty of an individual where terrorists involvement is suspected, any contact, written or oral, between imprisoned terrorists and their attorneys or between the prisoners themselves may be suspended if it is considered that such action would avert the danger. The ban is administered by the individual state governments and is valid for a period of 30 days, but must be upheld by a state court after 15 days. After 30 days, a new contact ban can be put into effect.

The Government justifies the contact ban as a necessary emergency measure, and this justification has been accepted by the Supreme Court. Yet, such severe limitation of the rights of a defendant should be exercised with the utmost caution--after all, the freedom of defense is one of the foundations of a constitutional democracy.

Assessment of the Situation in West Germany

The measures adopted by the German Legislature against terrorism are examples of ad hoc legislation. There is a question whether it, like all legislation that responds directly to a particular situation, tends to be too one sided, which in this case would amount to placing too much emphasis on security and thus compromising constitutional guarantees. I believe that the laws in question are designed to preserve the established democratic government and that they do not seriously restrict the the constitutional rights and liberties of the individual.

The constitutional democracy would be in danger, however, if the measures adopted were not directly related to the immediate danger, i.e., if they were only a pretext for the government to demonstrate its force; if the measures adopted concerned matters which have nothing to do with the actions and dangers of terrorism, but served only to restrict established democratic rights; and if constitutional liberties, such as freedom of expression, were restricted in law or fact.

None of the German provisions fall under these categories. The new Antiterror Law therefore is not directed against the political motivation of the terrorists, but merely supplements the general law against criminal associations. It is the type of law that is generated by this peculiar variety of crime and fits within the framework of the agreements reached at Tokyo in 1963, The Hague in 1970, and Montreal in 1971 regarding measures to combat airplane hijackings.

The new provisions, no doubt, have limited the rights of the defense without, I believe, violating the constitution. The German Bar Association has studied the proposed and final versions of the legislation and noted essential drawbacks and expressed its opinion. Up to now, the lawmakers have acted in accordance with that opinion.

I disagree with the extreme view expressed by P.H. Bakker-Schut, who sees the phantom of a new fascism in the recent German developments.* He is quick to compare the special police troops to the Gestapo and the special security forces to the SS. On the other hand, he depicts Baader, Meinhof, and their accomplices as martyrs taking up arms under the pressure of a repressive West German Government. In his opinion, legal specialists and representatives of the German and Dutch Bar Associations, who have examined the new legislation with a more

* P.H. Bakker-Schut, "The Baader-Meinhoff Laws," [Dutch language] Advocaten Blad, 1975: 67.

objective and discriminating eye, display only their fragmentary information and naivete in political affairs. I can agree with him on only two points: when he urges utmost vigilance, and when he emphasizes the dangers resulting from the control of defense attorneys. Concerning the treatment of so-called political prisoners, Bakker-Schut evokes visions of prisoners subjected to torture and "murder in installments." He claims that imprisonment is used to destroy the offenders and that their isolation from each other constitutes a form of torture. In short, the West German treatment of these prisoners is inhumane.

Lacking sufficient objective information, I decline to take a definitive position. In any case, it would be advisable to submit the treatment of the prisoners to an international amnesty commission for consideration. Only this kind of thorough and objective investigation would put an end to such slanderous statements.

It is commonly believed that the articles concerning the barring of the defense attorney and the control of correspondence between defendant and attorney are unique in a democratic system. However, it must be noted that corresponding regulations in other European countries (Switzerland, Great Britain, Belgium, The Netherlands) are either equally strict or even stricter.

Conclusion

Criminal associations are not a new phenomenon--only the form they take is new. The terrorists have chosen a dangerous and effective form: they operate according to the strategy of the urban guerrillas in Latin America. Criminals such as Baader, Meinhof, and their accomplices have created a veritable army. They consider themselves in a state of war with the Federal Re-Republic. Knut Folkerts, who was arrested and condemned in The Netherlands for having murdered several police officers, even emanded to be treated as a "prisoner of war." The court did not accede to his demand and properly considered him a common criminal.

Notwithstanding the extent of tolerance for extremist groups in a given country, democracy cannot remain passive indefinitely, but must find ways to protect itself and its laws. On the other hand, its search must not be influenced by the methods of its enemies. By imitating them, democracy destroys itself.

Revue de Droit Pénal et de Criminologie, n. 5:503-543, May 1970. l'Union Belge et Luxembourgeoise de Droit Pénal, Palais de Justice, 1000 Brussels, Belgium.

La criminalità terroristica*

(NCJ 51480)

By Aldo Luzzi

Introduction

Terrorism, as the very word indicates, is an activity which seeks to create and spread terror--or what has been called the "fear from which there is no escape"--for criminal purposes. As for the actions which are the expressions of terrorism, they presuppose an organization of a fanatical group of persons who favor the indiscriminate use of violence. Such violence committed along with common crimes--crimes against property, for example--is described as criminal terrorism; violence directed at state institutions and representatives is called political terrorism.

But this sort of distinction does not seem in keeping with the singular nature of the concept of terrorism. That concept is always an expression of criminality, and one is reluctant to attribute a qualification that refers to politics which, on the contrary, properly manifests a legitimate activity of state institutions and state citizens. Furthermore, when the state has adopted regulations that reflect the people's will, voiced democratically, every action against those regulations, through means that differ from those approved by law, cannot be defined as political, but simply as illegal and, if in violation of the Penal Code, criminal. To define as political a certain aspect of terroristic criminal activity would mean accepting the reasoning of those who practice it and who merely represent delinquency qualified by great social danger.

*Translated from the Italian by Alexis Mazzocco.

Terrorist terminology evoking terms of war or popular struggle and revolution is equally unacceptable, because these expressions have precise historical, legal, and moral meanings totally foreign to the methods of terrorism. War, in fact, is the open opposition of legally armed forces. Popular struggles (for example, those aimed at liberating one's own nation from foreign occupation) are supported by the entire nation, and revolutions are the natural result of the suffering inflicted by tyrannical rule.

Destructive Terrorism

Terrorism, therefore, is simply a criminal methodology which, if perpetrated against the institutions of the state, can be described as destructive, but never as political. Terrorism cannot be characterized as an act of war, an act of popular revolt, or a revolutionary event, since it is more than a phenomenon of delinquency.

The destruction of industrial, commercial, and manufacturing plants; the devastation of agricultural cultivations; and the killing, poisoning, or setting free of single animals or flocks or herds are terrorist activities of specific types of criminal associations. The destruction or damage of headquarters or installations of public offices, services, or utilities, and the killing or wounding of persons who represent public institutions or important sectors of the socioeconomic life of the nation are also terrorist activities of other specific types of criminal associations. In the first case a Mafia pattern may be detected, in the second, one of destructive terrorism.

Penological doctrine teaches us that each violation of the Penal Code constitutes violence against the state, but in destructive terrorism the very essence of the state and its legal order is attacked. In this sense, terrorism does not immediately manifest itself in all its virulence, but rather gains momentum through progressive actions whose initial phases do not always seem to be recognized as potentially dangerous.

The school is a state institution. If the school's underlying principles (study, discipline, and the subordination necessary to maintain order within the school) are attacked, this constitutes an attack on the state. If the attack is continuous and incorporates tactics intended to instill fear, this is a manifestation of terrorism. It is destructive because it is directed against a state institution.

Freedom of enterprise is protected constitutionally. If store windows are smashed and factories are set on fire, a ter-

rorist act is committed against citizens' rights, aside from damage to private property.

Phases of Terrorism

In the initial phases of a long-term terrorist operation, it is not always physical violence that is directed against state institutions. The entire body of government, particularly such branches as the judiciary and the police, can become objects of extremely violent criticism, intimidation, hindrance, and opposition which prevent them functioning effectively. This is undoubtedly the preparatory phase for more open and coordinated violence with destructive ends, at times unconsciously supported by those who, fooled by a well-orchestrated campaign of counterinformational propaganda, contribute to the weakening of institutions established primarily for the internal defense of the state.

In this context we see the growth of initiatives ostensibly intended to consolidate citizens' constitutional rights, but which essentially tend to limit the power of intervention of the institutions charged with safeguarding order and public safety, or of judiciary police institutions. Thus, we run the risk of allowing these institutions to be stripped of the legal tools necessary for ready reaction in terrorist confrontations and, at the same time, to be divested of that authority necessary to adequately oppose a frightening criminal phenomenon.

This phenomenon is accompanied by elements that transcend other well-known patterns of delinquency and which, therefore, are difficult to control and combat; also, this phenomenon frequently appears as the result of international criminal cooperation. On the one hand, especially to obtain financial means, terrorism relies on the patterns of common delinquency (robbery, kidnaping, mugging), and, on the other, adopts these same patterns, independent of the specific actions it proposes, in order to create an atmosphere of fear in people who consequently are led to mistrust state institutions even more.

Also, any pretext is used to incite demonstrations by young people who, probably in good faith, are eager for reform, renewal, and greater control over their expectations. These young people, however, ultimately become easy prey to foolish ideologies and are pushed into or involved in actions that sometimes result in serious crimes against order and public safety and therefore are harmful to them. In this phase of the destructive terrorist operation, well-organized minorities, equipped with firearms and trained with urban guerrilla or commando techniques, easily manipulate young persons, who may thus find themselves exposed to unlimited violence.

The events that follow, then, are exploited to generate hatred toward the state and its institutions. It is therefore easier to recruit new followers to the terrorists' cause which, like Dante's circles of hell, provokes ever greater suffering for society. City walls are full of writings inciting to violence, revenge, and hatred, with the result that these modern graffiti, with their "psychological terrorist" content, support chain reactions of physical violence. Humiliation, cruelty, and torture--terms found in penal legislation that represent serious circumstances--become constants in terrorist actions which seek to intimidate every social sector in order to incite, ultimately, a frontal attack on the state.

Terrorism and the Statutes: History of Terrorism in Italy

In our body of statutes there is no legal definition of terrorism. For that reason one refers to the concept of terrorism that has been forming in the public eye, and examines its possible manifestations, as we have done in the preceding paragraph. Terrorism is a relatively recent phenomenon, but there were suggestions of it in events of the not-too-distant history of our country, although they were moments of extreme torment.

In 1943, when Sicily was occupied by the Anglo-American Allied Armed Forces, a separatist movement arose which did not lack sympathy and solidarity. Since it was a political movement, it did not arouse excessive worries, but instead kindled the spirit of those who sought the creation of an independent Sicilian State rather than administrative autonomy for the region.

From this movement there arose the Voluntary Army for Sicilian Independence (EVIS), a secret army. Its ranks, modest at first, increased between the end of 1944 and the beginning of 1945. EVIS' followers, organized militarily were able to spark the passions of the local populations, which prompted acts of open revolt (the burning of public offices, devastation, pillage) against the state.

But these phenomena are understandable considering the difficulties of the times, such as a frightful devaluation of the currency, the lack of basic necessities, the ongoing war, drafts, and levies. Military objectives (e.g., military headquarters and finance offices) were attacked, municipal offices were set on fire, and there were even open, armed conflicts with the Forces of Order (Forze dell'Ordine), resulting in casualties on both sides. Logistic necessities forced individual units of EVIS into contacts with the criminal underworld, generally organized into armed bands that scoured the countryside, with the result that the movement lost moral strength, while the public order and

safety continued to suffer. At the time, one did not speak of terrorism because this term was not used in the contemporary sense of the word, but circumstances were so serious that a curfew was imposed in many areas of Sicily.

Although the war in Europe ended on May 8, 1945, the existing government, faced with this nationwide criminal phenomenon, issued regulations which gave special military tribunals the authority to adjudicate cases of serious crimes (particular cases of crimes by armed bands, aggravated cases of crimes against property and persons, crimes connected with the possession of stolen goods and unlawful arms, etc.). Regulations were established which represented a truly valid means of restoring the law and which remained in effect until the Constitution of the Republic took effect on January 1, 1948.

A precise political direction, the unity and the sacrifices of the police forces, and a solicitous and exemplary judiciary which provided every right for the accused were the basis for restoring order. They also formed the basis of efforts aimed at social repacification which, with its subsequent reasoned provisions for amnesty and pardon, allowed those guilty of lesser crimes to gain their lost liberty and reenter society without bitterness.

We have said that our body of statutes does not contain a legal definition of terrorism, but it is obvious that some crimes can be the result of terrorism. This is also true of a significant portion of the crimes cited under the 1st title of the Penal Code (crimes against the state), under the 6th (crimes against public safety), under the 12th (crimes against persons), and under the 13th (crimes against property), as well as other crimes covered by special penal legislation. The term terrorism appears officially in the Penal Code with article 2 of Law Decree n. 59 dated March 21, 1978, which deals with the replacement of the text of article 630 of the Penal Code; its new heading is "seizure of persons for purpose of extortion, terrorism, or destruction."

Law Decree n. 59 Dated March 21, 1978

Article 77 of the Constitution contains a clause which proscribes that "the government cannot, without delegation from the Legislature, issue decrees which have the impact of ordinary law." The second clause of this article adds that "when, in extraordinary cases of need and urgency, the government establishes conditional provisions with the weight of law, it must on the same day present them for ratification to the Legislature, which, even if adjourned, must reconvene for this purpose within 5 days." Finally, the last clause of the article specifies that "the decrees lose their force if not transformed into law within

60 days of their publication; the Legislature can in any case pass laws amending or otherwise dealing with unratified decrees."

This is the process of formulating a law by an authority other than the Legislature. It is accomplished in extraordinary cases of necessity and urgency, such as those occurring at present, when the frontal attack of destructive terrorism is directed toward the state. A frenzied barbarity, based on a confused and maniacal ideology and coldly perpetrating horrendous, perfectly organized crimes, constitutes a special case of sufficient necessity and urgency to warrant the prompt issuance of counteracting regulations.

This has been achieved by Law Decree n. 59 dated March 21, 1978 ("penal and trial regulations for the prevention and repression of grave crimes," Journal of New Laws n. 80 dated March 22, 1978), which contains:

(a) Penal regulations

- Formulation of a new crime against the public order, stated as article 419b, Penal Code, with the heading "assault on public utility" establishments;
- New formulation of the text of article 630, Penal Code, with the heading, as stated above, "seizure of persons for the purpose of extortion, terrorism, or destruction";
- Formulation of a new crime against property, stated as article 648b, Penal Code, with the heading "exchange of money or valuables obtained through aggravated robbery or seizure of persons for the purpose of extortion."

(b) Penal trial regulations

- Introduction of trial collaboration among legal authorities, stated as article 165b, Penal Trial Code, with the heading "request for copies and information acts on the part of legal authorities";
- Introduction of collaboration, in certain cases, between legal authority and the highest authority charged with public safety, stated as article 165c, Penal Trial Code, with the heading "request for acts and information on the part of the Ministry of the Interior";
- Introduction of the acquisition of information, in certain cases, on the part of the judiciary police, stated as article 225b, Penal Trial Code, with the heading "summary information from persons indicted, arrested, and held";

- New regulations concerning methods and duration of operations regarding the hindrance, interruption, or interception of communications or conversations with the substitution of the second column of article 226c, Penal Trial Code;

- New regulations concerning methods for the concession of authorization for the above-mentioned operations, with the addition of a clause to article 226, Penal Trial Code;

- New regulations on the execution of the above-mentioned operations, with the replacement of article 226d, Penal Trial Code;

- Introduction of preventive interception of telephone communications and conversations, with the addition of article 226f, Penal Trial Code;

- Extension of immediate judgment for crimes of robbery, extortion, and kidnaping, for crimes concerning arms and explosives and for concurrent crimes, with the replacement of article 2 of Law Decree n. 497 dated October 14, 1974 ("New regulations against crime"--Journal of New Laws n. 275 dated October 22, 1974)--article 10 of Law Decree n. 59 dated March 21, 1978.

(c) Safety regulations

- Introduction of surveillance by police officers of persons refusing to provide personal particulars, or persons who, there is sufficient reason to believe, have falsified identities or the identification they provide --article 11 of Law Decree n. 59 dated March 21, 1978;

- Introduction of notification to local public safety authorities regarding the sale, transfer, or use of buildings, with a statement of the identification of the persons who assume ownership, direction, or management of the building--article 12 of Law Decree n. 59 dated March 21, 1978.

The foregoing regulations are not exceptional in nature and are strictly in keeping with the constitutional dictum.

Polizia Moderna, n. 4:20-23, April 1978. Accademia del Corpo delle Guardie di P.S., Via Pier della Francesca, 3, 00196 Rome, Italy.

Le terrorisme et l'extradition en droit belge* (NCJ 30539)

By Renata Cochard

Introduction

The field of extradition for terrorist acts is ambiguous, inasmuch as the notion of terrorism cannot be strictly defined. If one excludes the actions of an individual who seeks revenge, riches, or gratification of personal desires, terrorism is characterized by its political motives and goals. Consequently, it is a question of knowing under what circumstances and by what reasoning the courts and the Belgian Government remove the political implications from the terrorist act in order to call it a common law crime or offense subject to extradition.

Each case of extradition or nonextradition for political infractions is exceptional, since every aspect seems to be dominated by the circumstances of time and place and by the political interests and concepts of a government. Practice differs from one country to another, and even within a nation. Such is the case in Belgium, although it undeniably enjoys an exemplary reputation as a country that welcomes political refugees from all fronts.

Today, almost 150 years after adoption of the Belgian law of October 1, 1833, regarding extradition, it is necessary to verify whether such a reputation is still warranted.

The October 1, 1833, Law on Extraditions

Article 128 of the Constitution of 1830 declares that "any foreigner, while on Belgian soil, enjoys the protection accorded

*Translated from the French by Deborah Sauvé.

to persons and property, barring exceptions established by law." Extradition, being an infringement of individual liberty, is one of those exceptions. On the basis of the law of October 1, 1833, the Belgian Legislature determined the cases in which extradition could be granted and the procedures to be followed in this respect. The stipulation for extraditing political offenders was the most important and frequent example.

At the beginning of the 19th century, in the irresistible current of liberalism, a change of opinion occurred: the act of political and public hostility became a "privileged crime." Its perpetrators were idealists ready to sacrifice themselves for the establishment of a better regime; they were clearly distinct from the common criminal.

Political asylum found its first sanction in Europe in a circular dated April 5, 1831, in which the French Government declared that it would no longer demand or grant extradition in political matters. But Belgium was the first to affirm this principal in a domestic law. Article 6 of the law of October 1, 1833, an article still in force today, prescribes:

> It will be expressly stipulated in these treaties that foreigners cannot be prosecuted or punished for any political offense prior to extradition, nor for any act connected to such an offense. . . .

A dual innovation is contained in article 6; the rule of non-extradition for political offenses is affirmed, yet the concept of a political infraction is in no way limited or specified, leading one infer that "any political infraction" is excluded from extradition. The silence of the legislature on that point must be interpreted as a highly prudent measure, for any sort of definition would have limited the domain of the regime in power. The predominant tendency of the time thus forbade any distinction among political refugees.

The Jacquin Affairs

The fact that certain movements, as well as certain isolated individuals, were adopting the strategy of terrorism and anarchist crimes caused Belgium to change its generous attitude toward political refugees. In 1855, the Belgian Government and courts found themselves facing the first case of extradition relative to an act of political terrorism: the Jacquin affairs. Celestin Jacquin and Jules Jacquin (no relation), two Frenchmen living in Belgium, attempted to blow up the train transporting Emperor Napoleon III and his retinue. The bomb they planted on the tracks at Lambersart-lez-Lille exploded, causing the train

to derail. The Jacquins were charged with an attempt on the life of the Emperor and the attempted assassination of the members of his retinue.

The Court of Arraignment in Brussels decided that the two charges were political in nature and, therefore, that the Jacquins were not subject to extradition; however, the High Court of Appeal to which that decision was referred ruled that the offense did not constitute a political infraction. The High Court's opinion was that article 6 of the law of October 1, 1833, "could not apply to acts which, no matter what the perpetrator's goal and no matter where committed, are condemned by morality and should be repressed by penal law during all eras and by all nations."

When the case was returned, the Court of Arraignment rejected Celestin Jacquin's demand to be released. The Court of Appeal maintained its opinion and ruled against extradition. Its decision stated:

> Extradition is an act of extranational authority and, consequently, a derogation of the principle which limits the sovereignty of each nation to the persons and things within its territory; it follows that all extradition laws should be interpreted restrictively . . . Extradition is still an exception to the right of asylum which stands as a general rule.

The Court stated, in addition, that this law subjects extradition to the following conditions: (1) that the act under indictment be a <u>private</u> crime or offense; (2) that this crime or offense be <u>specially</u> designated in article 1 of the law; and (3) that it not be connected to political opinions or events.

France then withdrew its demand for extradition, enabling the Belgian Government to avoid resolving this embarrassing question. The Jacquins were exiled and took refuge in Great Britain.

The Law of March 22, 1856, Containing the "Attempt Clause" or the Belgian Clause

The Belgian Government felt obligated, however, to make amends to its powerful neighbor. The law of March 22, 1856, was thus conceived:

> Single article--the following paragraph is added to article 1 of the law of October 1, 1833: shall not be deemed a political offense nor an act connected to such an offense the attempt against the person of a head of a foreign government or against the person of the members of his family, when that attempt constitutes murder, assassination, poisoning . . .

Once again, Belgium led the way in this area: the same exception was incorporated into a number of treaties.

The statement "shall not be deemed a political offense" when applied to the crime of lese majesty, which is the ultimate political crime, is absurd. It would have been logical to say "despite the political character of such a crime, it may be subject to extradition." The original statement, however, is still repeated in the Multilateral European Extradition Convention of 1957 and in the Benelux Extradition Convention of 1962. It seems unlikely, for the moment, that Belgium can renounce the clause which bears its name. If the clause is to be preserved, it should at least be interpreted restrictively.

The Anarchist Crimes of the Late 19th Century

Anarchist crimes once again pose the problem of limiting the meaning of the word "politics." One refuses to describe as "political" those anarchist or terrorist acts which undermine the the very foundations of society insofar as one can distinguish society itself from its political manifestations.

The Institute of International Law, meeting in 1892 in Geneva, affirmed the following principles:

o Extradition cannot be allowed for purely political crimes and offenses.

o Neither will it be allowed for infractions connected to political crimes or offenses . . . unless, however, it is a question of the most serious crime from the viewpoint of morality and common law, such as assassination; murder; poisoning; mutilation and willful, premeditated serious injuries; attempted crimes of this nature; attempts on property by fire, explosion, or flooding; and serious theft, notably armed robbery and theft involving violence.

o Concerning acts committed during an insurrection or civil war by one or the other of the sides engaged in the struggle in the interest of their cause, they can only give rise to extradition if it is a question of acts forbidden by the laws of war and constituting loathsome barbarity or vandalism, and only after the civil war has ended.

o Unlawful acts directed against the foundations of any social organization, and not only against a specific State or form of government, are not deemed political offenses, relative to the application of the preceding rules.

For the first time, this resolution provided an objective standard which singled out an entire series acts and not just a few isolated incidents as did the "attempt clause."

The concept of political offenses became more flexible after 1900. In any case, the decision of the Court of Arraignment, whether for or against extradition, was not binding on the Ministry of Justice, which was the final authority in all extraditions. Accordingly, the following persons were not extradited to the requesting countries, contrary to the recommendation of the Court of Arraignment: Cappa, in 1923, to Italy; Gasperini, in 1928, to Italy; Bartholomei, in 1928, to France; and Barratini, in 1936, to Italy.

The distinction between political offense and common law offense is based on the determination whether the act itself or a related act constitutes either a direct or indirect attack on the political order. In short, the Belgian Government, more so than the courts, adopted a broad concept of the political offense and related acts in questions of extradition, especially vis-a-vis attempts against persons and property committed in politically troubled times and directly related to a political struggle.

The Algerian Affairs: Problem of Disguised Extradition

A much less liberal tendency emerged during the Franco-Algerian conflict, which led Algerian nationals to take refuge in Belgium. In 1956 and 1957, the problem of extraditing or expelling them did not even arise since, without legal authority the police forces involved sent the Algerians back across the border. Such discrimination and abuse ceased when the Government formally forbade disguised extraditions.

Disguised extradition is an agreement between nations which violates treaty provisions, circumventing the only legal means, i.e., extradition, of conveying an individual from a foreign territory. The refusal to extradite does not imply renunciation of the right of expulsion, but returning a political refuge to the authorities of the country from which he escaped by the circuitous route of expulsion is a particularly serious measure. The principle that expulsion need not result in a disguised extradition is generally recognized by those countries which, like Belgium, refuse extradition for political offenses.

The Rights of the Individual Who Is the Subject of an Extradition Demand: Asylum

Can the treaty clause which forbids extradition for political infractions be invoked by the subject of an extradition procedure? Does that clause protect the rights of both the accused and the government? One of the essential goals of extradition is to return the offender to trial in his own land, where the judges, for several reasons, seem to be the best qualified to provide

him a just hearing. In political instances, however, the opposite prevails: the political offender will have only a slim guarantee of equity and impartiality because he will be judged by an authority controlled by his political enemies. In this case, therefore, asylum is essential. But asylum is a right belonging to the State and not to the refugee. Since the clause confers no rights to the individual with respect to international law and since extradition remains a sovereign governmental act, the State incurs no international responsibility if it chooses to refuse admittance to a political refugee. Even the existence of a treaty which disallows extradition in political matters does not prevent a nation so inclined from extraditing a political offender.

The possibility of appeal to an international body obviously would be the best guarantee for the individual desiring to protest violations of his rights, on the part of either country involved, in the handling of his extradition. Although international litigation against extradition is nonexistent, the European Human Rights Convention of November 4, 1950, accords an individual the right to recourse before the European Human Rights Commission against countries which, like Belgium, have recognized this right. Unfortunately, the convention does not guarantee the right of asylum to political refugees. Article 3 of the convention contains a clause which applies indirectly to extradition: "No one may be subjected to torture or to inhumane and degrading penalties or treatment." It is applicable when extradition is viewed as inhumane treatment by virtue of gross violation or suppression of human rights in the requesting country. Article 6 may also be invoked in that it guarantees a fair trial. It is hoped that a commission charged by the Ministry of Foreign Affairs with the task of reforming the Belgian extradition law will make that law conform to the provisions of the European Human Rights Convention.

Treaty Law

Extradition treaties are important because they create a reciprocal obligation for the nations bound by them to extradite the perpetrators of certain infractions. In Belgium, the domestic laws of 1833, 1868, and 1874 and the treaties based on them are the sources of extraditional law. Approximately 50 bilateral treaties are in force, and all of them exclude extradition for political infractions without defining them; nearly all of them also contain the "attempt clause."

In the area of multilateral agreements, the Benelux Extradition and Judicial Assistance Treaty of June 27, 1962, expands somewhat on the "attempt clause." It stipulates that "any attempt on the life or liberty of a chief of state or member of a royal family" will no longer be considered a political infraction. The

governments concerned refused to "depoliticize" extradition; however, the treaty presents innovations in simplifying and accelerating the extradition procedure, relinquishing the diplomatic channel, and considering the possibility of extradition for military and fiscal infractions.

In December of 1957, the member nations of the Council of Europe signed a multilateral extradition treaty. It was needed since the Council's original goal of making extradition rules uniform proved impossible to attain because of the extreme diversity of laws and judicial concepts of the 17 member nations. The treaty maintains the prohibition on extradition for political, military, and fiscal infractions, as well as the "attempt clause." Extradition may also be refused if the request, in response to a common law crime, was made to extradite people because of their race, religion, nationality, or political opinions.

The European Extradition Convention went into effect on April 18, 1960; however, it was not and probably never will be ratified by Belgium. The Belgian Government felt that the reservations and declarations of the ratifying nations, by their number and importance, "alter the very substance of the Convention". It must be admitted that this convention signified a step backward in relation to existing bilateral agreements.

These two multilateral conventions demonstrate three basic tendencies of treaty law: closer cooperation in increasing and accelerating extradition, reinforced safeguarding of human rights, and improved techniques of cooperation in extradition.

Conclusion

Neither international nor domestic law imposes obligations on Belgium; it is free to extradite, give asylum, or even expel. But there is a problem: whereas domestic law allows political offenders to reside in a friendly country, it punishes them all the same, but in international law political asylum removes the culprit from all repression and guarantees him total impunity. It is this impunity which offends, which is unacceptable when the terrorist has committed a very serious crime--a crime contrary to humanitarian law which involves innocent lives. The criterion of barbarous, odious acts used to authorize extradition in political matters does not exist in Belgian law as it does in French law, and this is unfortunate.

The wave of terrorism is real. Belgium, however, does not have as much reason to be afraid as do the nations from which terrorism springs, the countries in which "cancerous anarchist

cells" find a favorable breeding ground. Consequently, Belgium should react with caution if one day it is asked to agree to measures which serve the interests of those nations in which the danger exists, and not its own.

In Réflexions sur la définition et la répression du terrorisme (Reflections on the Definition and the Repression of Terrorism, NCJ 30533), Conference Proceedings, Free University of Brussels, March 19-20, 1973, 1974, p. 207-228. Editions de l'Université de Bruxelles, Parc Léopold, 1040 Brussels, Belgium.

Contact Ban Between Prisoners and the Outside World--Information About a Law to Fight Terrorism

Kontaktsperre--Informationen über ein Gesetz zur Bekämpfung des Terrorismus* (NCJ 52967)

Editor's Note: This pamphlet was published by the West German Ministry of Justice in 1978 to explain the background and provisions of the Contact Ban Law of October 1977.

Foreword

A need has arisen to regulate contact between prisoners and the outside world and among prisoners themselves in cases of terrorism. The required legislation was provided by the Contact Ban Law. This law, which went into effect on October 2, 1977, is a product of cooperation among the Department of Justice and the three factions of Parliament. This pamphlet helps allay any fears or misunderstanding about the law, and explains the legislative action behind it as well.

Summary of the Work Behind the Law and the Conditions Thereof

With the enactment of the Contact Ban Law on October 2, 1977, legal foundation was provided to bar temporarily all connection between certain prisoners and both the outside world and other prisoners. The law is invoked during crises involving threats by terrorists to life, limb, or freedom. Oral and written contact with defense lawyers may also be barred.

Use of contact ban in Schleyer case. The contact ban was initially applied to imprisoned terrorists after the kidnaping of Hanns Martin Schleyer on September 5, 1977, and the subsequent seizure of the Lufthansa jet. This measure was unavoidable to preclude additional danger to the lives of the hostages and undue complications or frustrations to the efforts of the authorities. The only recourse seemed to be a complete contact ban to prevent any influence or complicity on the part of the imprisoned terrorists, whose release the kidnapers demanded.

*Translated from the German by Phillip Seebold.

The required warrants were issued after careful deliberation by the States' judicial bodies and the Federal Minister of Justice. These authorities based their actions on the legal premise that violating a right of lesser value permits a right of higher value to be protected. The justification for this premise is to be found in the section "Justifying Emergencies" of the Penal Code as well as in the Civil Code. In the Hanns Martin Schleyer case, the Federal Supreme Court ruled that the situation was indeed extraordinary and confirmed the legitimacy of an absolute contact ban between the imprisoned terrorists and those involved in the kidnaping.

Legal questions. Despite the decision by the Federal Supreme Court, the situation was still unsatisfactory from a legal point of view. All manner of questions arose: Who can authorize contact bans? How long should they last? What type of crimes justifies their implementation? According to the Federal Government, a clear legal order for the contact ban must be established as soon as possible for the following reasons:

- The opinion regarding invocation of the Penal Code ("Justifying Emergencies") was not unanimous. A significant counter-opinion stated that the Government cannot tamper with emergency rights accorded the individual citizen.

- Effective as well as unified control of the contact ban meaures was needed.

- It was essential to insure that the contact ban measures were interpreted and enacted uniformly by each State in the Federal Republic. The Federal Government developed a legal proposal to be used as a guideline, which the three factions of the German Parliament (Christian Democratic Union/Christian Socialist Union, German Socialist Party, and the Free Democratic Party) adopted and jointly introduced as a bill.

Legislative chronology of the Contact Ban Law. The Contact Ban Bill was introduced in the Lower House on September 28, 1977, and submitted on the same day to the Legal Committee of the Lower House for deliberation. On the next day, after revisions were made, the slightly amended text was approved and sent to the Upper House. The Upper House approved the bill the next day and submitted it to the President of the Federal Republic, the Chancellor, and the Minister of Justice for signature. The text appeared in the Federal Law Digest on October 1, 1977, and the law went into effect on October 2.

On October 4, the Federal Constitutional Court ruled against the appeals of several lawyers who sought the right to have unhindered contact with their clients. Although the Court admitted

that the contact ban could make the defense of prisoners more difficult and hinder the professional efforts of their lawyers, it ruled that the laywers' objection was met in that the exact limitation would be defined at the time a specific ban was decreed. In addition, the law provided for certain procedures, during the contact ban and under certain court situations, which would mitigate the possibly disadvantageous effects on prisoners' defense. The Contact Ban Law meets the legal requirements of the German Constitution. It contains well-defined and outlined provisions which enable swift and sure reaction to dangerous situations.

Conditions for the Decree of a Contact Ban

The Contact Ban Law provides that all contact between prisoners and the outside world can be prohibited if a "threat to life, limb, or freedom" of an individual is present and the suspicion is established "that the threat comes from a terrorist group." In addition, the contact ban must be intended as a measure to avoid this threat. If these conditions are met, a contact ban may be authorized for prisoners convicted of a terrorist crime as well as those strongly suspected of having committed such a crime. The ban is also applicable to those prisoners convicted of other crimes or who are in investigative custody, provided a justifiable suspicion has been established that their crime was committed in conjunction with an offense covered under that portion of the Penal Code dealing with formation of a terrorist group.

The contact ban is intended to prohibit all contact of prisoners affected both in and out of the institution. The prisoners may receive no visitors or mail and undertake neither oral nor written contact with their lawyers. Contact with the other prisoners is prohibited, and the prisoners concerned are not permitted to watch television, listen to the radio or receive packages, newspapers, and magazines.

Issuance, Length, and Control of the Contact Ban

The decision whether a situation exists which calls for the issuance of a contact ban lies with the State government or its designated legal authority. If several States are involved, the decision is made by the Federal Minister of Justice. When the decision is made by the appropriate State authorities, they must also impose the necessary conditions for breaking off all contacts. The contact ban loses effect automatically if it is not confirmed by a court within 2 weeks of its issuance. In those cases where the State government or its designated legal authority is responsible, the State Supreme Court must make the confirmation.

If the Federal Minister of Justice has made the decision, the Federal Supreme Court must confirm it. The Contact Ban Law is also valid for the city of Berlin. The authority already possessed by the Allies' administration remains pertinent.

A contact ban is valid for a maximum of 30 days, but can be renewed if the crisis has not been resolved. This may be done several times, and each renewal requires the same court approval. In all cases, the contact ban must be lifted as soon as the conditions for its issuance no longer exist. If a court has not confirmed the ban, a new one may be issued only when new developments have taken place.

Rights of Prisoners

Prisoners affected by the contact ban have the right to contest the legitimacy of individual provisions of the ban. This must be done by appeal. Prisoners may contest the stopping of visits, for example, but not the contact ban in general. The appeal is considered by the judge of the appropriate court authority.

The termination of contact with the outside world can affect current court proceedings and legal affairs. Because of this, the fewest possible deprivations of prisoner rights occur when the following conditions are met precisely:

o Prisoners who have no defense attorney will have one appointed.

o Accused prisoners may not be questioned against their will. Investigatory proceedings in which they have the right to be present will not take place against their will.

o No criminal court proceedings will take place, and those already begun will be broken off. The interruption can last no more than 30 days.

o During deliberations concerning warrants for detention or oral arguments for removal into custody, defense lawyers will not have the right to be present if prisoners are to be interrogated. However, judges must apprise lawyers of the essential results of the investigations--to the extent that the purpose of the contact ban is not subverted--and inform them of the decisions.

o Prisoners may appeal in writing to the court or the State's attorney any penal proceedings against them.

o Other sentences currently being served by prisoners will continue, provided they are not interrupted for other reasons.

o Other legal proceedings in which the prisoner is a party or participant will be interrupted, in which case the court may take temporary measures.

Transition Provisions

The foregoing conditions may be applied when the suspicion of any of the following crimes specified in the Penal Code has been firmly established: murder, fatal injury, or genocide; certain crimes against personal freedom; or certain generally dangerous crimes. These conditions are also valid for those who have already been convicted of such crimes.

If these conditions have been invoked and applied for crimes other than those cited above, the following special conditions are applicable: these provisions lose effect after 3 days if confirmation of the contact ban has not been issued regarding the prisoners in question. This procedure pertains to the transitional period. That is, if there are prisoners against whom provisional bans have been issued, the bans will lose effect if a new decision on them has not been handed down within 3 days of the enactment of the law.

Provisions for Limiting Defense Lawyers' Contact in Other European Countries

England. Complete isolation of a prisoner from the other prisoners is permitted without special order. A contact ban with other nations may be ordered by the Home Secretary under various conditions. The defense attorney's reasonable free access to the prisoner may be limited under certain circumstances. As an exception, if suspects have been arrested under the antiterrorist law and are to be extradited to another country, they have no right to request representation by counsel during the court action in which they contest the extradition order. Communication between lawyers and prisoners must take place in the presence of guards, and prisoners' mail may be inspected under appropriate conditions.

France. During the first 24 hours of imprisonment, prisoners have no right to any contact whatsoever, including family members and their lawyers. This period may be extended to 48 hours by the State's attorney and, in cases of political crimes, may be further lengthened to 96 hours. After the first hearing of the accused by the presiding judge, communication between prisoners and their lawyers is no longer limited. The judge may order a halt to all contact with the outside world for a period of up to 10 days; lawyers are exempted from this provision, yet no written correspondence with third parties may be exchanged.

Belgium. During the first 3 days after arrest, prisoners may be isolated, but thereafter contact between prisoners and their lawyers is permitted. If there are doubts about the reliability of defense lawyers, they may be forbidden access to prisoners' cells in the courthouse immediately before and during pauses in the main proceedings.

Italy. Italian law does not limit contact between lawyers and clients, although usually no contact is allowed until after the first court interrogation. Also, that contact may be limited on the grounds that the preliminary investigations are not finished. A guard is present during all conversations. Aside from the lawyer, the presiding judge must approve all visitors.

Denmark. It is possible to limit contact between prisoners and their private lawyers, but no such limitation exists for court-appointed attorneys. A total contact ban may be implemented only upon special court order and for a specified period.

The Netherlands. Contact between lawyers and prisoners may be limited if lawyers provide information previously unknown or desired to remain unknown to the prisoners, or if contact would impede the course of justice. Total isolation may be imposed by emergency order.

Sweden. Court-appointed lawyers have free access to prisoners, but written correspondence may be inspected. Conversations with prisoners' chosen lawyers are supposed to be watched and limited. Any court-ordered limitation ends with the opening of the main court proceedings. A special court order must be obtained for a total contact ban.

Austria. If obstruction of justice is feared, lawyer-accused contacts may be limited and written correspondence inspected for up to 3 months.

Switzerland. Defense lawyer contact may be limited during the investigatory process. If abuse is suspected, the judge may limit or inspect correspondence for a specified time, and a total contact ban may be ordered in emergency cases.

Conclusion

German authorities involved in the adoption of the Contact Ban Law have found, after deliberation, that it conforms to the conditions of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.

Bundesminister für Justiz, Referat für Presse und Öffentlichkeitsarbeit, Heinemannstrasse 6, 5300 Bonn 2, West Germany. 1978. 32 p.

Part VI
International Antiterrorism Initiatives

The United Nations and International Terrorism

Die Vereinten Nationen und der internationale Terrorismus*

(NCJ 52964)

By Rainer Lagoni

Introduction

Spectacular incidents such as the murder of the Israel athletes during the 1972 Olympic Games in Munich, the kidnaping of the ministers from the 1975 OPEC conference in Vienna, and the hijacking of an Air France plane to Entebbe, Uganda, in 1976 have repeatedly drawn world attention to international terrorism in recent years. Of course, there also have been numerous lesser known cases of politically motivated force against individuals or property to induce certain actions by governments or nations.

Terrorism: A multifaceted phenomenon. The constant threat of international terrorism to many nations, the high cost of preventive measure, the loss of life and property, and finally, the strains this form of force places on international relationships leave no doubt that the battle against terrorism is an important common concern of the international community. Closer observation shows, however, that international terrorism is a multifaceted phenomenon which cannot be eliminated because of various obstacles.

First, there is still no generally accepted definition of international terrorism. Discussions about international versus internal terrorism or individual versus national terrorism focus on whether certain forms of politically motivated force should be condemned or considered justified.

Secondly, particular conditions favor international terrorism, especially the vulnerability of the extremely comfortable lifestyle of western industrial nations and their liberal political

*Translated from the German by Kathleen Dell'Orto.

systems which, compared to authoritarian regimes, place few restrictions on citizens and foreigners. Another consideration is the relatively easy access of terrorists to weapons in these nations.

In the third place, international law and extradition law are too poorly developed to provide a legal basis for effective cooperation between nations in every case of international terrorism.

Finally, the political position and the attitude of individual governments toward international terrorism are crucial to the success of certain forms of force. The governments of socialist and some Third World nations view terrorism as a form of ideological debate between nations which should be allowed even in times of peaceful coexistence. They consequently support terrorist movements with money, weapons, or propaganda, and grant asylum to hunted terrorists. On the other hand, political considerations inhibit the governments of Western nations most affected by terrorism from taking joint repressive measures such as halting international air traffic to countries which actively support terrorism. Several governments have even released captured terrorists to avoid damaging their political relationship with certain nations.

Need for United Nations Involvement

Given the obstacles encountered in combating terrorism, legal means are regarded by some as ineffective against this form of force. Since it is a phenomenon that feeds on certain types of political and social tensions, some argue, international terrorism will ultimately disappear only when those tensions are eliminated. The history of anarchy in European monarchies in the late 19th and early 20th centuries supports this view. But the assumption that preventive measures can halt terrorism rapidly fails to consider that some of the obstacles to short-term control of terrorism are legal and political.

Such obstacles can only be eliminated by international cooperation among nations. The United Nations, whose original tasks include combating international force, furnishes the suitable organizational framework for this cooperation. An observer could easily be led to believe that the world organization is hardly suited to undertake short-term protective measures against international terrorists, inasmuch as there is no consensus about either the necessity or the desirability of such measures. Many of the newer nations in the Third-World-controlled organization regard international terrorism as the exclusive problem of Western industrial countries and aline themselves with those nations which praise the terrorists as "freedom fighters."

Under these circumstances, the countries most interested in controlling international terrorism would seem well-advised to

take appropriate measures without the help of the United Nations. They should especially consider initiatives in regional accords where agreement about goals and methods can be more easily reached than in the world body. Examples of such accords are the antiterrorism agreement of the Organization of American States in February 1971, the July 1976 declaration of the Council of Europe on international terrorism, and the Council of Europe's January 1977 agreement regarding terrorism. In addition, bilateral treaties occasionally can provide effective protection against certain forms of terrorism, for example, the 1973 antihijacking agreement between the United States and Cuba. After Cuba had agreed to extradite hijackers, the number of hijackings on the American continent declined sharply. Finally, the nations concerned often can conduct diplomatic negotiations after a terrorist attack or even use military force, as in the 1976 raid at Entebbe.

The foregoing methods can be combined with security measures, of course, to form a comprehensive defensive strategy against international terrorism. But because of the regional or even local limitations of these measures, the assistance of the United Nations is essential; it has the best capability for changing the attitudes of nations which continue to support terrorists. Total elimination of international terrorism will definitely be a long-term process, but the presumption that the United Nations cannot take steps in this direction with the present majority proves false in the context of its successes and failures in this area.

Combating Particular Forms of Terrorism

Through the influence of the United Nations and its special organizations, four multilateral agreements directed against certain forms of terrorism have been reached since 1963.

The Tokyo agreement. The 1963 agreement in Tokyo of the International Civil Aeronautics Organization (ICAO) regarding criminal and certain other actions committed on an aircraft contains a provision for the return of the airplane and the release of passengers in hijackings. This is essentially a slight extension of the common law codified in Articles 14 and 15 of the 1958 Geneva Agreement on the High Seas which provides for general cooperation among nations in order to suppress air piracy.

The Hague agreement. The first multilateral agreement against terrorism was reached in 1970 only after an alarming increase in airplane hijackings during the late 1960's had caused the General Assembly and the Security Council to condemn air piracy and to encourage greater cooperation among nations. At a diplomatic conference held in The Hague under the auspices of ICAO, the agreement

to prevent the unlawful seizure of aircraft was ratified, obligating the participating countries to create national laws against air piracy and to punish or extradite captured hijackers. Air piracy was also made an offense subject to extradition.

The Montreal agreement. The same principle of contractual rights and obligations is the basis for the 1971 Montreal agreement dealing with illegal acts against air traffic security. This accord, which also came about through efforts of ICAO, supplements The Hague agreement by regulating various activities not covered there, such as attacks on airplanes on the ground.

The Tokyo agreement involved more than 80 nations, The Hague agreement almost 100, and the Montreal agreement more than 70. The considerable interest of many countries in undisturbed air traffic is apparent from the rapid ratification, but this should not obscure the fact that Algeria and Yemen did not ratify any of the agreements, with the result that hijackers can still find "safe ports" in these nations. Combating air piracy is not a clear priority of all countries, as indicated by the fact that a 1973 ICAO attempt to create a legal basis for stricter measures against governments supporting air piracy could not muster the required two-thirds majority of member nations.

The United Nations agreement. The General Assembly was able to reach an agreement on prevention and prosecution of offenses against parties protected by international law, including diplomats. The agreement on diplomatic protection, which dates back to a 1970 Netherlands initiative, was prepared in a very short time by the Commission on International Law of the United Nations and approved in the legal committee of the General Assembly in 1973. This agreement obligates the participants to prevent acts of violence against the person or property of individuals protected by international law and to work together to avoid such attacks. While these obligations already are partially included in common law and in the 1961 and 1963 Vienna agreements on diplomatic and consular relations, as well as in the 1969 agreement on special missions, the obligation to punish or to extradite offenders is an innovation. Any country may ratify or enter into the agreement presented by the General Assembly; it takes effect after approval by 22 nations, and by January 1977, 21 had ratified it. *

Interests common to all countries also influenced an agreement on diplomatic protection. Attacks on diplomats or govern-

*Editor's Note: The agreement received the necessary approval and took effect February 20, 1977. By spring 1979, 40 nations had ratified it.

ment officials can affect any nation regardless of the ideological position it takes within the United Nations. It is significant that the agreement on diplomatic protection was initiated by the group which it was intended to protect.

Efforts for a General Agreement Against International Terrorism

Efforts, primarily by Western nations, to work out a comprehensive agreement against international terrorism in the General Assembly have failed mainly because of resistance from the Arab and African delegations. Because the Munich attacks occurred only 2 weeks before the 27th session of the General Assembly convened, Secretary General Kurt Waldheim was able to place the question of international terrorism on the agenda for September 8, 1972.

Antiterrorism resolution. A resolution containing a draft of a comprehensive antiterrorism agreement proposed shortly afterward by the United States called for an international conference the following year, but because of opposition by the Third World "group of 77" (actually 115 countries), the resolution never came to a vote. A compromise proposal of 14 Western industrial nations was unsuccessful. Instead, on December 18, 1972, the General Assembly passed resolution 3034 (XXVII) which established an ad hoc committee on international terrorism, but not without first reaffirming the legitimacy of national freedom movements. The committee of 35 nations discussed the concept of international terrorism, as well as preventive measures, and presented its report to the General Assembly.

Ad hoc committee deliberations. The varying opinions about the applicability and function of a general antiterrorism agreement were evident in the ad hoc committee's discussions. The Western nations defined international terrorism very generally as a politically motivated, nonmilitary use of force by individuals against foreigners which is intended to damage a nation or its interests or to provoke actions by an international organization. In contrast, the Third World countries wished to exclude from the definition all activities of national freedom movements and violent actions against any form of foreign rule, and to include actions by colonialist, racist, and foreign regimes against oppressed peoples. In Soviet rhetoric, this extended to economic exploitation by foreign governments. Objecting to a concept of "state terrorism" directed against the white regime of South Africa and against Israel, the Western nations argued that cases of colonialist foreign rule and suppression of minorities were already covered by the United Nations Charter and human rights agreements. All sides agreed that acts of force without international implications or political motivation did not fall into the category of international terrorism.

The Third World countries also considered it essential to identify the actual causes of terrorism by studying its political, social, economic, and historical context, a task to be undertaken by the ad hoc committee. But even if the project were pursued seriously rather than as a stall tactic, the Western objection that such a study was not crucial to the development of an agreement remained valid.

In the discussion of necessary measures against international terrorism, opponents of an antiterrorism agreement argued that prevention should remain the responsibility of individual nations and that the international community should only eradicate the cause of international terrorism, such as colonialism, racism, apartheid, and Zionism. Adherents of an antiterrorism treaty in the ad hoc committee did not agree whether it should cover all forms of force or only certain grave acts of violence, but they concurred that the legal heart of a treaty would have to be the tried and true principle of "punishment or extradition."

Because of time restrictions, the General Assembly was not able to review the various ad hoc committee positions until the 30th session in 1975, or to hold further discussions in the legal committee until the following session. The debate merely revealed once again the irreconcilable differences in various nations' views on terrorism. In the final vote on December 15, 1976, 27 Western countries abstained and 9 voted against a resolution, ultimately passed by 100 votes, which extended the mandate of the ad hoc committee. The delegate of Great Britain explained that he had voted against the resolution because it did not sufficiently condemn terrorism, it sought to combine incompatible goals, and it did not provide a realistic, effective program against terrorism.

The Initiative of the Federal Republic of Germany Against Taking Hostages

Since a comprehensive antiterrorism agreement has little prospect of passage in the near future, the Federal Republic selected for its first initiative in the United Nations a more modest goal--an agreement against taking hostages, which is also a favorite technique of international terrorists.

Motion made. The Federal Republic's Foreign Minister, Hans Genscher, made a motion in the United Nations on September 28, 1976, that the draft of an international agreement against taking hostages be added to the agenda of the 31st session. This proposal was recognized by the General Assembly as urgent and important business, and the new item was referred to the legal committee for discussion. There, the Federal Republic was able to gain the support of 34 delegations from Third World and industrial nations for a joint

resolution. The resolution's advocates had to avoid linkage of the agenda item terrorism with the separate item relating to hostages and to insure at least benevolent neutrality toward the resolution by the Arab bloc in the "group of 77." Negotiations became difficult when Libya moved on November 30 to limit the future agreement to "innocent" hostages. The unclear definition of "innocent" would permit the arbitrary exclusion of certain groups of people from the protection of the agreement thereby making it possible to justify taking hostage Israel citizens or members of colonialist or racist regimes in South Africa. This undertaking then would have been reduced to the same political inaction as the project for a general antiterrorism agreement.

Resolution approved. Finally, after Libya relented on December 9, 1976, the legal committee passed a slightly amended resolution proposed by 38 countries led by the Federal Republic. Approved on December 15 by the General Assembly, the resolution called for a 35-member ad hoc committee charged with drafting at the earliest possible date an international agreement against taking hostages.

The Federal Republic had the advantage that, as a new member, it had not become embroiled in factional disputes, it was not classified by the newer nations as a former colonial power, and it maintained a balanced relationship with the Arab bloc countries, which are the core of the opposition to a general prohibition of international terrorism. The kidnaping of the Arab members of the Vienna OPEC conference and the events in Entebbe may have convinced these nations that a worldwide agreement against taking hostages is in their interest as well.

The Significance of an International Agreement Against Taking Hostages

A treaty similar to the agreements to prevent hijacking or to protect diplomats would obligate the treaty partners to modify their national criminal laws accordingly, to establish laws against taking hostages, and to cooperate in international prevention efforts. The principle of extradition or punishment would allow treaty partners to punish apprehended offenders even if they are not citizens and did not commit the hijackings on the partners' territory or violate their vital interests. The treaty could also serve as a bilateral extradition agreement between nations, if none exists. Even third-party nations which have a bilateral extradition agreement with one treaty partner would have the right to demand extradition on the basis of the treaty. Finally, such a treaty would make extradition an effective instrument in the battle against certain forms of international terrorism, in that taking hostages could not be treated as a political offense. Con-

sequently, treaty nations could no longer grant asylum to terrorists who took hostages, but instead would have to extradite them.

The political and psychological effects of an international agreement against taking hostages are of considerable importance. The acceptance of such an agreement in a General Assembly dominated by new nations invalidates the legitimacy of hostage-taking by the terrorists. Third World countries which refuse to approve an international agreement against taking hostages are most affected; they will find it difficult in the future to justify granting asylum to terrorists who have taken hostages when the United Nations has condemned the act as illegal.

Obviously, such an agreement would be a step forward in the battle against terrorism, but one which cannot be viewed apart from other measures. The treaty would have to be applied together with practical safety measures, and further legal developments would have to follow, e.g., agreements against the use of letter bombs and for control of international weapons traffic.

Europa-Archiv, 6th series: 171-180, 1977. Verlag für Internationale Politik GmbH, Stockenstrasse 1-5, D-5300 Bonn 1, West Germany.

International Conventions on Terrorism: A Selected Review*

By Monique Smith and John Slone

Introduction

Although efforts to deal with terrorism have primarily involved national initiatives, several attempts to address the problem have been made by various international bodies since the 1930's.† International organizations such as the United Nations, the Council of Europe, and the Organization of American States have sought solutions, particularly with respect to the complex legal questions of jurisdiction and extradition. This review outlines seven major international conventions, from the 1937 Geneva Convention on the Prevention and Suppression of Terrorism to the 1977 Council of Europe's Convention on the Suppression of Terrorism.

*Editor's Note: This NCJRS compilation covers the highlights of selected international convenants against various forms of terrorism. Source documents are part of the NCJRS collection, and citations include identifying NCJ numbers to assist readers who wish to refer to the documents.

† See Pierre Mertens, "L' «introuvable» acte de terrorisme" ("The 'Indefinable' Act of Terrorism") [in French], in Réflexions sur la définition et la répression du terrorisme (Reflections on the Definition and Repression of Terrorism, NCJ 30533), Conference Proceedings, Free University of Brussels, March 19-20, 1973 (Brussels, Belgium: Editions de l'Université de Bruxelles, 1974), 25-49. This article contains a review of international antiterrorism efforts, beginning in 1935.

Geneva Convention for the Prevention and Suppression of Terrorism, 1937

The assassination of King Alexander I of Yugoslavia in Marseilles, France, in 1934 shocked Europe and prompted initiatives that ultimately led to the formulation of an international convention in Geneva, Switzerland, in November 1937, on the prevention and suppression of terrorism.

Under the terms of the convention, the signatory nations were to agree "to abstain from all action encouraging terrorist activity directed against another country and to prevent the acts such activity engenders. . . ." The convention text defined "acts of terrorism" as "criminal acts directed against a country and whose aim or nature is to provoke terror in certain persons, groups of people, or the public."*

The convention specified that signatories incorporate provisions for terrorist acts into their penal codes. Such acts were described as follows:

- Directing terrorist activities against chiefs of state, their spouses, and others exercising public functions.
- Destroying public property belonging to another signatory.
- Creating a common danger which imperils lives.
- Plotting any of the foregoing activities.
- Manufacturing, procuring, possessing, or furnishing arms, ammunition, explosives, or other deadly substances in order to carry out terrorist acts.

The signatories were to agree to make such offenses subject to extradition in those instances where extradition treaties were in effect. Where extradition was not possible, those citizens of signatory nations who commited terrorist acts on foreign soil and were apprehended in their own or another signatory country were to be brought to trial in the country in which they were apprehended. Judicial procedures and punishment were to be in accordance with the national laws of each country.

The Geneva convention of 1937 was ratified by only one of its signatories, India, which had not yet gained independence from Great Britain. The convention was considered ineffective in that it seemed to be concerned more with acts directed at particular regimes than terrorist crimes as such.

*Extracts from the text of the Geneva convention are contained in Réflexions (Reflections, NCJ 30533) [in French], 279-281.

The Tokyo Convention of the International Civil Aeronautics Association, 1963

A new element of terrorism was introduced in the 1960's--airplane hijacking. The matter of jurisdiction was revived, since these incidents often took place over international waters or over the territory of third party nations. An international convention was held in Tokyo, Japan, in September 1963 to consider the problem.* The convention dealt mainly with the jurisdiction question. It defined the period of flight as beginning when the motors were revved up for takeoff and ending when the landing was completed. However, a different definition was used when the responsibilities of the aircraft commander in dealing with a hijacking attempt were described. For that purpose, the flight was determined to have started with the closing of the plane's exterior doors prior to takeoff and to have ended with the reopening of those doors on landing.

During the flight, the country of registry of the aircraft was assumed to have jurisdiction, regardless of whether the flight was over international waters or over the territory of another country. During the flight authority over would-be hijackers was given to the aircraft commander, who was empowered to deliver the hijacker to local authorities on landing, if they were willing to accept the responsibility. Hijackers were subject to extradition at the request of the nation in which the aircraft was registered, but this was not an exclusive right since other countries also might be interested, e.g., the hijacker's own country. The political aspects of hijacking and the subsequent question of right of asylum were not addressed in the convention. The Tokyo agreement involved over 80 nations.

The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, 1970

Whereas the Tokyo convention had concentrated on jurisdictional aspects of hijacking, the convention held in The Hague, The Netherlands, in December 1970 was more concerned with the apprehension and punishment of international hijackers. In order to cover a larger set of contingencies, the period of flight was interpreted more broadly to include the entire time the exterior doors of the aircraft remained closed, whether the plane was in

* A complete discussion of the Tokyo convention is contained in Giovanni Kojanec, "Il dirottamento di aeromobili nella recente disciplina internationale" ("Hijacking of Aircaft in Recent International Law," NCJ 20555) [in Italian], Communita Internationale (April 1971) 26, 2:266-281.

the air or on the ground. In the case of a forced landing, flight was considered to continue until competent authorities took charge of the aircraft and the people and property aboard.

Hijackers were expressly subject to extradition, and countries which could claim jurisdiction included:

- The country of registry of the aircraft.

- The country where the hijacked aircraft, with the hijacker on board, landed.

- The country whose citizens charter a plane without chartering the crew.

If no extradition took place, however, hijackers were to be tried by the country in which they were arrested. Article 7 of the convention stated:

> If the signatory nation on whose territory the author of the alleged infraction is apprehended does not extradite him, it must submit the matter, without any exception and whether or not the infraction was or was not committed on its territory, to its competent authorities for the carrying out of penal action. These authorities must make their decision under the same conditions as they would for any other major infraction of the common law, in accordance with the laws of that nation.*

Almost 100 nations were represented by The Hague agreement.

The Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971

The convention held in Montreal, Canada, in September 1971 expanded the kinds of offenses considered to fall under the general heading of hijackings.† They included:

- Acts of violence against persons on board an airplane in flight, if such acts endanger the security of the aircraft.

- Destroying an aircraft being serviced or causing damage which renders the aircraft unsafe.

*Extracts from the text of The Hague convention are contained in Réflexions (Reflections, NCJ 30533) [in French], 282-284.

†Extracts from the text of the Montreal convention are contained in Réflexions (Reflections, NCJ 30533) [in French], 288-290.

o Placing in an aircraft being serviced any device or substance that could make the aircraft unsafe.

o Destroying or damaging installations or air navigation services, e.g., radar equipment, so as to interfere with their proper functioning, if a flight is endangered as a consequence.

o Knowingly giving false information that endangers the flight of an aircraft.

o Trying to commit such acts or aiding someone else in their commission.

The convention's signatory nations pledged mutual aid in apprehending and punishing those who commit terrorist acts aboard civil aircraft. More than 70 nations were involved. The Montreal convention, like its predecessors that dealt with hijacking, excluded military, customs, or police aircraft from its provisions.

Washington, D.C., Convention on the Prevention and Suppression of Terrorist Acts, 1971

The convention held in Washington, D.C., in February 1971 under the auspices of the Organization of American States dealt with terrorist activities other than hijacking.* This convention was concerned especially with kidnaping for ransom and the murder of public figures. Such acts were considered international crimes, regardless of their motivation. After the country having jurisdiction determined if the provisions of the convention were applicable, the offender became subject to extradition. If he or she could not be extradited, trial was to take place in the country of detention, with all rights of due process accorded.

The right of asylum was reasserted, but making perpetrators of terrorist acts--particularly kidnaping and murder--subject to extradition implied that granting asylum was not envisaged.

*Extracts from the text of the Washington, D.C., convention are contained in Réflexions (Reflections, NCJ 30533) [in French], 285-287. A detailed commentary on this and other conventions, together with an extensive bibliography, may be found in Eric David, "Le terrorisme en droit international" ("Terrorism in International Law") [In French], in Réflexions (Reflections, NCJ 30533), 105-173.

The signatories agreed to cooperate in suppressing terrorist crime by consenting to:

o Use every means in their power and in accord with their own laws to anticipate and prevent the preparation, in their respective territories, of terrorist crimes planned for commission on the territory of another signatory nation.

o Exchange information and examine the administrative measures needed to provide effective protection to potential victims of terrorist assaults.

o Guarantee persons deprived of their liberty by the application of this convention the right to defend themselves.

o Try to incorporate into their own penal laws the criminal acts referred to in this convention, if they have not already done so.

o Fulfill in the shortest time practicable requests for extradition with respect to the criminal acts referred to in this convention.

United Nations Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, 1973

This convention was concerned with preventing violent acts against persons protected by international law, particularly diplomats. Endorsed by the General Assembly of the United Nations in December 1973, the agreement stipulated that signatories not only endeavor to prevent such offenses, but also take steps to prosecute or extradite offenders. Although the basis for diplomatic protection already existed in common law and earlier covenants dealing with consular relations, the provision for punishment of violators was innovative.

The agreement became effective in February 1977 after ratification by 22 nations, the minimum required for approval. By spring 1979, 40 nations had ratified it.*

Council of Europe: European Convention on the Suppression of Terrorism, 1977

In its convention held at Strasbourg, France, in January 1977, the Council of Europe directly addressed the problem of

*Information provided by the United Nations Information Center, Washington, D.C.

whether acts of terrorism can be classified as political offenses, making their perpetrators immune to extradition through the exercise of the right to political asylum. Article 1 listed offenses which may never be considered political:

- An offense within the purview of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970.

- An offense within the purview of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.

- A serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons, including diplomatic agents.

- An offense involving kidnaping, the taking of a hostage, or serious unlawful detention.

- An offense involving the use of a bomb, grenade, rocket, automatic firearm, or letter or parcel bomb if such use endangers persons.

- An attempt to commit any of the foregoing offenses or participation as an accomplice of a person who commits or attempts to commit such offense.*

Article 2 stipulated that other offenses also may be regarded as nonpolitical. This convention applied only to particularly odious and serious acts which often affect innocent persons. The criminal nature of the acts consequently is more significant than their political implications.†

The Council of Europe convention dealt at length with provisions for extradition. Although terrorist offenders were considered subject to extradition, Article 7 stated that refusal to extradite under the terms of the convention required the prosecution of the offender.

---

*The complete text of the Council of Europe convention agreements in English and French may be found in European Convention on the Suppression of Terrorism (NCJ 40456), European Treaty Series No. 90 (Strasbourg, France: Council of Europe, 1977), 9 p.

†Explanatory Report on the European Convention on the Suppression of Terrorism (NCJ 43455) (Strasbourg, France: Council of Europe, 1977), 8.

Despite the fact that terrorism posed a global problem in 1977 just as it does now, the signatories of the European Convention on the Suppression of Terrorism included only the members of the Council of Europe. By divesting terrorist acts of their protective political mantle, however, those nations insured that further steps to isolate terrorists were possible.

Conclusion

This brief review of selected international covenants against terrorism clearly indicates the concern of the world community. Although some success has been achieved, political considerations and complex legal ramifications unfortunately have hampered multilateral agreements.

The need for more extensive and effective accords is as apparent as the daily newspaper. The international terrorist incidents of the early and mid-1970's have receded, but terrorism remains a force to be reckoned with. It is still an active strategy of many dissatisfied groups throughout the world. The nations of the world must strive to overcome obstacles and devise efficient antiterrorism measures. Without international cooperation, there can be little hope of eradicating terrorism.

©U.S. GOVERNMENT PRINTING OFFICE: 1979-281-300/1619

International Summaries
READER SURVEY

To help NCJRS evaluate the usefulness of the International Summaries series, please complete this questionnaire and return it to NCJRS. This questionnaire is designed to be detached from the book, folded, stapled, and mailed.

1. What is your general reaction to International Summaries?

   ☐ Excellent ☐ Above Average ☐ Average ☐ Poor

2. To what extent do you consider International Summaries useful to you?

   ☐ Highly useful, series should be continued.
   ☐ Of some use, but needs improvement (see comments below).
   ☐ Not useful, should be discontinued.

   Comments and suggestions_____

   _____

3. How do you plan to use this volume?

   ☐ Keep for personal reference. ☐ Transmit to central library.
   ☐ Use in research. ☐ Discard.
   ☐ Pass on to others. ☐ Other, please explain.

   _____

4. What criminal justice themes would you like to see covered in future International Summaries?

   _____

   _____

5. What titles or publishers of foreign-language literature would you suggest for future International Summaries?

   _____

   _____

   _____

6. How did this document come to your attention?

   _____

7. Are you a registered user of the National Criminal Justice Reference Service? ☐ Yes ☐ No.

   If you are not a registered user, you may check the following box and complete question 9 to request that a registration form be sent to you. ☐

(Cut along this line)

8. Check one box below which best describes your affiliation with law enforcement or criminal justice. If the item checked has an asterisk, please also check the level of government:

☐ Federal ☐ State ☐ County ☐ Local

☐ LEAA
☐ State Planning Agency
☐ Regional Planning Unit
☐ College or University
☐ Commercial/Industrial Firm
☐ Citizen Group
☐ Crime Prevention Group*
☐ Police*
☐ Court*
☐ Correctional Agency*
☐ Legislative Body*
☐ Other Government Agency*
☐ Professional Association*

(fold)

9. If you would like more information about NCJRS, please complete the following form.

Name _____

Position _____

Organization or Agency _____

Address _____

City _____ State _____ Zip _____

Telephone Number ( ) _____

(fold)

(Cut along this line)

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
WASHINGTON, D.C. 20531

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF JUSTICE
JUS-436

THIRD CLASS

National Criminal Justice Reference Service
Department UF
Box 6000
Rockville, MD 20850

END