

**Commentary on the Motivational Psychology of
Terrorism against Transportation Systems:
Implications for Airline Safety and
Transportation Law**

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INTRODUCTION

As I write this paper, terrorism continues to be a low frequency, but high impact threat to airline safety. From the 1960s to the present the international media have highlighted stories of politically motivated hijackings of aircraft, the destruction of aircraft in flight and on the ground, the destruction of airport assets, the murder and wounding of airport patrons, prevention of aviation terrorism through competent antiterrorist and counterterrorists assets, and real and national threats to perpetrate aviation terrorism. In fact, after an aviation catastrophe, e.g., TWA 800 or KAL 801, there is an instinctive reaction among aviation professionals, mass media representatives, the consumers of mass media products, and the actual survivors, participants and observers to initially posit or discount the probability of terrorism as the cause. And many experts believe that the aviation terrorism threat may significantly increase with advances in technology (e.g., ever less detectable explosives) and conceptualization (e.g., information warfare).

One significant issue related to the terrorist threat to airline safety comprises the many psychological aspects of terrorism. This paper focuses on the motivational psychology of terrorism and how it impedes both effective antiterrorism and counterterrorism legislation and legal adjudication of terrorism cases through criminal justice systems. The perspective taken will be systems-oriented and will include the many transportation modes and systems related to air travel as well as aircraft, airports, and airline personnel, cultures, and procedures. In this way threats, vulnerabilities, and opportunities from, among others 1) taxi cabs, automobiles, cycles, vans, buses, and trucks conveying passengers and their associates to and from the airport; 2) supply trucks; 3) supply and repair vehicles on the tarmac and flight lines; 4) subway and train connections to the airport; 5) vehicles parked at airport parking lots and garages; 6) rental car operations at or near the airport; 7) ship and naval assets transiting or in port adjacent to airports on the shores of oceans, lakes, and rivers; 8) ship and naval assets targeting aircraft flying over or near water; and 9) bustling transportation-supported commerce near the airlines.

LEGISLATION

The purpose of antiterrorist and counterterrorist legislation is to facilitate efforts to prevent, minimize, and, if necessary, resolve terrorist acts. This facilitation is supposed to occur without endangering other significant elements of a political entity's responsibilities and legitimacy. However, legislation addressing terrorism is typically founded on five assumptions of terrorism motivation that are faulty from the terrorist per-

spective. As a result, legislation often becomes faulty as well. We will look at each of these assumptions in turn.

Victims as Innocents. Many definitions of terrorism refer to victims as innocents, combatants who were not ready to fight or noncombatants who were just going about their daily lives oblivious to a specific political conflict. Yet to many terrorists all victims are guilty. And by a variety of logical calculi, let alone illogical and irrational ones, the victims are guilty. The ill-prepared combatants were ready once and otherwise will be again. The noncombatants pay taxes to the government which may be the terrorists target. The noncombatants can be children who may grow up to pay taxes or be antiterrorist and counterterrorist personnel or women who have the potential to be impregnated, carry these children to term, and nurture them. Noncombatant men, women and children may give comfort, solace, and material support to antiterrorist and counterterrorist forces through forming logistical, social, and stress management systems improving the performance of terrorists' adversaries.

The same governments and nonstate actors that can engage in total wars over the price of oil, violation of arbitrary political boundaries, jingoistic epithets, staged, apocryphal, and notional legal violations and the need to turn attention from internal political popularity problems, attribute ultimate evil to terrorists who may be using the only effective means available to achieve human rights or civil rights. (This attribution often leads to insipid, culturally relative rebuttals such as "one man's terrorist is another man's freedom fighter." In fact, terrorism, a true equal opportunity employer, is a tool that can be applied to many objectives, freedom or lack of freedom among others.) Moreover, the same governments and nonstate actors that criticize terrorists for attacking the innocent may well engage in terrorism themselves, yet persist in miscommunicating about innocence among their leaders and followers. Not apperceiving that, unfortunately, we are all guilty, that we all have it coming, leads to sanctimonious railing and pompous and ignorant posturing that often becomes the substance of legislation.

Never Negotiating, Never Giving In. Terrorism is purely a psychological endeavor. Injury, death, destruction or these types of threats are intended to induce behaviors leading to political objectives through intermediary psychological processes such as fear, anxiety, terror, cowardice, lack of resiliency, or a cult-like belief in nonviolent virtue. By stating that they will never negotiate and will never give in, legislators are actually adhering to operant learning theory tenets (e.g., the terrorist behavior will be extinguished because it will not be or no longer will be followed by positive or negative reinforcement).

However, both the historical record and the current temptations of telecommunication technology in an era of globalization strongly suggest

that this type of legislation defies executive compliance. First, information technologies ensure that terrorist acts will become known, itself often a political objective or a reinforcement through illustrating the delimited power and failure of the terrorists' adversaries to prevent the act and interjecting the terrorists' desirable narrative into public discourse.

Second, regardless of legislation there will be many people who, through their cognitive systems, emotional susceptibilities, personality structures, motivational sources, and group and organizational dynamics, will demand that terrorist acts be reinforced through awarding the terrorists' ultimate political objective to ward off future terrorist behavior. Some of these psychological factors feature magical thinking and superstitions, others acontextual stupidity.

Third, governments and nonstate actors have negotiated and given in to terrorists regardless of public professions to the contrary. Whether the Carter, Reagan, and Kohl Administrations with the Iranian government, the Netanyahu Administration with the Palestinian National Authority and the converse, the Yeltsin Administration with the Chechneans, the Ortega Administration with the United States Government, Greenpeace with the French Government, the Vietnamese with the Khmer Rouge, the United Kingdom with Sinn Fein, and the United Nations with countless governments and nonstate actors, the never negotiating/never giving in policy is forever broken. The antiterrorist mantra, "You can run but you can't hide," is better invoked as "Read my lips. We just can't help it."

Holding Terrorists Accountable. If terrorism cannot be prevented, legislators assert that at least terrorists will meet their just desserts. This seems a rather odd dictum from adept practitioners of plausible deniability. International terrorism, recent musings about postmodern terrorism to the contrary, is often characterized by widely disparate actors in widely disparate parts of the world engaged in creating and maintaining political front groups, soliciting for weapons, money, and safe houses, developing communication systems, implementing operational training, and the like. The more sophisticated state and nonstate actors employing terrorism cover covert and clandestine intentions with public verbal and nonverbal communications conveying the opposite intent. Examples include rushing victims to hospitals, voting for laws against terrorism in international fora, professing no first use of terrorism, and privately creating multiple terrorist assets, some of which one publicly terms as threats to one's political agenda and quest for peace.

Legislators often compound the problem by mandating or advocating for the expulsion of known terrorists from their respective countries without formally attributing guilt - that in any case does not minimize future threats to these same countries. These cross-communications, for

totalitarian governments and representative democracies alike, render it difficult to attribute blame, let alone develop, authorize, and implement some noxious consequence towards terrorists, even if the technical means to do so exist. Through legislative dysfunctions, the terrorist may hoist the ultimate targets, the survivors (not the victims), on their own petard. No one, terrorist or legislature, may end up accountable.

Profiling-Usual Suspects Finding Usual Suspects. Many government commissions and legislators have recommended developing lists of characteristics depicting those most likely to engage in terrorism. The thinking is that the closer terrorists get to transportation targets, the closer they will get to being greeted by antiterrorist and counterterrorist personnel. Besides commonly cited problems of profiling including low terrorism base rates, high false positive rates through low specificity, high false negative rates through low sensitivity, and civil rights violations through racial, ethnic, sex, and age discrimination, there are yet additional concerns.

First, even if one could develop reliable and valid profiles, the social transformation of knowledge suggests that their reliability and validity may change through time. An ongoing intelligence collection and analysis capability would be needed to continually rework the profiles used by antiterrorist and counterterrorist personnel.

Second, in the continuation of the ancient game of spy-counterspy, profile data inevitably leaks so that terrorists can use the profiles as part of their own deceptive strategies. Also, terrorists aware of even the general effort of profiling attempt the random mixing of characteristics with their personnel as far as logistical and psychological constraints allow.

Third, in a variant of another ancient game - looking for one's key where the light is better, not where one dropped it - most profilers analyze external features, such as physical characteristics, behaviors, or demographics. However, intrapsychic processes may be more robust correlates of terrorist behavior, but are more difficult to identify. Yet, some psychologists even believe that these correlates either do not exist or are irrelevant in analyzing human behavior. Their professional culture leads to dysfunctional consultation to legislators about the psychology of terrorism.

Physical Assets. With new information and weapons technologies, especially in terrorism against transportation systems, it becomes easier to capture or kill terrorists. Unfortunately, it also becomes easier to capture and kill victims and destroy material assets. And because of new information technologies, the locus conducive to achieving a terrorist's objective is ever increasing, rendering the antiterrorist's and counterterrorist's challenge ever more challenging. The employment of counterterrorist assets often contributes to intractable conflict as it creates martyrs

among ideological terrorists and unwitting supporters of terrorism among those of us who are prisoners of a Golden Mean dictating that the correct political stance is always in the middle, regardless of the nature of a specific terrorist event. Finally, fighting terrorism with terrorism, even if effective for a specific incident, may implode the legitimacy of a government or nonstate actor, subvert its cherished values, and reinforce the point that terrorism works even as a means to achieve the political objective of effectively fighting terrorism.

LEGAL ADJUDICATION

The purpose of legal adjudication varies throughout the world. In countries approximating representative democracies, the ideal is justice for all. And one requirement of such justice is formal ascent that a defendant is competent to stand trial. Yet, many alleged terrorists, viz., ideological fanatics may be ill-served by common notions of competency.

For example, as explicated in the MacArthur Treatment Competency Study, there may be at least four different competency capacities: the abilities to (1) appreciate a choice, (2) understand relevant information, (3) manipulate information rationally, and (4) appreciate the nature of the situation and its likely consequences.¹ However, at least one type of ideological fanatic, the religious, may appreciate absolutely no choice, for the alleged terrorist may believe that all acts are willed by God. The fanatic also may not seem to understand information relevant to legal authorities in even in most theocratic regimes, because the only relevant information is uniquely sacred, not secular. Other information is to be ignored or discounted.

In addition, the fanatic may seem not to manipulate information rationally (e.g., reasonably, sensibly). Instead, the fanatic's view of the consequences of facts, and of the facts themselves, may be viewed as irrational by legal authorities, illogical by a so-called "jury of peers," and as delusional by psychological authorities. It is noteworthy that the very term "fanatical" is often cast as an antonym for "rational." Finally, the fanatic may appreciate a legal trial, and its many ancillary, concurrent, and epiphenomenal activities, as well as the politics surrounding it as another test of religious legitimacy and commitment, rather than a legal conflict and a quest for criminal justice. The consequences may seem to be eternal, not temporal.

Are all fanatics - religious, nationalist, ethnic, and racial - similarly or otherwise uniquely incompetent in the judicial setting? If so, will trials

1. B.J. Winick, *A Critical Examination of the MacArthur Treatment Competence Study: Methodological Issues, Legal Implications, and Future Directions*, PSYCHOL., PUB. POL'Y, AND L. 2 (1996).

within approximate representative democracies ineluctably violate the civil and even human rights of these types of terrorists? Sufficient and ongoing psycholegal research on competency for the fanatic has not yet been developed to inform legal adjudication. This is most unfortunate as the legal competence of alleged terrorists, especially variants of the fanatic, may well become ever more salient as interagency and international cooperation to identify, detain, and extradite alleged terrorists likely will result in more adjudicated cases. (This includes not only closer contact among intelligence and law enforcement agencies, but also greater momentum to establish an international criminal court due to alleged crimes against humanity and genocide in Bosnia, the former Zaire, Burundi, and Rwanda.) Many of these cases will in all likelihood involve defendants from different cultures and ethnic backgrounds than those of the majority of the populations from approximate representative democracies represented by prosecuting authorities. As it is, even certain racial subgroups of U.S. citizens (e.g., African American males) are more likely to be diagnosed and, more unfortunately, misdiagnosed as schizophrenic, a condition that is itself correlated with formal determinations of legal incompetence.

CONCLUSION

The motivational psychology of terrorism against transportation systems impedes effective antiterrorism and counterterrorism legislation and legal adjudication of terrorism cases through criminal justice systems. Of additional concern is a third factor, the irreconcilable differences among the world's many international and national legislations, adjudication procedures, other formal legal requirements, informal predilections and traditions, and even illegal, immoral, and unethical approaches concerning terrorism. These phenomena pose significant security and legal challenges to optimum airline safety.

