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PROSECUTING TERRORISM: The Global Challenge

This special issue of the newsletter focuses on one of the main projects of the Center on Law and Security – the Global Counterterrorism Program. This project has attempted in the past two years to bring together experts, law enforcement officials, policy makers, journalists and others for the purpose of creatively thinking about the future of global counterterrorism. During its initial phase, the project has focused on Transatlantic Counterterrorism and has had two annual conferences, the first of which is documented in part here, the second of which is to be held in May 2005. These conferences entail closed discussions in which threat assessment, legal remedies, international treaties and the coordination of intelligence, law enforcement, the courts and other institutions serve as the basis of discussion. In 2004, the annual conference focused on the viability of establishing a Global Counterterrorism Organization to monitor and report on terrorist activities, from money laundering to arms dealing. This year, the conference will focus on the problem areas of the coordination of information and the apprehension of terrorists between European countries and the United States. A portion of this year's conference activity will also focus on comparative attitudes and policies regarding Muslim populations in Europe.

Many of the articles assembled here are excerpts from the 2004 annual conference and represent many of the most pressing concerns facing European counterterrorism experts today. They include pieces by Judge Jean-Louis Bruguière from France, Judge Armando Spataro from Italy, Ronald Noble, Secretary General of Interpol, Daniel Benjamin of the Center for Strategic and International Studies in Washington D.C., and Deputy Assistant Commissioner Peter Clarke, Head of the Metropolitan's Anti-Terrorist Branch (U.K.). In addition, we have included recent articles that raise contemporary questions, focusing on the issue of Muslim communities. Judge Baltasar Garzón from Spain, author Olivier Roy, and journalists Mark Huband and Peter Bergen have contributed pieces that will help illuminate the discussions at the 2005 Conference.

We at the Center have learned a great deal in the two years of the Global Counterterrorism Project. Above all, we have learned that, despite structural, institutional and even philosophical differences, the understanding of Al Qaeda and jihadist terrorism is shared across borders, as is a sense that democracy is something to be cherished and protected. But above all, we have learned that, like the citizens and landmarks we hold dear, it is democracy itself that is under attack. And that in order to preserve it, we must try to better understand it. In the process of discussing the pressing concerns of terrorism, it is the goal of these conferences and this project to help us all rediscover the sense of exchange, tolerance, and even risk that lies at the heart of our democratic ways.

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From the Editor

European Counterterrorism and Its Implications for the U.S. War on Terror

Europe has stepped onto center stage in the battle between the West and jihad. At a recent conference in Washington, D.C., co-sponsored by the Center on Law and Security and the New America Foundation, experts from the U.S., Europe, and the Middle East agreed: Europe is both the current focus of attacks by Islamic militants and a strong locus of recruitment. Since 9/11, there have been numerous thwarted attacks throughout the European continent in addition to the lethal, if less-successful-than-planned, Madrid bombing and the less destructive but eminently symbolic Van Gogh murder. Not only has the population of Muslims in European countries grown exponentially in recent decades but jihadist doctrine now calls continually for the reoccupation of territory that was once Muslim. As such, the success or failure of apprehending and prosecuting terrorists in Europe directly affects the United States—another, albeit more remote target.

Europe approaches the problem of terrorism in the context of crime, not war. Although leading figures in European counterterrorism will insist that counterterrorism is a “war” on terror, European policymakers and law enforcement officials use the term metaphorically. In counterterrorism, they have strengthened the laws for arresting, detaining and trying terrorists, as the articles in this issue specify.

Europe’s strategy in counterterrorism is effective in part because of strong bilateral ties, a result of decades of experience in fighting terrorism. Information-sharing, which lies at the heart of any counterterrorism structure, takes place for the most part bilaterally. As trust is crucial in the

exchange of sensitive information, the long-standing tenures of the leading figures in counterterrorism in Europe – Baltasar Garzón in Spain, Jean-Louis Bruguière in France, Stefano Dambrosio and Armando Spataro in Italy, Kay Nehm in Germany, David Veness in England and many others—has enabled the creation of a network of information exchange that is based on interpersonal communication. Newer players in the exchange of information, such as Ronald Noble at Interpol and Gijs de Vries at the E.U. who offer the added layer of multilateral activity, both in information sharing and in cross border legal matters, rely upon a strong network of bilateral contacts with which to work.

The addition of multilateral counterterrorist structures and activities to bilateral ones makes sense in the European context. The Schengen system, with open borders between countries, has enabled Islamic militants to establish a highly mobile terrorist network. The technology for communication



Karen Greenberg

through the phone and the Internet suits well this virtual network.

In counterterrorism, the long history of Europe’s experience with both national liberation terrorism and international jihadist terrorism has enabled adaptive strategies for combatting terrorism. The Spanish encounter with ETA and with the Moroccans, the French with the Algerians, and the Italians with the Tunisians, for example, have resulted in the development of tools of language and knowledge that are essential to discovering terrorist plots and arresting alleged terrorists.

LESSONS FOR THE U.S.

There is much that Americans can learn from the European example. As a European participant at the Center on Law and Security’s “Are We Safer?” conference, held in November 2003, declared “It’s time to wake up America!” The U.S. has responded appropriately. Despite the cracks in the façade of the transatlantic alliance that began the Bush Administration’s defiance of the European nations in going to war with Iraq—the and subsequent diplomatic distance between Europe and the U.S.—the legal and judicial alliance has been relatively constructive. There are institutional alliances; the United States and many of the European nations signed Mutual Legal Assistance Treaties (MLATs) with the European countries and with the E.U. as well. Moreover, the U.S. Department of Justice has launched a program on counterterrorism that has established liaisons to different European countries, including Germany, England, Spain, etc. Many U.S. police departments have done the same. In the wake of 9/11, the NYPD began to send its own representatives to European sites for the purpose of having information transmitted reliably back to the Counterterrorism Center in New York City.

What precisely might prove of interest to American lawmakers and policymakers?



Jean-Louis Bruguière and Armando Spataro engage in conversation at last year's conference.

Three things come to mind. First is a means of successful infiltration. Europeans have established patterns of infiltration that will take years, if not decades, for the U.S. to replicate without concerted effort. The NYPD and other police departments in the U.S. remain concerned about efforts to penetrate Muslim communities in order to find reliable informants. European knowledge of the techniques and behavior of Muslim communities and Islamic militancy can prove beneficial to U.S. counterterrorism.

Second is the centralized collection of data. The French, for example, have established a highly centralized system for collected data through criminal investigations and police work. This agency exists in the same locus as the Chief Magistrate for Counterterrorism. Although there is still interagency battling over information, the centralization of the system and its incorporation into the police/judicial system seems to have worked well for the French. As Jean-Louis Bruguière points out in his article (see page 4), "There have been no terrorist attacks in France since 1996."

The third is a strong emphasis on legal prosecutions. The Europeans have succeeded and continue to succeed in trying and convicting numerous terrorists. As the CLS's Terrorist Trial Report Card demonstrates, the legal war on terror in the United States has proven largely anemic, with little reliable

information and as a result no convictions of note. Cases like the Lackawanna Six and the Detroit and Portland cases have resulted in an inability to prove any connection with the original allegations. Convictions have been overturned due to sloppy or fraudulent prosecutions or have fizzled before getting to trial. (See the *Terrorist Trial Report Card*, Center on Law and Security, 2004).

COORDINATING COUNTERTERRORIST EFFORTS IN THE U.S. AND EUROPE

With increasing personal and institutional contact, the United States and Europe will eventually achieve a more integrated approach to counterterrorism. For now, however, problems remain. The problems begin with the fact that the U.S. has had an uphill learning curve in terms of the legal system on the Continent, and vice versa.

There are a number of areas in which further cooperation and improved understanding is necessary. First, there is the matter of differing legal systems. Both the European Countries and the United States are only now beginning to consider the implications on counterterrorism of the fact that the Continent and the U.S. have differing legal systems, the former based on the Investigative Model, the latter on the Adversarial Model. The Investigative system in courts in France, Spain, Italy and elsewhere enable the Prosecutor to lead the criminal investigation from the outset and raise questions about the timing of arrest and surveillance, both of which are matters that the police in the U.S. confront before the courts themselves consider these issues.

Secondly, the judicial systems in Europe and the U.S. need to reconcile among themselves the significance of eradicating the barrier between information gathering by intelligence agencies and that which is

uncovered in criminal investigations. There remains today a disconnect between the standards of evidence used in American courts and those used in European courts. The allegations that torture has been used in the interrogation of alleged terrorists in American custody has compromised evidence, rendering it useless in European (as well as American) courts.

Third, there is the matter of bilateral personal contacts. When asked to name their points of contact in the U.S., European counterterrorism authorities often claim not to have personal contacts in the United States. There are exceptions, particularly as the NYPD has initiated a program of sending its own intelligence gathering personnel to various locations abroad, and there are contacts with individual contacts and the FBI. The Department of Homeland Security plays a lesser role in transatlantic relations.

Finally, improved coordination depends on a shared knowledge of terrorist networks and the preconditions for the growth of terrorism. Much of the theorizing is to date of European origin, but agreement is growing. Currently, European and American experts agree that the future of terrorism will likely come from less organized, smaller groups of terrorists whose attacks are on a smaller scale than, for example, the World Trade Center. There is less agreement on the nature of recruitment. Although many experts see the recruitment of terrorism as a self-selection process, there is less consensus about whether terrorist networks are ideologically based, sociologically based, or both. The future of international cooperation is essential to the future of effective counterterrorism at home (see Peter Bergen, page 25). As terrorism develops and expands, the transatlantic legal alliance must adjust here and abroad to ensure a safer, more stable world.

- KAREN J. GREENBERG

The French Experience with Counterterrorism

BY JEAN-LOUIS BRUGUIÈRE



Jean-Louis Bruguière

In France, we have had a great deal of experience in the fight against terrorism. France has the unfortunate privilege of being one of the European nations most badly hit by all forms of terrorism.

For more than 20 years, France has been dealing with the separatist activities carried out by domestic terrorist groups in Corsica, in the Basque region and even in the West Indies. But more recently France has had to deal with what they call Islamist networks.

France was stricken in the eighties by numerous attacks by terrorist groups originating from the Middle East. These historical factors gave rise in 1986 to the implementation in our country of an original legal scheme to combat terrorism, which has been improved recently to face the increasing threat of Islamic terrorism. Some very recent attacks in Saudi Arabia and the bombing in Madrid on March 11, 2004 which killed almost 200 people, bring evidence that the terrorist threat is a grave challenge to the world. The Islamic threat is increasing and such a threat is now before us, not behind us.

We have to deal in Europe with a loose terrorist network; it is protean, mutant and changing. Such a movement is composed of numerous cells and networks. It is spreading in an erratic way over a large area without any specific plans. This situation has been worsened by the post-war situation in Iraq. The war has served in Europe as a catalyst to the recruitment process for new jihad members. Iraq today is considered by radical Islam as a new land of jihad.

In addition, Chechnya plays a significant role in this area; radical Islamist cells are trained by Chechen groups linked to Al Qaeda. They are trained in high tech warfare as well as the use of chemical weapons. Such an evolution is of major concern, and we

expect new operations in Europe as a result. Therefore, we should adapt our legal system to this new context in order to fight more efficiently against these networks. Al Qaeda and its associates, including the large conglomeration of Islamist cells located in Europe, have globalized the threat. We must bring about a global response—a military one, a political one, a financial one, but also a judicial one. But such a response needs to be multilateral; international cooperation is essential.

It is obvious that after the attacks of September 11, the capacity for global counterterrorism was very weak. There is no existing agency for dealing with terrorism issues except in a certain manner inside the European Union.

The fight against terrorism is still the responsibility of each state. In France we have set up a strong network of operational relationships with our partners in law enforcement and intelligence as well. In order to fight

found elsewhere in the world. The architecture and the management of criminal investigations are based on independent magistrative investigations whose role is to conduct inquiries. For this task, the prosecution has been given the widest powers.

Prosecutors have important judicial powers and can order searches and seizures of pieces of evidence, as well as intrusive measures including phone tapping and eavesdropping in private places. They can also arrest suspects who can be held in police custody for four days before they are charged. So in Paris, there is a team of specialized prosecutors and investigatory magistrates who are only in charge of terrorist cases.

In addition, according to French law, magistrates of investigation have national jurisdiction as well as international ones for when a French national is suspected of being involved in terrorist cases at home or abroad, or when French citizens are killed or wounded in a terrorist attack abroad.

The prosecution, inquiries and judgments against terrorist actions in Paris have been fruitful. These systems have enabled us to have a better awareness of networks and to manage inquiries relating to radical Islamist networks within their true dimensions.

“ SYNERGIES BETWEEN DIFFERENT ACTORS IN THE FIGHT AGAINST TERRORISM HAVE PROVEN TO BE A NECESSITY. THE SPECIALIZED SERVICES INVOLVED IN FRANCE IN THE FIGHT AGAINST TERRORISM ARE CONVINCED THAT, TO BE MORE EFFICIENT, FROM NOW ON THEY HAVE TO ACT IN A CONNECTED MANNER. ”

against terrorism, France set up an original framework of legal provisions in 1986. Since then, the judicial fight against terrorism has been centralized in Paris. So the prosecutions, investigations, and the judgments of terrorists take place in Paris.

For the investigations, the originality of the French system resides in a criminal justice system which is totally unlike anything

However, in order to be more efficient, when it comes to international cooperation, this judicial arsenal should be implemented according to an appropriate and operational methodology. Within this framework, the use of appropriate legal means and strategies is important. The methodology that was set up in France was a step-by-step response to the increasing levels of terrorism. It met with

three important requirements: the authorization of investigations; the expertise of the different players involved in this fight; and the complementary intelligence gathering of these different actors.

Synergies between different the actors in the fight against terrorism have proven to be an absolute necessity. The specialized services involved in France in the fight against terrorism are convinced that, in order to be more efficient, from now on they all have to act in a highly connected manner. So the traditional dichotomy between law enforcement and intelligence is, for us in France, now a bygone conception.

Our strategy, carried out with our partners in Europe, has enabled us to prevent deadly terrorist actions in 1998, against the Soccer World Cup, in 2000 in Strasbourg and in 2002 with an Islamist network connected with Chechnya, which planned to carry out a chemical attack in France.

We have to take an international scale to further protect the safety of our countries, including the use of intelligence information. The recommendations which I have outlined show the key role played by international cooperation in fighting terrorism. International cooperation is, for us, a priority not only within Europe but also with all the countries in the world and of course, especially the United States.

This system is very efficient, especially the relationship between France and Spain in the fight against ETA. As we guard its traditions with the European warrant of arrest, the implementation of the principle of military recognition means that each national judicial authority should ipso facto recognize requests for the surrender of persons made by the judicial authority of every state with a minimum of formalities.

These new conventions on extradition will become the cornerstone of judicial cooperation in criminal matters in Europe. But unfortunately, we have no global international organization to deal with crucial global issues. And I agree that the inadequacy of global counterterrorism capacity after the attack of September 11 was immediately obvious, and it still is. But despite that fact, we are still very deeply involved in this fight. However, despite all of these obstacles, I am still hopeful that it is a fight that can be won.

The Italian Experience with Counterterrorism

BY ARMANDO SPATARO



Armando Spataro

Up to March 11 of this year, despite the threats and anathemas from numerous important representatives of major Islamic terrorist organizations, international experts considered Europe a hinterland for logistic operations. They

viewed Europe as a place to be used for proselytism (especially among masses of illegal immigrants), for dispatching militants into war zones with false documents, and for obtaining money and resources (even through illegal means) in order to finance and support terrorist activity. However, the March 11 tragedy in Madrid was a rude awakening for everyone, justifying those who had always feared the worst and compelling magistrates and police forces to invest in new instruments to counteract international terrorism.

The problem of Islamic terrorism manifested itself in Italy after the retreat of Soviet troops from Afghanistan in 1979. The Afghan conflict, as many probably remember, had undoubtedly served as a catalyst to the response of the jihad¹ in defense of Dar al Islam (the land of Islam), which according to their vision was being threatened from the Soviet invasion.

The danger to Italians and Europeans in such a project is not exclusively determined by the number of victims or the destructiveness of terrorist acts, but by the degree of penetration of the jihad ideology. It tends to turn pieces of territory – especially the urban periphery where the presence of Muslim immigrants is more intense – into appendices of the fundamental version of dar al islam. The threat is therefore present in our own territory.

Numerous members of terrorist organizations of Islamic origin have been convicted in Italy in the last few years. But their convictions are mostly related to acts of criminal association (art. 416 of the Penal Code) with

the main purpose being to assist illegal immigration and the trafficking of false identity documents, etc. This is due to the fact that crimes of association whose aim is terrorism either at the national or international level was introduced in the penal system only with the new article 270 bis of the Penal Code (introduced by decree 18.10.2001 n. 374, converted into Law 15.12.2001, n. 438). Prior to the change, the crime of terrorist association applied only to subversive groups whose terrorist activities were directed only against the Italian administration. In such cases, it was explicitly recognized that the actions of those convicted were associated with Islamic terrorism. However, sentences imposed prior to the ratification of article 270 bis have been more lenient; they have been the same sentences generally given for simple criminal acts. It is important to mention these facts since many of the individuals discussed here will be labeled as “terrorists” or “belonging to terrorist associations,” even though their convictions would not classify them as such due to the reasons cited above. Numerous trials have already begun, or are about to begin in various Italian cities, where the Court of Assize will evaluate the existence or lack thereof of the very crime specified in the new article 270 of the Penal Code.

It is clear that Italian investigators confront a network of Islamic cells which are not rigidly structured under one single hierarchical organization and which cannot be grouped under one single denomination. Actually, more recently, the ethnic and national identity of the members of the various groups has become less important, whereas for years it had been the main distinguishing factor. An informal confederation of cells seems to have formed, all interconnected, and it is not always certain, despite what the press often implies, that bin Laden is their leader or that they are members of Al Qaeda.

Al Qaeda means, living up to its name, “The Base.” It functions as a sort of service center or reference point. Bin Laden himself

debunked the term. In a conversation with a correspondent of Al Jazeera from Kabul on October 10, 2001, he claimed: "Things are not as the West depicts them, namely that there is an organization with a specific name, Al Qaeda. This term is very old and it originated against our will. Our brother Abu 'Ubaida al Bansiri created [in Afghanistan] a base to train young men to fight the perverted, arrogant, terrorist Soviet empire . . . That training camp was called 'the base.'" In sum, the label Al Qaeda is today sort of like the label of a firm whose function is the promotion of the Holy War, and which was initially created in the eighties to support the mujahideen who infiltrated Afghanistan from Pakistan to fight the Soviets. However, it has never been characterized by a vertical hierarchical structure. After all, the jihad movement itself is characterized by a horizontal structure, based on a network that aspires to

the Moroccans, have been a major presence in our country. In the last four years there have been numerous important Tunisian fundamentalists, opponents of Ben Ali's regime. The latter are well settled in Milan and are followers of the Salafist Group for Call and Combat (GSPC). Italian investigations have also discovered different groups, such as that of Ansar al Islam and others of Moroccan origin which will be discussed later.

Until now, the role of Islamic terrorist cells in Italy has been primarily to provide logistic support. These cells have focused on making counterfeit documents for the other groups, for themselves, and for followers of the Al Qaeda project. Evidence gathered in the Italian investigations has revealed important similarities with the evidence gathered in investigations conducted in Europe and in other countries. These findings have also indicated that the acquisition and circulation of counterfeit documents that are

which ran a cleaning service in Gallarate), merchants, managers of import-export businesses, call centers, etc. Some are also professors, students, technicians, artisans, electricians, unskilled laborers, and some are unemployed. They are surrounded by numerous supporters. These individuals all live above any kind of suspicion in the outskirts of big cities or in the suburbs, where it is much easier to camouflage themselves.

TERRORIST FINANCING

The financing of the combatants constitutes not only one of the main activities of the followers of the groups that have been investigated, but it is also a behavioral norm.²

Investigations have yielded the following:

- No proof emerged of financing originating from the members of terrorist cells operating in Italy.
- No actual cases of financing have been identified, although this may change depending on the results of some investigations that are still in progress.
- Full legal evidence of the transferal or actual delivery of funds from individuals believed to belong to terrorist groups, to their comrades involved in similar activities often outside of Italy or in training camps.
- An additional investigation was conducted involving a number of individuals accused of having provided false fiscal documentation to help a firm, which supported one of the main suspects of a terrorist group, evade taxes. The firm's profits were also utilized to finance the needs of the criminal group.
- Small companies, registered under the names of individuals suspected of terrorist activities, were also uncovered through the investigations. It is quite probable that these companies were being utilized for illegal financing of terrorist activities.
- An already cited case (the investigation in Milan of "*Sfinge*") revealed the systematic

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engulf the entire Islamic community (umma islamiyya) into its cause.

Islamic terrorists in Italy come primarily from the North African area, although there are alarming signs of a Pakistani presence as well. At first these terrorists held on to their specific national identity. At the beginning of the nineties, the terrorist groups that began to establish themselves in Italy were mostly Algerians. They used our country as a logistic base and for proselytism. However, these were isolated groups who took advantage of the flow of immigrants into Europe from their own country. They became nested in ethnic communities where it was easier to camouflage themselves. They planted their roots around places of worship, namely near mosques and Islamic centers. Algerians from the GIA (Armed Islamic Group) and Takfir wal Hijra (Anathema and Exile) and later on, Egyptian Islamist cells such as al-Jihad and al-Gamà al-Islamia, as well as

made with care and precision is a fundamental aspect of the pursuit of terrorist activities. The availability of good documents allows terrorist leaders (who must maintain continuous communication with peripheral cells), as well as those carrying out a possible terrorist attack, to move around the world with very few risks. The investigations also revealed that these counterfeit documents are provided by individuals who produce them as a profession, but who do not belong to any type of terrorist organizations. These individuals are willing to offer their services to terrorist groups in exchange for compensation and are fully aware that these documents will be used for terrorist activities.

It has also been established that Islamic terrorists in Italy are involved in different types of cover-up activities which do not correspond to any particular typology. They are often entrepreneurs, mostly engaged in autonomous activities (as was the case with a group in Milan

¹ Jihad: a term which the West often erroneously associates with "holy war." Its literal meaning is "battle" or "effort achieved on God's path." Jihad can also have a negative meaning, as is the case in the themes discussed herein. As such it refers to a responsibility that falls on the entire community.

² Reference to the contents of the already cited 252 manual written in Arabic and found on July 12, 2002 in a Milan apartment entitled "Basic Elements for the Preparation of the Jihad for the Cause of Allah."

use of extortion at the expense of other citizens of Islamic faith. Funds thus obtained were used for the establishment of a cooperative for various commercial activities.

- On numerous occasions, cash was confiscated from individuals under investigation. This money was going to eventually be sent to combatants residing abroad.

CONNECTIONS WITH ORGANIZED CRIME

The most concrete element that demonstrates the existence of a connection between international terrorist groups and common Italian criminality is the wide availability to the former of counterfeit identity documents of all types, often stolen.

It seems reasonable to assume that these common criminals involved in the lucrative trafficking of counterfeit documents are supplying these to terrorist groups and individuals. The piazza in Naples is a popular spot for such activities.

It is a common fact that, except for very rare cases, none of the defendants in proceedings involving Islamic terrorism have ever been Italian citizens. It is very common, instead, for Moroccans, Tunisians, etc. to be arrested for the possession of counterfeit or stolen documents. It is often impossible to determine if these individuals are connected to terrorist groups.

There are no elements to affirm a relation between terrorist groups and organized crime. With the exception of a few isolated cases³, no weapons⁴ have been confiscated in operations

against Islamic terrorism. Therefore, it is impossible to hypothesize about any possible connections with regards to how and by whom they are being supplied. There are no elements to affirm a relationship between Islamic terrorist organizations and Red Brigades or national terrorist groups. The simple fact that the Red Brigades have given attention to the theme of Islamic revenge against the United States in their documents fits with the tradition of Italian organized terrorism. There is no trace of weapons being supplied by the Red Brigades to Islamic groups (a circumstance widely documented in criminal sentences of both Communist Revolutionary Committees of Oreste Scalzone as well as the Red Brigades).

ITALY'S GEOGRAPHICAL LOCATION

Italy, by way of its positioning, is an important international crossroads where extremist Islamic networks can install their support structures. The primary goal of such structures, as previously pointed out, is the acquisition of counterfeit documents, of the Schengen area for the most part, or the acquisition of funds to help other brothers escape authorities. These groups pose an even greater threat since they constitute a potential base to be utilized for criminal actions in every European state and for every type of motive, even if traceable to bin Laden's general appeals.

According to various police units, many jihad members in Italy have begun to relocate from metropolitan areas into minor towns

where it is often more difficult to conduct effective investigations. The question is whether all of this poses a higher level threat to Italy. As was already mentioned, until March 11 of this year, international experts and observers considered Europe a hinterland for logistic operations despite the threats and anathemas from principle representatives of terrorist organizations. According to this view, Europe would be primarily utilized for proselytism, particularly among the masses of illegal immigrants, for the dispatch of militants equipped with counterfeit identification documents, and for the provision of funds, sometimes through illegal means, to finance combatants.

In the aftermath of the tragedy in Madrid, the level of risk is evidently higher for every European country, particularly for Italy, because of its support of the U.S. intervention in Iraq and the positive results of operations against networks of Islamic terrorism. There is also a risk of actions from individual Islamic radicals, who having been dismissed from a given group, may decide to conduct their own jihad. One such case happened in Brescia, where fortunately the incident ended in the death of the lone suicide bomber who had been planning an attack.

In the recent past, the strongest warnings to Italy have come from London. According to Muhammad al Mas'ari, converted into a follower of bin Laden's cause while a physics professor in Saudi universities, "Italy's participation in the war in Afghanistan has dragged it into a confrontation with Islam, which should have been preferably avoided. This has damaged Italy. In addition, arresting several people and depriving them of supportive resources – these are problems". The Egyptian



Participants at last year's conference on prosecuting terrorism.

³ Among which is the confiscation of weapons, found in the possession of an Egyptian group from Turin in 1998.

⁴ In an investigation in Milan, intercepted phone conversations revealed references to weapons and explosives which have never been confiscated.

⁵ On the basis of declarations from participants and of many confiscated weapons, in the large investigations of the early eighties it was possible to reconstruct trips by sea for the supply of weapons carried out in Lebanon by the Communist Revolutionary Committees and the Red Brigades.

⁶ *La Repubblica*, 7/13/2002, pp 8-9.

Yasir al Sirri, founder of the Observatory of Islamic Information, explained that Italy functioned as a logistical base, a gateway for the mujahideen active in the Balkans:

Italy was the favorite gateway for Bosnia. It had for Islam the same role that Pakistan had for Afghanistan. Followers of Islam had a sincere interest in the stability of Italy. It was a refuge... Italy served as a point of departure for thousands of Islamic believers who went to Afghanistan to defend the jihad. However, these individuals never created any problems in Italy because they never considered it a target.

According to al Sirri, the special relationship with Italy has now been lost because of Rome's policies:

After September 11, Italy's attitude changed. It adopted the American stance, contradicting its own national security interests. In so doing, Italy violated the Aqd al Aman, the security pact with the Islamic world. In the past, Italian secret services were reliable and sincere. Today, things are different. They base their work on false or inadequate information, repeating whatever the Americans say. They create problems with Islamic individuals in order to behave like the Americans who are interested in intensifying tensions with Muslims all over the world.... If I as a Muslim feel held back and I observe that Italy is becoming a U.S. ally, I consider Italy an enemy of Islam. Originally, Italy was not a target. It is her alignment with America that has changed the situation.⁷

Obviously, the audio message from October 18, 2003, whose source is believed to be Osama bin Laden, takes on a very specific meaning for Italy. The message proclaims that they have "the right to strike all countries that cooperate in military operations with the Americans," and Italy is clearly among them. An earlier analogous message from November 12, 2002, also mentioned Italy as a specific target.

MOSQUES

Mosques undoubtedly play a central role in Islam not only in the religious sphere, but in the political and ideological one as well, in full observation of the Islamic belief in the indissolubility of religion, state, and society. At the same time, and in light of the information gathered through investigations and the arrests of many

imams, it can be ascertained that mosques have often played a role in the diffusion of radical anti-Western propaganda materials. In fact, mosques often run the risk of representing a crossroads for the contacts among numerous members of fundamentalist cells in Italy.

In these cases, the boundary between the freedom of worship and illegal activities can be easily blurred without even having to get to the level of readiness of support for terrorist activities or for constant activities of proselytism. It is superfluous here to underline the importance of using maximum caution in investigations involving members and leaders of mosques. Some actually hypothesize that it is too dangerous for terrorists to frequent mosques, and therefore investigations involving such places cannot possibly yield any major findings. Failure to exercise such caution could potentially result in a divisive strategy that would entail giving up control of part of our territory, thus creating an advantage for Islamic terrorism. In short, a clash of civilizations and its underlying ideology are not necessary.

At the same time, we cannot feign an integration which does not in fact exist and which is often rejected. Thus, the path to pursue is one that creates an encounter with Muslims in Europe that eliminates communication barriers and establishes reciprocal respect, awareness of the respective cultural identities, and respect for host countries' laws. Otherwise we will not be able to prevent some mosques and some Islamic cultural centers from cultivating hatred against Italy.⁸

PRIORITIES OF THE COUNTER-TERRORIST MOVEMENT

The Italian experience and the reinforcement of international cooperation facilitates the abandonment of particularistic views and the exchange of information and new regulatory instruments. It is important to remember that the Italian magistracy and police forces were able to demonstrate an excellent level of professionalism during the darkest years of domestic terrorism during the seventies and good part of the eighties. Magistrates and police played a variety of roles. Metaphorically speaking, one can argue that, just as the spread of a dangerous disease can help to generate antibodies and build immunity, the spread of aggressive terrorism can help in the development of effective responses. The latter has in



Conference participants taking a break to tour the art collection at Villa La Pietra.

fact been the case with all Italian institutions involved in the suppression of terrorism. Their ability to respond effectively has been strengthened as a result of the spread of aggressive terrorist movements in the country.

In relation to crimes related to the mafia and to terrorism, certain regulations regarding penal law, procedures, punishment, and organization of the magistracy and the police forces have been in place for some time. Since September 11, international directives regarding terrorism were undertaken in Italy through the introduction of additional regulations:

- Decree with the force of law 25.9.2001 n. 353, converted into Law 27.11.2001 n. 415 which bears "Sanctions for the violations of measures adopted in relation to the Taliban regime";
- Decree with the force of law 12.10.2001 n. 369, converted into Law 14.12.2001 n. 431 which bears "Urgent dispositions to counteract the financing of international terrorism", which created the "Financial Security Committee", set up in the Ministry of Economics and Finance;
- Decree with the force of law 12.10.2001 n. 374, converted into Law 15.12.2001 n. 438 bearing "Urgent dispositions to counteract international terrorism",

⁷ Ibid.

⁸ Limes, an Italian geopolitical journal: Jihad Project, 1-2004 (Editorial: Osama's Dream, p. 20). Other points of reflections utilized in this paper, especially for the historic background of the spreading of Islamic terrorism, are drawn from this same journal.

“ IN THE AFTERMATH OF THE TRAGEDY IN MADRID, THE LEVEL OF RISK IS EVIDENTLY HIGHER FOR EVERY EUROPEAN COUNTRY, PARTICULARLY FOR ITALY, BECAUSE OF ITS SUPPORT OF THE U.S. INTERVENTION IN IRAQ AND THE POSITIVE RESULTS OF OPERATIONS AGAINST NETWORKS OF ISLAMIC TERRORISM. ”

which constitutes the most relevant legal change and has:

1. Introduced the crime of association with terrorist intent even at the international level (new formulation of article 270 bis of the Penal Code).
2. Brought terrorist investigations under the jurisdiction of the 29 public prosecutor's offices of each district (in order to ensure a higher degree of expertise and specialization. The competence of the individual judges has not changed and remains anchored to the 166 administrative districts. Nor has an office been created to coordinate the 29 public prosecutor offices involved in the fight against terrorism. This role is instead entrusted to the Direzione Nazionale Antimafia (National Antimafia Office), responsible for counteracting the activities of mafia associations (hopefully, this role should also extend to the anti-terrorist sector).
3. Made it possible to intercept telephone calls and other systems of communications if there is sufficient evidence of criminal conduct or if such interception is deemed necessary (whereas under the normal regulations, such interceptions require serious evidence or the absolute necessity for such interceptions).
4. Allowed for such interceptions to take place as preventive measures with the authorization of the Public Ministry (without the requirement of the intervention of the judge in preliminary investigations).

The system of regulation and the parameters for carrying out counterterrorist activities discussed above, particularly the rapid coordination and exchange of information, suggest some reflections on the current historical con-

text and particularly on how the fight against international terrorism can improve. This being said, it is important to be aware of the profound difference between international terrorism and domestic terrorism with which Italy dealt in the past decades.

RECOMMENDATIONS FOR PROSECUTING TERRORISM INTERNATIONALLY

A general and primary requirement is the development of a European legal sphere along with the reinforcement of all forms of cooperation among the various administrations. While this is a rather elementary need, the idea still needs to be reinforced, since there have been delays and notable resistance, particularly in Italy. This is true even with regards to the issue of instituting a European arrest mandate, an issue that has given rise to a degree of criticism from the international community.

There is no need to introduce new institutions in Italian penal law, since the difficulties that emerge with respect to issues of definition of the crime, as specified in article 270 of our Penal Code, are related to issues of evidence with regards to terrorist aims and to institutional factors. There is, however, a need for the international community to step up the effort to find a common definition for terms such as “terrorist act” and “terrorist group.” A tentative agreement has been reached with regards to defining “terrorist activity” as any violent and indiscriminate act which can also involve civilians. There are also difficulties connected to legal organization and to the definitions of activities related to “liberation movements,” that are, in turn, difficult to categorize. Thus, it is hoped that common positions reached by individual states with homogeneous administrations can be shared by other states as well.

With regards to procedures, it is impor-

tant to note the problems arising from the absence of a common shared standard regarding the usefulness of evidence collected in accordance with local laws and the notion of trial in absentia. It would probably be necessary to bring about conventions and agreements with the goal of guaranteeing that legitimate evidence acquired in accordance to local laws be admissible in other states (except for when the means used to acquire evidence are in violation of human rights or of fundamental principles of each state) and making the validation rules of prosecution in absentia uniform. In light of thirty years of experience as a state prosecutor⁹ having mostly handled organized crime and terrorist cases, I feel I can modestly formulate the following observations about procedural issues and general needs.

One, in addition to the creation of new legal institutions and new institutions in charge of fighting international terrorism, it is important to bolster and effectively use existing institutions. In fact, numerous U.N. and E.U. conventions are already in place, in addition to the U.N. Security Council as well as rules and regulations and specific position statements of the E.U., which bind individual states to more rapid procedures of legal assistance, arrest and extradition. However, given our experience, it seems particularly necessary to ensure the effective functioning of already existing resources. Naturally there are some administrative differences that may create difficulties.

Two, the same can be said of the cooperation among legal authorities of the different states, which in some cases are extraordinarily effective, and facilitate the cooperation between the respective police forces. But in other instances cooperative efforts can be too slow, not because of legal formalities, but because of resistances that are bureaucratic in nature. The exchange of information and the coordination of investigations need to be spontaneous. It should be possible even in the absence of formal requests for legal assistance,

⁹ In Italy, as is well-known, the public ministry is independent from the executive branch, it coordinated the legal investigations. It is composed of magistrates who are hired through competitive examination and they can become judges or they can be ex-judges. They are entitled to the same constitutional rights and protections that apply to judges.

and not only in cases of emergency. Obviously we must never lose sight of the reciprocal obligation to respect the need for discretion, should such need arise. The spontaneous exchange of information has already been contemplated by some conventions, among them, the Strasbourg Convention of November 8, 1990 regarding recycling, and the Brussels Convention of May 29, 2000 regarding legal cooperation among the member states (unfortunately this convention has not yet been ratified in Italy), and the one in Palermo regarding transnational organized crime.

Three, closely related to cooperation and assistance is the creation of an ad hoc database accessible to police and magistrates, according to a strict and shared protocol that guarantees respect for discretion. The existing system and structures in Italy – effectively managed by the National Antimafia Office – can constitute a useful model.

Four, cooperative relations between the police and legal authorities need to increase outside of the European sphere as well. This does not apply to the U.S., with whom excellent relations are already in place, but to Authorities in some African states (particularly Egypt, Algeria, Tunisia and Morocco, and Libya), as well as Turkey etc. Some encouraging signs in this period have arrived from the collaboration offered to some district prosecutors from Algerian, Moroccan, and Tunisian authorities. I believe that this has also happened with respect to the needs of colleagues from other European states as well. However, there is still a long way to go, given the cultural and administrative differences among the various systems. Political efforts are needed, but even in this sphere, knowledge among people and offices, and the intensification of cooperative practices could accelerate positive outcomes.

Five, it seems necessary, in my opinion, with regards to counterterrorism, to keep the actions of the various information services separate from those of the police forces. Both are essential in order to safeguard democracy, but are likely to generate confusion if used indifferently within trials. Too often in fact, in police documents – at least in Italy – one can read facts from unnamed “qualified sources” or hypotheses. There is a tendency to want to use these elements in trials even though they are absolutely not proven. Although all of this is motivated by an understandable desire to

enrich the evidentiary base of difficult investigations, it can negatively impact a trial. It is therefore necessary to regain a sense of the respective competencies and hope that information services will try very hard to channel towards the police only those elements that carry enough weight to be admissible as evidence in a trial.

Six, international cooperation among police forces (apart from the necessary efforts on the part of the magistracy for specialized and intensified cultural understanding) needs to also include the exchange and reciprocal availability of advanced technological resources since terrorists make no secret of their utilization of very modern technology.

Seven, it is necessary also to reflect on the necessity to find interpreters that are prepared and reliable. Police forces, public ministries and judges need interpreters to translate and transcribe intercepted phone conversations, translate questionings and confiscated documents, and utilize computers with Arab fonts, etc. Given the complexity of the languages utilized by those under investigation, it is necessary to have interpreters with knowledge of different ethnicities, dialects, and familiarity with the different aspects and nuances within the various dialects. Interpreters also need to be trustworthy and loyal collaborators. However, collaborators of this caliber are not just found at any given moment in which they are needed and often there are not enough of them, particularly in Italy. Such collaborators need to be sought out and to be given adequate compensation, perhaps even through the common and far-sighted efforts at the international level.

CONCLUSION

I would like to conclude by affirming that the fight against terrorism can only be conducted with the full and absolute respect for human rights. It would be serious and unforgivable error on the part of Western democracies to betray themselves by violating human rights and ignoring the fundamental rights of people, rights that for at least five centuries have constituted the base of Western civilization. A betrayal of these values would constitute a real victory for the terrorists.

Terrorism and the Law: The Global Challenge

BY RONALD NOBLE



Ronald Noble

The events over the past two and a half years have shown that the global menace of terrorism has not subsided and that the greatest criminal threat affecting many of our lives is that presented by Radical

Fundamentalist groups or networks (such as Al Qaeda and like-minded groups) and other terrorist groups, such as ETA. In recent past, all continents and regions of the world—Africa, the Americas, Asia, the Middle East, and Europe—have suffered from devastating attacks. It is no exaggeration to say that terrorism is a truly global problem.

The attacks that occurred last weekend in Saudi Arabia are yet another reminder of the global capability that Al Qaeda has developed and of the fact that we are faced with a globalized network of like-minded groups who have a common enemy. The fact that these groups are capable of furthering the jihad with limited or no direct input from Al Qaeda, is a factor that significantly aggravates the terrorist threat.

Everyone will agree that in order to curb the threat and protect the lives of citizens around the world, governments and law enforcement worldwide will have to work together not only to arrest known terrorists, but also to prevent future terrorist attacks. Today, I want to talk to you about mechanisms of international anti-terrorism cooperation. I will start by outlining how the international community (governments and national police forces) have responded to the terrorist threats in the recent past, and subsequently offer you some ideas of what is needed in the future if we are to be successful in our collective efforts.

The September 11, 2001 and March 11, 2004 attacks have propelled terrorism to the top of the international political agenda. Terrorism has been the central topic of discussion at

numerous international and regional top level meetings, such as the G-8, the European Union or the United Nations or the Arab Council of Interior Ministers, to name but a few. Such high-level discussion is of course positive, as it shows determination and willingness among national and international decision makers to address the problem. But, on the other hand, it is a reactive approach to terrorism.

I would like to briefly outline governments' responses to terrorism. They essentially concern the following areas.

Many governments have voted new laws against terrorism. The USA Patriot Act, voted as a result of the September 11 attacks, is probably the best known example. The Act includes a far-reaching reorganization of the U.S. Law Enforcement apparatus, through the creation of the Department of Homeland Security.

Most of the political efforts at the supra state level have been directed at attempts to harmonize national legislations. This is particularly true in Europe (E.U. level), where the Council of the European Union has taken a variety of measures aimed at strengthening the level of cooperation. These measures include the creation of a European arrest warrant, the adoption of a model agreement for setting up Joint Investigative Teams among E.U. countries, and a decision on the execution in the E.U. of orders freezing property suspected to belong to terrorists or terrorist groups. The underlying assumption of these measures is that harmonizing national legislation is the best way for states to fight terrorism beyond their borders, as terrorists will be denied the means to exploit legal loopholes (elimination of the 'weakest links') and countries will have the means to collectively act to disrupt terrorist groups (seize their property, arrest and extradite members, and prosecute them successfully in the country that offers the best guarantee for a conviction). In addition, in March 2004, the E.U. appointed a Counter Terrorism Coordinator, who has been given the challenging task to coordinate member countries efforts to implement these measures.

A third kind of political reaction that was voiced by many government and state leaders has been to reassure the public that increased security does not and should not imply an infringement of personal and civil liberties. This concern is legitimate and underlines the fundamental difficulty facing any society that

is currently confronted with terrorism: how can the international community defend itself against such a ruthless enemy, without overreacting and implementing too stringent measures? I underline the importance of this point, because any initiative on the part of police, governments or judicial authorities will have to strike this delicate balance.

The next question we have to ask ourselves is, are we being successful in our fight against terrorism? Are the measures that have been adopted adequate in protecting our societies against terrorism?

Only the future will provide a definite answer to this question, but I would like to make a number of observations on both the terrorist threat and the current state of international cooperation that, hopefully, can contribute to our understanding of the issue.

- Between September 11, 2001 and March 11, 2004, almost every continent has been confronted by terrorist attacks.
- Terrorists (as well as other criminals) have shown the ability to adapt to law enforcement efforts to apprehend them.

There are, in my opinion, two major limitations to international law enforcement cooperation, which undermine its effectiveness.

The first limitation is geographical in nature. Most successful international legal initiatives are regionally based and/or involve a limited number of countries on a bilateral or multilateral basis. The European Union, for example, managed to reach agreement over a European arrest warrant, which so far has been implemented by 17 of the 25 E.U. countries. This constitutes a significant step forward in terms of cooperation, as it considerably streamlines

and speeds up extradition within the E.U. However, such far-reaching agreements are only possible among countries which have similar or harmonized criminal law systems. The European arrest warrant is a result of many years of work and discussion among E.U. countries and was only possible because there are institutional mechanisms in place that allow the E.U., as a body, to make decisions that are binding for its member countries. However, everyone would agree that it is impossible to extrapolate such agreements at the global level; reaching agreement on a global arrest warrant is not a realistic goal. Which country is prepared today to vote a law that would recognize the legal value of an arrest warrant issued by any other country in the world and would automatically lead to the extradition of the individual in question?

This does not mean that regionally-based initiatives, involving only a limited number of countries, are not important, but they remain insufficient towards addressing a global phenomenon such as Al Qaeda. The March 11 bombings in Madrid, Spain, have unfortunately shown again that today's terrorist threats can only partly be addressed by reinforcing cooperation in Europe alone. Similarly, the investigation into the September 11 attacks demonstrated that, while the target of the attack was located on American soil, preparation had been carried out in different countries located in different regions of the world (Asia and Europe).

The second limitation is functional in nature. Most International Conventions and agreements focus on judicial cooperation rather than on law enforcement cooperation. The topic of this conference is prosecuting terror-

“ THE EVENTS OVER THE PAST TWO AND A HALF YEARS HAVE SHOWN THAT THE GLOBAL MENACE OF TERRORISM HAS NOT SUBSIDED AND THAT THE GREATEST CRIMINAL THREAT AFFECTING MANY OF OUR LIVES IS THAT PRESENTED BY RADICAL FUNDAMENTALIST GROUPS OR NETWORKS (SUCH AS AL QAEDA AND LIKE-MINDED GROUPS) AND OTHER TERRORIST GROUPS, SUCH AS ETA. ”

ism. However, successful prosecution of terrorist suspects implies the existence of a sound mechanism that regulates the exchange of operational police information. For example, issuing an international arrest warrant for a person has little practical implication, if there exists no international database that police can check securely and in real time for wanted persons. Moreover, exchange of police information does not only help with investigations of terrorist attacks, but is also crucial to prevent future terrorist attacks. If police can share data on cross-border movements of persons who are suspected merely as members of terrorist groups, the chances are that police would be able to intervene before a lethal attack occurs, thereby preventing significant loss of life.

These few observations lead me to the core question on which my remarks are centered, i.e. are there ways to overcome the existing obstacles in international cooperation in the area of terrorism?

Political efforts that focus on the harmonization of legislation at a global level will continue to pose significant challenges, because of political, diplomatic and legal divergences. While this has proven successful on the regional level, it is an unreachable goal at global level, as political and legal obstacles are too difficult to overcome.

This does not mean that the idea of global cooperation should be set aside altogether. In fact, Interpol's day-to-day experience shows that police cooperation and sharing of law enforcement information is possible even when other cooperation is not, and even in cases in which there are no diplomatic relationships between the countries concerned. Interpol's continuing challenge is to be a truly global organization, involving police forces from all of its 181 Member Countries. In light of the current threat posed by terrorism, we cannot afford to exclude any country from our information channels, as it provides terrorists too readily with safe havens.

The pressing challenge consists of articulating clear principles governing global information sharing, which provide the international community with realistic and achievable goals when thinking about frameworks for global information exchange and law enforcement cooperation. Before we take the easy step of proposing the creation of new institutions, let us ask whether existing institu-

tions are doing all they can to prevent and fight terrorism.

In my view, the following nine basic principles would underpin an effective global information sharing mechanism, provided that the majority of the world's nations would adhere to them:

One, countries have an obligation to their citizens of preventing dangerous criminals from entering their country. This essentially implies a global acceptance of a principle that states have obligations and responsibilities towards their citizens in ensuring their security and will take necessary steps to fulfill these obligations. Although this principle appears to be evident, a thorough application of this rule by Member Countries would have important consequences. It would imply that Member Countries would commit to systematically check international databases on wanted persons, stolen travel documents, stolen motor vehicles (i.e. Interpol databases) at border entry points, in order to ensure that dangerous terrorists or other criminals are intercepted before being able to commit an attack. This is not happening now in a systematic fashion.

Two, countries have a responsibility to forewarn other countries about individuals that present a potential threat. This is in fact a logical extension of the first principle. Countries should not only be mindful about protection of their own citizens, but should also warn other countries about potential threats they might face. If we agree that the best way to provide homeland security for any one country is to prevent dangerous transnational criminals or terrorists from entering one's borders in the first place, then working together to enhance the likelihood of their detection, detention and apprehension before they enter any one country's boundaries should be one of our primary objectives. The practical implication is that countries have to ensure that they communicate all potentially relevant information to other countries and update international police databases in a systematic and comprehensive fashion. This is not happening now in a systematic fashion.

Three, it is politically impossible to create a global arrest warrant. However, this does not preclude countries from sharing, on worldwide basis, information about wanted persons. Countries must ensure that data about persons, wanted for terrorism or other serious

crime and considered dangerous, are stored immediately in international databases. This includes their photographs and fingerprints, data about motor vehicles they use, and particularly information about travel and identity documents they might use. This is the cornerstone of international policing. This is not happening now in systematic fashion.

In order to assist in this matter, Interpol has a powerful tool, which is at the disposal of police in any of our 181 Member Countries. Interpol can, on request of any Member Country, issue what we call a Red Notice or a worldwide diffusion. This essentially advises police worldwide that a certain person is wanted. It contains identifying information on the fugitives such as physical description, photograph and fingerprints if available, etc, and judicial information about the crime for which his arrest is being sought. Where time is of the essence, Interpol also permits its member countries to issue what are called 'Diffusions' which are much like emails containing all relevant information except photographs and fingerprints.

A Red Notice is not an international arrest warrant. While arrest warrants are issued by judicial bodies and are legally binding on the jurisdiction where they are issued, an Interpol Red Notice is one country's way of notifying the world through the Interpol network that a fugitive is being sought internationally. If any country locates that fugitive, the country that requested the Red Notice will seek the fugitive's extradition. The legal basis for Interpol's issuing a Red Notice is thus a valid arrest warrant by the judicial authorities in the requesting country and a commitment by the requesting country to seek the fugitive's extradition in the event of arrest or detention by another country.

However, it is an effective tool that is used intensively by law enforcement world wide. To give you an idea of the scope of these notices, allow me to give you a few numbers: in 2003, Interpol issued 1,397 Red Notices and more than 8,000 diffusions. Last year, more than 1,900 individuals were arrested throughout the world based on Interpol's Notices and Diffusions.

My point is that Member Countries should never disregard the information contained in Interpol notices, even, if for whatever reason, the notice itself does not provide a legal basis in that country for the arrest of the individual. 'Due diligence' means that all

countries should at least 'stop' a person for whom an Interpol Red Notice has been issued for a serious crime that could pose a danger to the life and well being of the community in which this person might find himself. That person should be stopped, questioned and examined until such time as the police are certain that he poses no danger to the community. I have very good reasons to make such a bold statement. Countries too often make wrong assumptions on information provided by other countries.

Four, police should have the means to communicate globally and securely (without excluding any country for political, diplomatic or other reasons). Obviously, if we expect an international set of principles that commits countries to systematically share police information, countries should ensure that their respective police forces have the means to do so. The technical ability to communicate among police worldwide is therefore a condition precedent to international police and judicial cooperation.

Five, countries have an obligation to proactively report internationally any travel documents (passports, identity cards) that are stolen blank and stolen from the bearer. The obligation to inform extends beyond wanted persons alone. It is equally important that countries share information about passports that were stolen blank or stolen from the bearer, because these are essential tools for terrorists. Passports are a question of international trust, where countries assume that the information on passports has been verified and validated by the issuing country. Therefore, any risk of violating that process should lead to immediate information sharing. Global sharing of data in passports, national identity cards, and visas is not occurring at the level it should.

Six, every country should have a police office, staffed 24 hours a day 7 days a week that can immediately query international databases, respond to urgent information requests from police officers in the field and act on information, received from other countries, in real time. Critical information that can prevent attacks and save lives must be passed on in real time. It is not the case that the majority of countries around the world staff international offices 24 hours a day 7 days a week.

Seven, countries must ensure that their police forces are properly trained in the use of communications technology and international

databases and awareness about what can be done on the international level in terms of information exchange needs to be dramatically raised. For example, all police forces should know that fingerprints sent digitally at a resolution of 300 dots per inch as opposed to 500 dots per inch will prevent accurate fingerprint identifications.

Eight, countries should ensure that membership of a terrorist group constitutes a criminal offense in itself. Countries should be able to issue arrest warrants and notify internationally suspected members of terrorist groups without having to provide proof that the person has actually committed terrorist attacks. This measure will help to significantly lower the threshold for international information sharing on terrorism and increases our chances to foil terrorist plots through an early arrest. Taking into account the manner in which Al Qaeda and its related networks operate and recruit members, it is extremely important to be able to 'flag' individuals as suspected members of terrorist groups. Not all countries consider membership in a terrorist organization or conspiracy to be a minimal offense.

A brief overview of the chronology of events pertaining to Khayata shows how effective international police cooperation can be. Spain issued a request for a Red Notice late October 2003.

- Interpol issued the Red Notice on November 28, 2003.
- The Interpol General Secretariat was informed by IP Amman (Jordan) in February 2004, that the person had been arrested a month before in Jordan. This was the first arrest based on a Red Notice issued for Membership in a terrorist group.
- After contacts between IPSG, IP Amman, and the NCB in Madrid, the person was extradited to Spain. The IPSG was informed by NCB Madrid on February 9, 2004.

Nine, when a terrorist attack occurs, countries should invite International Incident Response Teams to the location in which the incident occurred and allow these teams to assist with the investigations. As you will have noticed, I have focused very much on preventing terrorist attacks in outlining the principles above. But a sound

approach to terrorism requires also an ability to respond in the aftermath of a terrorist attack to prevent future terrorist attacks by the same persons or groups. It would be naïve to think that despite all of our efforts, we can prevent all acts of terrorism from happening. Al Qaeda and related networks and groups are highly mobile and often the preparation of their attacks takes place in different countries. In many cases, the perpetrators have been trained in camps in remote locations of the world. Hence, a comprehensive investigation into a terrorist attack will involve several countries.

International Incident Response Teams can provide a real added value to such investigations and provide useful information that will lead to the dismantling of terrorist support networks, provided that police have the means to liaise with their foreign counterparts. Interpol has acquired experience in this area by sending Interpol Incident Response Teams to the location of the last 13 major terrorist incidents worldwide. After the March 11 attacks, the Spanish police invited Interpol to send officers to assist with facilitating the exchange of information outside of Spain. We issued an international security alert concerning the *modus operandi* for the Madrid terrorist bombings. The role of these IRTs is important: it allows the investigating officers in the concerned country to concentrate on investigating the terrorist bombings nationally while Interpol facilitates database checks and ensures that all international leads are fully explored. An international protocol needs to be established for when IRTs are triggered and how they should function.

The nine principles that I have just outlined are simple and straightforward. In my view, all of the world's nations should attempt to reach a consensus on a number of 'minimal requirements for international police cooperation' and work towards their practical implementation, rather than focusing only on the harmonization of penal law or the creation of new institutions. Committing to these principles will help the international community come a long way towards making the world safer for its citizens and businesses. These principles form a core basis and outline essential responsibilities for states and non state actors on the international level.

On Multilateral Counterterrorist Organizations

BY DANIEL BENJAMIN



Daniel Benjamin

There is a very large and growing tool box that the international community and individual states have for fighting terror. One might have the sense that maybe we have too many different tools because they are very hard to coordinate.

It seems to me that this is all part of the organic growth that goes on after an event like 9/11. And I think that we are actually doing pretty well in terms of developing the instruments that we need to deal with tactical counterterrorism, that is, law enforcement and the intelligence work required to disrupt cells, prevent conspiracies from being completed and people from being killed.

Where I think we have fallen down on the job a bit is in the area of strategic counterterrorism, and in particular, in terms of shaping the long term policies that are going to change the relationship between countries in the west and those countries in which there are large numbers of people who are at risk for embracing the ideology of radical Islamism. That is a huge task and one that we have not really begun to grapple with. But one thing that we definitely need to do at the strategic level is to begin to shape the environment in a way so that terrorists do not have the advantage in the globalized world, so that they find it harder to find safe havens, harder to cross borders, harder to find the materials, resources and funds with which to carry out terrorist acts.

We have an international landscape replete with institutions that deal with issues related to any number of different challenges to security, human rights, proliferation, food security. But we do not have the kinds of instruments at the international level that would allow us to shape an environment in a coordinated and rational fashion. This is a very strange fact when you consider the extraordinary amount of institution building

that went on in the sixties, seventies and eighties. But because of disagreements over what terrorism is, and because of the sense in most countries that terrorism was not a particular threat to them, this is a gap that developed on the international landscape. After 9/11 it was evident to a lot of people that it was a gap that in some way needed to be filled.

The first attempt to do so was done at the U.N. The instrument for doing so was Resolution 1373 and the creation of the Counter-Terrorism Committee within the U.N., which got off to a hopeful start. But, it has not materialized into the kind of robust institution that can really be a major player on the international stage.

What should a multilateral institution do in this area? Maybe it's easiest for me to begin by saying what it should not do. It should not become a vast organization for coordinating tactical law enforcement. We have enough institutions that do that. Interpol does a very good job at it. We have a lot of fledgling institutions that are doing more and more of it and I don't think that we need a vast centralization of that activity. I similarly think

very small group basis. And given the qualms about intelligence sharing and the long history behind different national practices in that regard, I don't think that is a very fruitful area for expansion.

But where I do think there is room for improvement is in the area of setting norms. I mean this in two senses: First, there must be improvement in the understanding at the national and international levels of what countries need to do domestically to hinder terrorism. And there are a lot of things that they can do. Second, we need to put the few remaining state sponsors of terror more on the defensive and get them to try to change their behavior and recognize that, in fact, state sponsorship is not acceptable for any member of the international community. It seems that to me that an international organization could do both of those things very well.

One other thing that it could do quite well, and this is a critical task, is build capacity. If you look back to the attack in November of 2002 in Mombasa, it seems to me a classic case of one of the problems we face. Al Qaeda members destroyed an Israeli-owned hotel in Mombasa and shot a shoulder-fired missile at an Israeli charter, and it was only because they fired too soon that it did not hit the plane. So this was another terrorist attack in East Africa and was carried out by the remnants of the same cells that were involved in the bombings of

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that we should not doom ourselves to an early failure by making it a multilateral intelligence organization. Because intelligence is something that intelligence agencies feel much more comfortable doing on a bilateral or a

the United States embassies in Nairobi and Dar es Salaam just a few years ago. And that suggests that Kenya has a hard time dealing with counterterrorism or at least with performing at the level we would like it to.

I have no doubt that we will soon have another attack in a country where we had one recently. Maybe it will be Morocco. Maybe it will be Indonesia. These are countries which I think are for the most part earnest actors but simply do not have the means or the know-how to get their performance up to the level where it should be.

So it seems to me that these are the two key areas in which we could make real strides, and I have some thoughts on how we would do this. I think that there are some kinds of functions for which an organization with universal membership is ideal. Interpol is one example.

In order to raise norms, you need to have a small group of countries that are going to act as the agents of change. U.N. rules simply do not work very well if you are trying to raise standards. You need to have a small institution or one with a small number of members to begin with, members that are like minded and that are prepared to work cooperatively with other countries to raise their standards at first and ultimately to use some kind of sanction, because you need an incentive when you are talking about an issue like terrorism. I think that we have a basis for doing so in the existing twelve universal conventions against terrorism.

Certainly an institution that is dedicated to counterterrorism would also be a good place to think about these issues because the terrorist threat is going to evolve over time. One issue, for example, is the issue of dealing with sophisticated, scientific procedures, labs and materials for which there are no acknowledged international protocols that come near having the force of international law. This is something else that an institution might be called upon to do to ensure that we don't have too many people cooking up new bugs in their university labs. In FATF [Financial Action Task Force], we have a pretty good model for how this could work. It would probably require more in terms of information sharing and intelligence sharing, but it would nonetheless be a good way to start.

We need to have an institution that has a manageable number of members to begin with but which has broad representation both geographically and from the Muslim world, from Europe, from every continent. Otherwise it will immediately be seen as

somehow an illegitimate exercise in neocolonialism, and there are enough accusations about that flying around already that we do not need any more. If it were well designed, such an institution would be a club that everyone felt they had to be part of. You could call this the WTO effect. Everyone is against terrorism. If there were an acknowledged international institution that was the definitive stance against terrorism then people from different countries would feel that they had to be part of it.

One other thing that I want to just touch on is that the political effect of such an institution could be extremely beneficial. The War on Terrorism was doing fine through Afghanistan, but it is now [since the invasion of Iraq] seen by much of the Muslim world as a war against Islam. It is only by effectively outsourcing some important components to an institution that we could begin to detoxify the situation. If a group of like-minded and respected countries were to say, lean on the Iranians, it would be a far different thing from the U.S. alone leaning on the Iranians.

So I believe that, in addition to the other things that such an institution could do, there would be a political benefit as well. The Islamist challenge is one that centers around a kind of a civil war, or, perhaps better, a reform within Islam, and the United States has become the externalized enemy. With an institution such as the one I have outlined, the U.S. might actually reduce its exposure, which would be a very good thing for the U.S. and for the West in general.

In the days before 9/11, the U.S., the U.K., France and others worked on a case-by-case basis, joining together to put pressure on those countries that needed to upgrade their performance, pressuring them to sign conventions and then adhere to them.

I think we are in a world where we can no longer do that on an ad hoc basis. It is vitally important that there be a concerted effort on the part of the international community to raise norms of behavior and make it harder to carry out acts of terrorism. Because that is one of the key ways in which we are going to limit our vulnerability over the long term. And it is going to be a long term as I think we all agree.

The British Experience with Counterterrorism

BY PETER CLARKE



Peter Clarke

I would like to refer to recent investigations in the United Kingdom made to draw out some strategic themes, which although they are applicable to the United Kingdom, I think have international relevance as well. Those themes

will center around the issues of the radicalization of younger Muslim men; of the complete change, the recalibration, which the United Kingdom has had to make in terms of how we conduct investigations from the era of Irish based terrorism to that of the international threat.

One operational theme which the United Kingdom has displayed, is that we have exported suicide bombings. You will recall the two men, Asif Muhammad Hanif and Omar Khan Sharif, who traveled from the United Kingdom to Tel Aviv. These were British citizens, living a very middle of the road existence, one of them from a very prosperous business family in the midlands of the United Kingdom. Nothing in their background at all gave any obvious signs of what it was that was going to take them from their comfortable existences to a suicide attack on a bar in the seaford of Tel Aviv. Understanding that process is absolutely crucial if we are going to make progress in understanding and combating the threat which we face.

That particular operation has given rise as well to a trial, which is currently underway in the United Kingdom, of members of these men's families. They have been charged, under fairly new terrorist legislation, with failing to disclose to the authorities knowledge of a forthcoming terrorist attack.

In addition to exporting suicide, we have of course also imported suicide in the United Kingdom. Last year a radical Islamist from

Venezuela arrived at one of the London airports carrying in his luggage a hand grenade. We are not quite sure exactly what his motivation was other than the fact that he did say that he intended to blow himself up in a public place. But then shortly after that, he didn't say anything else in answer to questions.

Other cases in our courts give further definition to the state of counterterrorism in the U.K. Take, for example, the Ricin Case. This, I think, is a very good illustration of what Jean-Louis Buguière referred to when he talked about the breadth of the logistical war, or the logistical challenge. It is not just trying to interdict at the point of execution of attack. What took us into the Ricin Case was a series of operations aimed at minor fraud, micro-financing and forced documentation. That trail led to a series of arrests in 2002, and eventually took us to a part of the United Kingdom in the east, in Norfolk, which one would not normally associate with terrorist activities. There we found the ricin recipe along with other terrorist paraphernalia and documentation. Some months later in North London we found the materials for making ricin, traces of ricin and the original of the document (which we had found a photocopy of some months before in Norfolk).

On this information we then raided the Finsbury Park Mosque, which has been a center for radicalization for a considerable amount of time. The Finsbury Park Mosque was of course the mosque which was the base for Abu Hamza al-Masri. This links in with a theme which I will return to later; namely the need to gather community confidence and support for our operations. The link between logistical support activity—e.g. fraud and documentation rolling over into operational activity is significant.

Abu Hamza was arrested in the United Kingdom on an extradition warrant to the United States. Initially, the United Kingdom did not charge him. This is because there is an important distinction, as Armando Spataro said, between intelligence and evidence. There is a lot of intelligence background about Abu Hamza, but much of it was not admissible in British courts.

And so if there is something here emerging about the international collaborative approach to these issues, this is a good example of where an individual can properly be brought to trial, subject of course to the extradition proceedings in the United Kingdom in

a jurisdiction where there is the legal framework with which to address the issues.

We have also charged in the United Kingdom a young man called Saajid Badat. He is being charged of conspiring with Richard Reid, the shoe bomber. Saajid Badat, we will be alleging when he comes to trial, was the second shoe bomber. But the interesting thing about this is that his profile as a young British citizen is totally different from that of Richard Reid. Richard Reid was a petty criminal from

Chechnya. It came from Afghanistan. These individuals, however, were all British citizens. And that is something which is deeply worrying for us. Equally worrying is the fact that these alleged conspirators are so young. We will be alleging that the key conspirator is still only 22 years old, and that those with him who will allege were prepared to commit mass murder, were 18, 19 years old.

We have to gain an understanding of what has driven them to this picture of activ-

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South London. We believe Reid's radicalization occurred probably while he was in custody or certainly through contact with other elements of that kind. Saajid Badat was another case. He was a very bright, very intelligent young man who had everything before him. But at some point, he became radicalized to the point where he, we allege, was conspiring with Richard Reid to commit mass murder.

Another recent case is one we called Operation Crevice. This was the operation which we conducted between February and the end of March 2004. In this case, intelligence was received that a group was looking to construct a large bomb and to detonate it at an unknown target in the United Kingdom. During the course of that operation, we found somewhere over half a ton of ammonium nitrate, fertilizer, in storage facility in London.

There are a couple of key points which emerged from this operation. One is that the people who we arrested and charged with this conspiracy are all British citizens. Before this there was the perception that the international terrorist threat was something that came from abroad. It came from the Magreb. It came from the Middle East. It came from

Italy or intended activity. This particular operation was hugely important as well because it marked a new threshold in international cooperation, in terms of operational coordination, not just the sharing of intelligence, but in terms of the need to coordinate operational activity across three continents and in several countries. If any one country had moved too soon, it would have denied us the opportunity to generate the evidence that we needed in the United Kingdom. And it is one of these instances where the intelligence case was quite clear at a fairly early stage. We had an intelligence picture of what was intended to happen. But the evidential case was not there. And it is hugely important to my mind that we had to have in this case unequivocal evidence of terrorist activity by these people.

There is a vibrant debate in the United Kingdom at the moment about the use of our terrorist legislation. The allegation is made that it is being used indiscriminately against the Muslim community. Certainly there is concern that there are a number of arrests and a disproportionately low number of prosecutions. So, particularly in this case which

involved British citizens, it was absolutely essential to have clear evidence of intended terrorist activity before we moved to arrest. That meant some lively discussions with international colleagues about the timing. There were concerns about public safety. Were we completely in control of the terrorist activity in the United Kingdom? Was there intended terrorist activity elsewhere which we might have missed? Or, by delaying activity in the United Kingdom, could we possibly cause a threat to public safety elsewhere?

But it worked. The international cooperation was extraordinary. I think it was an encouraging sign for the future. This operation brought to my mind the importance of striking a balance in the United Kingdom between ensuring public safety and gathering evidence while still maintaining community confidence.

We have a population of some two million Muslims in the United Kingdom. To my mind, the worst possible thing we could do in counterterrorism terms would be to lose the confidence of the wide Muslim population. We need somehow to engender the wider Muslim community with the confidence to be able to reject extremism. My sense is that, at the moment, a number of factors contribute to a position where I do not think that the moderate voices within the Muslim community are yet able to have that confidence.

That is possibly a debate for someone other than a police officer to enter into. But it is certainly something which we are very, very aware of.

Operation Crevice also constitutes to me another threshold in the change from the traditional approach which we have had for the past 30 years in dealing with Irish terrorism. The parameters have changed completely. Irish terrorism is essentially domestic. Yes, occasionally we have to travel to Northern Europe or the terrorist activity extended to Northern Europe to perhaps attack some British forces. But by and large it was domestic. Obviously we are now facing a global threat. And in order to investigate it, we have to operate globally. The Irish operated in a very tightly structured network, which had some advantages for us in terms of ability to penetrate and to infiltrate.

Now, however, we are looking at much more loosely tied networks which cross borders. These are, in addition, resilient networks,

where if we take one or two leaders away, very quickly they are replaced and the network is reformed. The Irish terrorists had a determination to avoid capture. And indeed, the return of prisoners was a key part of the peace process in Northern Ireland.

That does not apply to international terrorism where suicide, or at least the indifference as to whether individuals survive the attack or not, is a feature. Despite the appalling casualties that were suffered throughout the Irish campaign, the number of casualties was actually restricted. The worst outrage was in Omagh in 1998 when some 29 people were killed. In today's fight, we have lost 30 British citizens in Bali, 60 in the World Trade Center, and of course globally the casualties are enormous. So that is again a total reversal of the trend which we saw in Irish terrorism. Moreover, the Irish terrorist had a regime of warnings because it did not suit the political agenda which they had to inflict mass casualties. Again that is clearly not the feature of the international terrorism. The weaponry deployed by Irish terrorists was fairly conventional: bombs, bullets, and phone calls, the so-called ten-pence terrorism where, for the price of a phone call, you can cause massive economic damage through phone threats. A key point is that there was always, even in the darkest days of the Irish campaign, a negotiable political agenda. There was something at the end of the path which could be negotiated towards. It seems to me, again speaking as a police officer, that a negotiable political agenda on the international arena is still some way off.

So what does all this mean in terms of challenges for law enforcement? International operational coordination is a key issue. I think nationally we have to look at the investigative capacity which we have in the United Kingdom, and we need to make that increase. We also need to increase our investigative capacity. We need to invest in proactive operational capacity.

In the United Kingdom, we have 43 police forces. It is my job to coordinate activity between all of those 43 police forces in response to terrorist activity. So we need to make sure that we have interoperability in terms of our equipment and training and operational practices. And we need to have resilience. And that is of course a debate which will continue in the United Kingdom about what the appropriate

structure should be to attack international terrorism. And I am sure that something will emerge here that will be the debate about whether we need more multilateral/multinational institutions to be effective.

We found in the United Kingdom that there is a need to be able to influence the legal framework. It was the case that after arrest, people in the United Kingdom could be detained for seven days before having to be charged and put before the court. We found that with international terrorism for a number of reasons whether it be the need to interpret interviews, the need to interrogate, high-tech devices, and a range of other issues, seven days was simply not enough. That has now been extended to 14 days which has been a very useful, and I am sure will prove to be more useful in the future, change to our legal framework, that we need to look more broadly at. It is an offense in France to associate with terrorists. We don't have anything like that in the United Kingdom. Maybe that is something we need to start thinking about.

A major challenge has also been how it is that we are supposed to conduct covert operations in a risk-averse environment. The scale of the potential harm from "the new terrorism" is such that we cannot take risks with public safety. Sometimes there may be single-source intelligence. There may be intelligence from very sensitive sources. But on public safety grounds we need to do something to disrupt this potential attack, and we saw that at Heathrow Airport last year when the military were deployed in support of the police as an overt deterrence. It is important to protect your sources and intelligence and at the same time protect the public.

Another challenge, the main challenge I think, we must focus on is how to exploit terrorist weaknesses. Unlike the Irish terrorist threat, we have found that the international terrorist is not operating below the law enforcement radar. Many are involved in petty crime such as fraud and minor theft. Many of these people are actually known to us. We know who they are. The challenge then is to move on from investigating their minor crime to their operational terrorist activity.

There are many challenges ahead, and in the European context I think there is still much that can be done. The sooner we begin, the better.

European Counterterrorism: An Assessment

BY BALTASAR GARZÓN



Baltasar Garzón

Less than ten years ago, Europe was only a stopover for terrorists carrying out jihad. Back then, active terrorism in Europe did not exist, except for a few concrete manifestations in France and in some European countries, such as Great Britain

and Spain, which suffered terrorist attacks by the IRA or ETA.

Nonetheless, little by little, Europe has turned into one of the main cores of jihadist terrorist acts. The region that was once a mere supply station and logistical base of support for persons linked to terrorism has now become a target of these kinds of networks, as well as a recruiting area and an exporter of terrorists.

Cities such as Madrid and Amsterdam have suffered cruel attacks. In Madrid, there were 192 fatalities, while in Amsterdam there was only one, but it had high symbolic content, as the victim was Theo Van Gogh). Only the coordinated efforts of police forces have been capable of neutralizing the terrorists, although in the first case the main perpetrators committed suicide in the city of Leganes, in Madrid (however, this collective suicide was not an end in itself, since the terrorists had already planned other actions—such as the one on the high speed train—that were all prevented by the police).

While it is true that the Muslim population has increased in Europe, this is not the true cause of the increase in terrorist acts. It should be noted that Van Gogh's alleged killer was a second generation Dutch citizen. In general, terrorists are usually persons who have resided for a long time in their respective countries.

The reason for this rise in terrorist activities in Europe lies, rather, in the extremist doctrine of jihad advocated by its foremost exponent, Osama Bin Laden. According to this doctrine, the infidel world in its entirety will be the objective of the actions of the "Holy War"

until the "Great Caliphate" has been established. This doctrine has spread quickly throughout a variety of sectors in these European countries, mainly (but not only) in marginal segments of the population. The world of ordinary petty crime is tightly related to this new manifestation of extremist terrorism. It is a hybrid position, based on poorly formed ideological and religious foundations, combined with sociological factors that have resulted from the particular situation of these people in Europe—their marginality, the discriminatory attitude of native citizens, and the refusal of many members of Muslim communities to integrate into the society in which they live, which, cyclically, generates more rejection.

The main enemy of the jihadist ideological body is the United States, identified as "The Great Satan," followed by the West in its totality. Aside from being more accessible geographically, Europe bears the same responsibility as the United States. Both comprise a single front against the only possible Islam, the one represented by a constellation of radical groups, integrated into what is known as the "Worldwide Jihad." They are not only against Jews and Crusaders, but also against those Arab countries that have renounced defending the Islamic essence and support the enemy (Saudi Arabia, the Arab Emirates, Jordan, Turkey, Egypt, Morocco, etc.).

The strategies for confronting terror in this new paradigm are essentially different on each side of the Atlantic. In Europe, terrorism is considered a crime among others within the catalogue of crimes of the respective penal code. It may be more severely penalized, or the ordinary provisions of law may be extended in order to conduct pertinent investigations, and different restrictions that vary from one country to the other may have been designed. But the limits of juridical order concerning the guarantees to which the imputed are entitled have never been suppressed.

This approach, which involves the police, intelligence offices, judicial power, as well as wider political spheres, is achieving a growing

uniformity—or, at least, compatibility—that will encourage the development of prosecution of delictual actions within Europe's common legal framework. This scenario, quite unique in the world, is worthy of close observation, imitation, and even implementation by other countries, given the good results it has already achieved.

Increasingly, and as the result of a necessary and evident tendency, judges are assuming control over each and every one of the aspects involved, or at least the majority of them. Even in Great Britain, which had a system similar to that of the United States, the House of Lords has derogated the antiterrorist legislation and restricted the new one, which, furthermore, was submitted to annual revision.

Norms against terrorism in Europe are severe, and even countries that were reticent at first—due to not having suffered terrorist attacks themselves—adopted them in the end. In some cases they introduce restrictions to the procedural guarantees, but they never contradict the basic principles of the Rule of Law in any of these countries, nor at a regional level, where the European Court of Human Rights exerts a binding control.

Results have been outstanding, and can even be better if precise actions are taken, and if legislation continues to strengthen the strategy of cooperation and a common desire to reduce the loopholes of impunity, and to facilitate proceedings against these new terrorist networks and structures. The number of detainees and prisoners and of suspects on trial or with pending trials confirms this. And in every case defendants will be guaranteed an impartial, independent and public trial, where they will possess all their rights for their defense.

Designing a true community of intelligence and information is not only a wish, but a real and quite close objective. Solidarity and trust between European states is growing stronger, and cooperation between different services is a reality that must be stimulated. Intelligence analysis of certain aspects of terrorist organizations have acquired the status of proof (evidence) thanks to the judicial control they were subjected to. Without these strict controls this would have been impossible, and information vital to the conviction at trial would have been dismissed.

This evolution has solidified through the years thanks to personal and professional bilateral contacts. Judicial cooperation beyond bor-

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ders has been a reality for some time now, and the obstacles that still remain should be overcome by a flowing and informal dialogue through organizations such as EUROJUST, that allows judges, police officers and investigators within the E.U. to exchange information and to accelerate communication.

After several years of research, many European judges and prosecutors have become experts in jihadist terrorism. This has revealed both the acute need that there is for such a specialization, and the essential fact that the control and the direction of police actions need to be under the control of one of these judges or prosecutors.

Other structures have also proven efficient—international research teams; cross-border operations authorizing the action of one country's police force in another country; the permanent assignation of delegate judges or prosecutors to sensitive countries; the European Detention Order, which has substituted extradition within the E.U.; the implementation of the techniques included in the 2002 Assistance Agreement for penal matters (witness protection, repentant witnesses, international telephone and internet intervention techniques, money circulation control, etc., all under the control of judicial authorities). These techniques and others should be regulated in similar fashion in different countries in different continents, so as to become fully effective.

Investigations in countries directly attacked by jihadist terrorism (Spain, Holland, and Morocco), and in those where attacks were frustrated (Great Britain, France, Italy and Belgium, among others) have proven that there are several interconnected groups and people who develop a

great operational mobility and do not hesitate in recruiting militants from other, more distant countries such as Saudi Arabia, Syria, Jordan, or Egypt. But recruits also come from the very countries where the terrorist action is executed, and these places also become operational home bases for obtaining resources, logistics, support networks, forgery, etc. Germany and Switzerland are examples of this last scenario.

This approach, developed over the course of years in Europe, might serve as an example to the United States, and could be taken into account when dealing with a phenomenon as complex as jihadist terrorism, whose ends are unattainable, and whose extinction will be brought on, therefore, only by coordinated and multidisciplinary actions which, framed within the aforementioned parameters, will prove to play a fundamental and irreplaceable role. Assuming the limitations before this new international phenomenon does not imply being incapable of confronting it, but recognizing that it is a global phenomenon, and that the measures taken to battle it should be equally complex and international. A merely national configuration will prove to be a manifestly insufficient reaction to criminal actions that can be designed anywhere, and only in their final stage be carried out in one punctual, strategically determined location.

The United States' decision to undertake a deep modification of all the services involved in the fight against terror is laudable, but it is crucial to keep in mind that the creation of new organizations and norms regulating them is not enough. The will to make them function adequately and to their full capacity is fundamental. This implies

renouncing fields of action that used to be exclusive, and assuming the principle and implementation of an intelligence and information community. At the same time, it demands a greater judicial control over the actions against terrorism, and a greater demand to those in charge of counterterrorist operations. Should one of the sectors involved surreptitiously act in a different sense or direction, undesired situations threatening the general security of citizens will occur again.

The previous confrontations or misunderstandings with the American administration over the war in Iraq, or the excessively unilateral approach to foreign policy are over. This is an exhausted debate, and persisting in it would not only be pointless, but also show the lack of a political perspective of the situation, as it would turn, potentially, any difference into a conflict. It is the time for cooperation and confluence. It is time for joint efforts, and not for playing cat and mouse. The security of citizens is above any potential confrontation.

In the development of these initiatives, the United States has to solve some basic problems it has been suffering from for quite some time. Chiefly, to count with permanent human sources in the countries of origin of the phenomenon, and in the communities that more likely provide these movements, groups, organizations or persons with economic, ideological or personal support. This is a task that will take time, and that is essentially different from the one designed during the Cold War. The idiosyncrasy of a people, its way of thinking, its specific way of analyzing the reality of the opponent or of the rest of the world, its religion and the way it practices it, etc., is not a knowledge acquired from one day to the other, not even in years. This is why these improvements cannot be postponed any further, and for this the United States should rely on the experience of other countries with a prolonged experience in antiterrorism, such as Spain.

Coordination of data and intelligence, and the ulterior utilization of this information are absolutely crucial issues whose management in the current situation is far from satisfactory. Generating information, categorizing and classifying it, using it properly, and protecting the sources from where it is obtained are extremely complicated processes, but this complexity cannot be the cause for

inaction or acquiescence. Quite the opposite. It should be the origin of coordinated actions in search of practices and rules capable of bringing together different points of view, and their further application. In this regard, considering the experience of the French is highly convenient and positive.

The number of terrorists imprisoned, on trial, or with trial pending in Europe clearly proves that the system is efficient in fighting terrorism, and, at the same time, offers the unique possibility of reaffirming the basic values of democracy and guaranteeing respect for each citizen's rights in an eventual action of the State against him or her.

Measures toward growing proximity, convergence and communication through imaginary bridges facilitating the flow of norms and mechanisms of joint action cannot be delayed if we want to prevent new terrorist actions and eliminate the loopholes of impunity that appear precisely in the fissures and discrepancies between the systems analyzed here.

The control and course of legal action confronting terror is not only necessary, but it also completes the system of criminal investigation, the maximum utilization of evidence, their guarantee, and, fundamentally, their efficacy in an oral trial. Thus, it is vital to give the role of intelligence in oral trials a new dimension, more so if we keep in mind that most of the investigations and data are generated within the sphere of intelligence.

Systems such as the ones introduced by the Patriot Act are not necessary, operative or efficient, and in the long run they are clearly counterproductive and turn away from the legal systems of other countries involved, thus indirectly favoring terrorists who might be absolved because, as has happened already in some cases, the probatory material obtained without due process cannot be used.

Finally, in this ideal design of bridges creating unity and closeness, it would be beneficial to appoint permanent prosecutors, judges or police delegates so that, in conjunction with the authorities, they could overcome or eliminate the obstacles that eventually could arise. In this same direction, the design of a judicial network, with points of contact, as in Europe or Latin America, would constitute a structure of cooperation that would yield increasingly effective results with its development.

“Euro-Muslims” in Context

BY OLIVIER ROY



Islam now is a Western religion. We have Muslims in Western Europe. We have Muslims in America. They are citizens. Their children will be citizens. So it is a fact. The question whether Islam

is compatible with the West is too late. Islam is in the West. But the way Islam took root in the West is very particular. It is due to demographic immigration. And here we have the first issue, the issue of immigration.

In the States, Muslims did come like the other immigrants, so there is no specificity in the Muslim immigration towards America. Muslims in America tend to be middle class, even sometimes upper class, and are not associated with a specific social group.

In Europe, the Muslims came as labor immigration, and this is very important. The social dimension of Muslim immigration in Europe is central to many problems and issues which we have now. Of course all the labor immigrants were not Muslims, we had Africans also, but globally, statistically there is a link between the Muslim population and labor immigration. So the social consequences of the presence of Islam in Europe are not the same in Europe and in the States.

And from that point, there is another dimension: the transformation of Islam as a religion in the West with new thinking, changes in religiosity, and a new assertion of an Islamic identity, and so on. In this case, I would say the social dimension is less obvious and plays a lesser role. We are witnessing many transformations of evolution in Islam, not necessarily in sociology, but in the way of being a Muslim in the West.

So for me, even if there are many developments between the two dimensions, the sociological dimension and the religious dimension, we have to make a distinction, because with the next generations the distinction will disappear. Less and less Muslims will consider themselves as immigrants from now

to the future.

So what is at stake is no longer immigrants, because there are no more immigrants. The guys we are speaking about are citizens. French laws on citizenship are quite open, and if you are born in France, you will almost automatically become a French citizen. But in other countries like Holland, they still speak of Muslims as foreigners. In Holland, and in Denmark especially, we have a discrepancy in the perception of Muslims.

In the evolution of the Muslim issue in Europe we have two factors to take into account. From where are the people coming, and in which country are they now staying? What we need to focus on now is the interaction between these communities and the political culture of the guest countries. For example, in France, multiculturalism is considered not to be French.

Integration should be done on an individual basis, as citizens, not as a community. In such an approach there are no censors on religious or ethnic affiliations. There is no right to ask somebody about his or her ethnic background or religious affiliation. So we have no statistics. In countries like Britain, Holland, and Denmark, you have this concept of multiculturalism. There we are dealing with communities; community leaders negotiate, discuss, and debate the different issues.

How immigrants react to that varies depending on the country of origin. For example, the Turks tend to keep a strong Turkish identity in Europe, wherever they are. They speak the Turkish language. They keep Turkish citizenship. In France, for example, they have dual citizenship. Dual citizenship is a big issue in Germany. But you have to give up your previous citizenship, which many Turks are reluctant to do. The Turkish government is subsidizing the imams. And the Turkish religion is growing. The result is that you have one hundred percent Turks in Europe. So they keep the language.

For the North Africans, the situation is more complex. First, in the matter of language, most of the Arabs do not speak Arabic. They may be Kabuls or they may speak vernacular Arabic from North Africa. With such a dialect, they are unable to understand al-Jazeera or the different channels in Arabic. They have to learn the language from scratch. In sum, the cultural, linguistic and national identities of the North Africans tend to find a home in European countries faster than the Turkish community

does. Again the interaction is between the culture of the guest country, Christian societies, and the societies of the countries of origin.

What we see in Europe is not the importation of Middle Eastern culture, of Middle Eastern values, into a Western system. It is instead the recasting of Islam in the purely European and Western context. This brings to the fore the issue of Islam as a religion. Many people tend to consider that Islam is Islam no matter where you are from and that to be a Muslim gives you some sort of cultural identity.

But my main thesis is that what we see now is a disconnect between religion and culture. Islam in the West does not seek to import a Middle Eastern traditional culture and ask for its recognition. On the contrary, they are asking for a reformulation, a recasting of what they see as Islam in a Western idiom. Public opinion that Western Islam should, by definition, be a liberal Islam, a reformed Islam, a protestant Islam perhaps. I love this idea, which suggests enlightenment, equality between men and women, etc.

But what we do not see is that fundamentalism is also the perfect way to adapt to Westernization and globalization. This is important. If we look at the radicals, it is common to say they are Salafists or Wahabbis, they are connected to a very conservative and traditional Islam.

Salafism is the idea that Islam is a pure religion which should not be identified with a specific culture, or with specific customs. You find in Salafism some sort of apology. This speaks to the destitute neighborhoods in Europe, whether in France, Germany, or elsewhere. The Salafists say to Muslims in their neighborhoods, "Look, you don't know Islam because your father and your grandfather did not transmit to you Islam. So you lost the language of your family. The Islam of your grandfather is not good Islam. The Islam of your father is not good Islam. It is some sort of a Moroccan, Egyptian, Pakistani Islam mixed with the customs and superstitions of Christianity and other influences."

And because you know nothing now, you can listen to the truth. You can receive the truth. And what is this truth? This truth is not the knowledge. This truth is faith. Just believe. This is the way that fundamentalism is working among the second generation Muslims. It is, I would say, very similar to the way that modern fundamentalism, Christian fundamentalism, is working. Everything is aimed at individuals and

not at communities. They are preying on the generation gap. They prey on faith and salvation instead of religious knowledge and theology. They play on instant rewards: do this and you will be saved and go to paradise. You do not need to earn a Ph.D. You do not need to study. You do not need to go to seminars. You do not need to go to Madrasas. You are entitled to the truth immediately.

This sort of Salafi religious vision works in any culture. You can be a Salafi the same way in Kabul, in Paris and in New York. This also explains why some sort of Protestant fundamentalism works the same way. We have only two religious schools of thought which are converting people now: Salafism for Islam and evangelical Protestantism. This is something which is very important. In every radical network which has been found in Europe, we have converts.

The issue is not that of importing a foreign Middle Eastern culture into Europe which backlashes against European values. The debate is the process of Westernization. My thesis is that the forms of radicalization are a consequence of the globalization, which means Westernization of Islam. It is not backlash from the Middle East.

Let's take some examples. First, second generation men become radicals in the Al Qaeda networks, for example, and many are men in their thirties who have become born again in Europe. Even if they were born in the Middle East, even if they spent some time in the Middle East, they are born again in Europe in European mosques.

Second, when they decide to go for jihad, almost none of them go to the Middle East. We have only two: the British Muslims who went to commit a suicide terrorist act in Israel. Where, then, do they go? They used to go to Bosnia, to Afghanistan, to Chechnya, to Kashmir. Now some are going to Iraq. They do not go to Iraq to free the Iraqi people. They go to Iraq to fight the Americans. If the Americans were elsewhere, they would go elsewhere.

Another example is France, where there are young boys from Algeria who decided to go for jihad. None of them went back to Algeria to fight. If you are a grandfather in the Algerian community who is born in France, but you do not feel French, you feel like a global warrior, a part of the global jihadin. And you look for some place to go for jihad. It would be understandable to go first to the vil-

lage of origin of your grandfather, where you still have some relatives, some people who will help you, protect you and maybe you could convert them and so on.

This process of radicalization is very involved with the process of Westernization. But the question remains why some of these individuals go for jihad. Why do they become political activists? We have many Protestant fundamentalists who are activists, radicals even, but they do not go for political action. What this tells us is that what applies in Europe does not apply in the U.S. In Europe, Islamist networks are taking the place of former radical networks. In Europe, there is a tradition of terrorism. Every European country has a tradition of terrorism. In France, it dates back to the anarchist at the beginning of the century.

Conversions are essential to the Islamic radicalization in Europe. In fact, there is a very small span of time between the conversion and the political radicalization. They convert largely for "political" reasons. Here is a typical scenario: In a neighborhood we have a group of young men who smoke hashish, deal drugs, steal cars, and so on. One day, one of them becomes a born again Muslim. He then turns radical Muslim. If, in the group, you had somebody who is not a Muslim, then he convert in order to stick with the group and fight the system.

Given this, we need to focus on two things. One is the evolution of religious Salafism. But all Salafists do not become terrorists. The other dimension is radical politicization. There is no longer a radical extremist tradition in Europe as in the radical left. We do not have it anymore.

Secondly, it is important to understand that the Westernization of Islam is not necessarily linked with the reformation of Islam. Reformation Islam has little appeal among this second generation of Muslim youth. This second generation buys more easily the radical discourse, either religion or politics.

Radicalization is largely linked with a Western tradition, the European tradition, of political mobilization. It is also linked, of course, with the social situation of the second generation of Muslims. It has little to do with the Middle East. The different ways the Muslims in Europe are trained to reassert or assert an Islamic identity are, in fact, done by using European patterns, including fundamentalism and radicalism.

Europe's "Home-Grown" Terrorism Threat:

HOW AND WHY THE DYNAMICS OF EUROPEAN TERRORISM HAVE EMERGED AND EVOLVED

BY MARK HUBAND



Mark Huband

When a distant relative of the Dutch painter Vincent van Gogh was stabbed to death as he cycled to work in Amsterdam on November 2, 2004, a chain of events was unleashed that have transformed European

perceptions of the terrorist threat facing the continent.

At his most polite, Theo van Gogh was outspoken. At his most forthright, he was renowned for his rudeness, which he imparted liberally on all who fell into his view: Jews, Christians, Muslims, Amsterdam city councilors, and Dutch people generally. As a filmmaker he was respected for his quirky accounts of daily life. But he became embroiled in controversy when he teamed up with Ayaan Hirsi Ali, a Somali-born liberal member of the Dutch parliament, to make a film about Islam. The film, called *Submission*, is highly critical of Islam's treatment of women. When Mr. van Gogh was stabbed, a knife was rammed into his chest, a note attached to it threatening to kill Ms. Hirsi Ali for her role in the film and her criticisms of the Muslim religion into which she had been born.

Popular anger at the stabbing led to mosques in various parts of the Netherlands being burned to the ground, and churches being attacked in a series of tit-for-tat reprisals. Meanwhile, the Dutch security service, the AIVD, has uncovered an Islamic extremist cell with which Mr. van Gogh's alleged killer was loosely associated. It is the unraveling of the network that has revealed both the extent to which Muslim extremists in Europe remain intent on and able to plan significant terrorist attacks, as well as the nature of the radicalization process on the continent that has spawned new terrorist cells.

Referring to the incidents in the

Netherlands as an "historic development," one senior European counterterrorism official said that the exposure of the terrorist "Hofstadnetwerk" with which Mr. van Gogh's killer was linked, had revealed how the global Islamic terrorist threat had evolved since war was declared on it in the wake of the September 11 attacks. The AIVD has revealed links between members of the "Hofstadnetwerk", which translates as the "Court Network" and extremists in Switzerland, Morocco and Spain. The Netherlands-based group is suspected of being in the process of hatching plots to attack various government buildings – including the AIVD headquarters – and to kill high profile individuals.

Understanding how and why the dynamics and character of the threat to Europe have emerged and evolved, requires significant leaps away from the perception of the threat which became reality on September 11, 2001. It took the September 11 attacks for us to begin to grasp the reality that had been in the making for at least a decade. But what we learned about Al Qaeda from and in the aftermath of September 11, were the details of what it had once been. That is not to say that there was no detailed awareness prior to September 11, as to what kind of threat Al Qaeda posed. But by the time substantial resources were being poured into the campaign to confront it, the form the threat took was no longer that which had allowed it to create the team of hijackers that changed the course of history.

Security officials and terrorism experts in several European countries say that although intelligence information about the Islamist threat is still being gathered on a global scale, the recruitment of extremists, as well as their organization and planning and decision-making in Europe is increasingly done within each country's borders. Europe, it seems, has now given birth to its own, 'home-grown' threat, which

some are likely to brand 'the enemy within'.

The trail of evidence that Al Qaeda left behind in the training camps of Afghanistan provided an insight into the scale of its ambitions, the rigidity of its ideological positions, the geographical scale of its recruitment, and the sophistication of its strategy. What this evidence did not do in any really substantial form, however, was offer useful insights into its capacity for survival in the event of the loss of its Afghan base. In short, the Al Qaeda we learned about from the evidence it left behind, was the Al Qaeda of the past.

Despite Al Qaeda having tapped into a deep well of discontent and radicalism during its formative years, the threat today is made all the more unpredictable for not being in the hands of the network's original architects. Just as few of them could have predicted how successful the September 11 attacks were to be, few could have predicted how the radicalism to which Al Qaeda gave voice would be picked up. And it is in Europe that many aspects of the new threat are most salient.

Despite the complexities, several characteristics of the threat to the continent have now become clearer.

First, whereas in the late-1990s and immediately after 9/11 it was to some extent possible to focus counterterrorism efforts on particular communities in Europe, this is no longer the case. Second, whereas plans for attacks in Europe such as one on the Strasbourg Christmas market, or against buildings in France and Italy appear to have been hatched when Al Qaeda's leadership still had a functional global reach, more recent plots are the product of more localized planning. Third, new recruitment to the Islamist cause means that whatever may be learned from detainees captured as a direct consequence of information gathered from people directly linked to Al Qaeda, there are many new faces that have yet to appear above the parapet. In Europe, a key new factor is the number of recruits of European racial type, who have converted to Islam. To date, this group is small, but it has nevertheless thrown-up a number of radical elements who have found their way into extremist circles.

In the past, certain patterns have been discerned that have made it feasible to focus counterterrorism activity on particular national groups. At specific points there were spikes in activity by Libyans associated with the Libyan

Islamic Fighting Group – the LIFG – which had thrown in its lot with Al Qaeda. Subsequently, Algerians associated with the GIA or GSPC emerged. More recently, Moroccans loosely tied to groups based in Morocco became the major focus of attention.

But these aspects of the terrorist identity are no longer relevant. The Madrid train bombings of March 11, 2004, have revealed as much, by showing that an Egyptian probably masterminded the attacks, while working closely with a Tunisian, who together ran a terrorist cell that was numerically dominated by Moroccans.

Equally, the function of the relationships built up between like-minded Islamists across Europe in the past few years, is as fluid as the roles played by the emerging cells.

In Italy, for example, evidence has yet to be found that terrorist suspects are receiving funds from outside the country, and the signs would seem to be clear that they are self-financing. Small businesses have been found to be financing cells in the country, occasionally through tax evasion, while evidence of extortion – if only on a small scale – has been unearthed within the Muslim community, with the proceeds also being used to finance the radicals. In addition, small sums have been made in relatively minor narcotics deals, with the largest sum from such a deal struck by individuals allegedly linked to Islamist extremism being around 200,000, though deals of around 8,000 are far more common.

The interplay between Islamist terrorism and organized crime is most clearly seen in the area of document forgery. The increasingly highly-developed skills of forgers within Islamist ranks, and the growth in people-smuggling in Europe conducted by organized crime gangs, suggests that the methods used by the terrorists to finance their activities ought to be intensifying the focus of law enforcement authorities on the links between the two.

But even with such dangerous liaisons as this, it is new recruitment to the Islamist extremist cause in Europe that is the single greatest challenge now being faced. Recent events in the Netherlands have revealed a great deal about the process of radicalization and recruitment, and three factors are seen by terrorism experts as explaining what has taken place, not just in supposedly liberal-minded Holland, but elsewhere on the continent.

First is what some experts say is a deliberate

strategy launched by the extremists that is intended to unite the moderate majority of Muslims behind extremist causes by provoking a generalized anti-Muslim backlash. This aim has been central to the thinking of Ayman al-Zawahiri, the deputy leader of Al Qaeda, since the early 1980s. Al-Zawahiri is the architect of Al Qaeda's strategy of attacking the United States and the other Westem allies of Muslim governments, with the aim of precipitating the fall of those governments when the West finds its support for them too costly. Ever since he launched an insurrection in his native Egypt in the 1990s, Al-Zawahiri has sought to mobilize populations around the radical banner. His efforts have failed, but the strategy is still apparently being sought by his adherents, and the aim of extremists in the Netherlands appears likely to be intended to force a wedge between Muslims – both radical and moderate – on the one hand, and wider Dutch society on the other.

As the French writer on Islam, Gilles Kepel, says: "The extremist circles are a very tiny proportion of people, and are not representative of people of Muslim descent in Europe, who – I believe – are becoming increasingly secular and Europeanized. But because these small [extremist] groups are ready to resort to violence, it gives them tremendous exposure. Holland's response to the provocation means that people are setting fire to mosques. And this will lead to radicals being able to secure the solidarity of the Muslim masses."

A second element encouraging radicalization is a feeling among young Muslims of marginalization from European society. Evidence from the arrest of Muslim extremists in Europe has revealed that economic hardship is not a primary reason behind the radicalism, as many of those arrested are found to have been educated or professionals. But what has become dear in some European countries is that economic success has not brought social integration, and may even have contributed to the resentment felt towards Muslims by Europeans opposed to integration, as well as intensifying immigrant Muslims' sense of being second-class citizens because of their religion or racial background.

The consequences of this apparent marginalization are multifarious.

Some experts say it has led to a breakdown in authority within the Muslim community as the young become disillusioned with elders with whom they share little and whose example

they are no longer inclined to follow. "Younger Muslims educated in Britain, for example, don't actually accept what the older generation of Muslims says about religion or culture," says Humayun Ansari, a leading writer on Islam in Britain at London University. "They find themselves in a sort of vacuum. Their experience tells them that there's not much on offer here. So, how does one become empowered if there is alienation? It is then that religion does play a role," he said.

Despite the apparently frightening power and ambition of the extremists, however, government policies are widely seen as capable of influencing the outcome of the security threat in Europe, and thereby limiting the marginalization. Another U.K.-based academic, Azzam Tamimi, director of the Institute of Islamic Political Thought, argues that: "Ideology on its own does not make a radical. Ideology provides justification, but the social situation creates the radicalization."

France, the Netherlands and the U.K., where terrorists have been active, have followed different paths aimed at creating harmony between the Muslim and non-Muslim communities with a view to engineering social relations that will discourage radicalization. France has demanded that Muslims integrate within society whereas the U.K. and the Netherlands have followed more multi-cultural paths where differences are encouraged. All three have nevertheless experienced the emergence of radicalism. But their ability to confront it as a security issue, without fostering widespread disharmony, has been the major test which some now see the Dutch as failing by not being sensitive enough to Muslim concerns. As Dr. Tamimi says: "Right from the beginning, the Dutch should have seen that this was going to be a disaster. If you accept the Muslim community in your midst, you have to respect their religion."

The problem facing European governments as they try to hinder what one U.K. security official describes as the "radicalization escalator", is that no measures will be wholly adequate. Ultimately, the decision of an individual to follow an extremist path will be determined by personal aspiration. Surveillance of suspected extremists in the U.K.'s Pakistani community began in early 2003. Until then the focus had been on Algerians, whose network had direct links to extremists in France and North

Africa. MI5, the domestic security service, and London's Metropolitan police anti-terrorist branch, expanded their surveillance in response to intelligence that gave clues to how Al Qaeda was adapting to the loss of its Afghan base after the fall of the Taliban regime in 2001.

An important element of the network's response was to devolve decision-making to and recruit among indigenous Muslim communities in targeted countries. As one U.K. security official said after the arrests in August: "It's not a threat that we have imported. It's activity we are definitely capable of growing ourselves. They are not down and outs. They are young, British, educated, and the sort of people that years of policy have been intended to try and bring into the fold. They are part of a new generation that has emerged since September 11."

He went on to say that while the arrests were a significant step in the counter-terrorist effort launched since the attacks of September 11, 2001, there was barely any understanding of where the root of the "home-grown" suspect lay. "We don't really understand the process of radicalization. We didn't become aware of this particular case so early on that we understand the root whereby these guys got to the point that they are at now. Understanding where this has come from is a part of the response to 9/11 that is least developed. What is needed is a government-led process of tackling radicalization."

The emergence of this apparently new facet to the threat in Europe raises the question of why Europe as a whole is a target. The bombings in Madrid on March 11 certainly seemed to have been designed to influence the outcome of the Spanish election. Even so, just as the impact of the September 11 attacks on the global economy could not have been predicted, nor could the fallout from the Madrid attacks.

In both cases, the fallout was almost as dramatic as the attacks themselves.

A truce offered to European countries on April 15, 2004 by Osama bin Laden served to clarify what may amount to Al Qaeda's strategy. Flush with the success it claimed in changing the political landscape in Spain, bin Laden hoped to split the U.S.-led coalition in Iraq by offering European countries a three-month respite from terrorist attacks if they withdrew their forces. The offer reaffirmed a fact long-misunderstood in the West, that Al Qaeda's

central goal is to expel non-Muslims from the Islamic world, rather than just to bring fear to the lives of Americans, Europeans and others. The Al Qaeda leader's later address to the world on the eve of the U.S. election appeared to have a similarly strategic message: "Your security is not in the hands of Kerry or Bush or Al Qaeda. Your security is in your own hands, and each state which does not harm our security will remain safe," he said in a statement broadcast on October 30.

Europe, it seems, is a target as a result of what it is doing in the Islamic world – and specifically in the Middle East and North Africa – rather than as a consequence of a 'clash of civilizations'. Clearly it is bin Laden who has defined the extent of this European role. Any country allied to the U.S. is fair game. Any country that plays any kind of a role in the war on terror is equally deserving of extremist ire. As for states that have sent troops to Iraq, they had better watch out.

But radicals who are not graduates of Al Qaeda's training camps in Afghanistan, and are instead part of the social fabric of European countries, are a phenomenon that is as likely to reflect resentment of their own circumstances as much as they reflect anger at the political realities of the Middle East. If foreign forces withdrew from Iraq, or the House of Saud were to fall, or the al-Aqsa mosque in Jerusalem were to become the heart of a free and independent Palestine, would their feelings about the European societies of which they are a part, be diluted? Probably not.

As Al Qaeda becomes more disparate, localized or regionalized radicalism is likely to become more of an issue. Counterterrorist efforts ought to reflect this. Success in the efforts to confront the threat in Europe will depend upon achieving greater uniformity in the standards of intelligence gathering and counterterrorist activity. The great variation in the performance of police and intelligence agencies across Europe is not only the result of disparities in the resources devoted to them. Clearly there is also a question of willingness, and that in turn stems from different perceptions of the threat.

Streamlining the flow of intelligence information on terrorism has soared up the list of security priorities since the Madrid bombings. In the immediate aftermath of the attacks, in which 191 people died, the European Union appointed a counterterrorism

coordinator, charged with improving cooperation between E.U. member states. Within hours of his appointment to the post, Gijs de Vries warned that: "People should not put their expectations too high in the sense that absolute security can ever be provided. That, in our open societies, which we must maintain, is unfortunately impossible."

But the failure of the Dutch authorities to detect and act on the potential threat posed by Mohamed Bouyeri – the man charged with killing Theo van Gogh – was partly due to inadequate co-ordination between branches of the Dutch security service. Bouyeri's radicalization had been noticed, as had his association with known radicals. But limited resources, as well as misperceptions of his aims, had allowed him to slip through the net.

Such security flaws are seen as damaging to the Europe-wide counterterrorism effort at a time when the emergence of radicals from within European countries is transforming the threat profile. "Terrorism is understood to be events like September 11. But then we have somebody who kills a guy on a bike. So we weren't prepared for anything," said Edwin Bakker, a terrorism and security expert at the Netherlands Institute for International Affairs, referring to Mr. van Gogh's death. He said the fragmentation of the network once connected to Al Qaeda made the need for cross-border co-operation even greater, as investigations focus on previously unknown individuals who are in the process of radicalization, rather than people arriving from abroad.

But the urgency of identifying the threat within Europe is now seen as in need of acceleration in the face of a new threat. In the past few months radical Muslims with military experience gained in Iraq are being placed under intense surveillance in several European countries as fears have grown among security officials that they plan to use their skills in terrorist attacks. European intelligence services have traced the journeys of Muslims from European countries to Iraq, as well as others who traveled to Iraq from North Africa via Europe. According to a senior intelligence officer responsible for following their activities, some are now returning to Europe. He added, "It's too early to know what their role is. But it is clear that the skills they have gained are of major concern."

Al Qaeda in Europe and the U.S.

BY PETER BERGEN

The greatest threat to the United States from Al Qaeda, its affiliated groups, or those animated by Al Qaeda's ideology, emanates today from Europe. There are four strands to this argument which will be amplified in my testimony. The first is that there is little or no evidence of American "sleeper cells" found in the U.S. since the 9/11 attacks. Second, the most significant Islamist terrorist plots in the United States in the past decade have generally not involved "sleeper cells," but rather terrorists who have come into the U.S. from abroad, often from Europe. Third, in 2004, we saw with the Madrid attacks and the disruption of serious terrorist plots in London that there are European sleeper cells that have the ability and motivation to carry out major terrorist operations, and even, perhaps, to attack the United States itself. Fourth, the European threat from militant jihadists will likely increase over time as declining European populations are replaced by rising Muslim immigration into Europe, a combination of circumstances that is generating, and will continue to generate, rising Muslim alienation in many European countries, and a significant amount of backlash against Muslim immigrants in countries such as the Netherlands.

Since the 9/11 attacks, we have seen little evidence of U.S. sleeper cells. The terrorism cases that American officials have prosecuted since 9/11 have often followed the trajectory of an initial trumpeting by the government only to collapse, or to be revealed as something less than earth shattering, when the details emerge months later. Indeed, an authoritative survey by NYU's Center on Law and Security released in February 2005 found that, of the hundred and twenty criminal cases that the Bush administration has pursued under the rubric of the war on terrorism since 9/11, "the courts have indicted relatively few individuals on the charge of direct acts of terrorism and convicted only one (Richard Reid)," the so-called shoe bomber who, of course wasn't a "sleeper cell", but a British-Jamaican who tried to blow up an American Airlines flight. (Since the NYU report was published, French citizen Zacarias Moussawi has also pled guilty to planning to attack the White House.)

The American sleeper cell phenomenon has been exaggerated by both U.S. officials and overhyped stories in the media, but that is not to say that such sleepers have not existed in the past. Ali Mohamed, a member of Al Qaeda who played a role in planning the 1998 bombing of the U.S. embassy in Kenya, for instance, was a U.S. Army sergeant in the late '80s, and was finally arrested after the Kenya embassy attack, fourteen years after he first settled in the States. However, since 9/11 there has been no evidence of sleepers like Ali Mohamed operating in the U.S. At a certain point these sleeper cells are either so asleep that they are effectively dead, or they simply don't exist. The onset of the Iraq war and the presidential election both offered perfect symbolic occasions for the supposed cells to strike, but nothing happened. The 9/11 Commission concluded, building on the work of the largest criminal investigation in history, that the hijackers did not plug into a support network in this country. This fact, taken together with the tiny number of real terrorism cases post-9/11 and the absence of terrorist attacks in the U.S. over the past three and a half years, leads one to surmise that there are no American sleeper cells. And support for this view came from an unlikely quarter in March 2005: The FBI, in a leaked report, concluded that "U.S. Government efforts to date also have not revealed evidence of concealed cells or networks acting in the homeland as sleepers."

That's the good news. But is that the real problem, anyway? There have indeed been a small number of terrorist sleepers that have embedded themselves in American society for many years such as Ali Mohamed, but the real threat from Islamist terrorism in the U.S. has historically come from visitors to the country. That was the case in the 1993 attack on the World Trade Center, the mastermind of which, Ramzi Yousef, arrived from Pakistan intent on attacking American targets, and it was also the case of the 9/11 attackers. And it was also true of Ahmed Ressam, who was stopped at a Canadian border crossing in December 1999 on a mission to bomb Los Angeles airport, and of the shoe bomber, Richard Reid, and also of Zacarias Moussawi.

Today, the Islamist terrorist threat to Americans largely emanates from Europe, not from domestic sleeper cells or, as is popularly imagined, the graduates of Pakistani madrassas who can do little more than read the Koran and so do not have either the linguistic or technical skills to make them a serious threat. Omar Sheik, for instance, the kidnapper of *Wall Street Journal* reporter, Danny Pearl, is a British citizen of Pakistani descent who graduated not from a madrassa, but from the academically rigorous London School of Economics. Richard Reid is also British, as is Saajid Badat, who last week pled guilty in London to training in Afghanistan to use a shoe bomb similar to Reid's to blow up a transatlantic flight in late 2001. (Badat got cold feet and bailed out of the plot). Similarly, Al Qaeda member Zacarias Moussawi is French; Ahmed Ressam became radicalized in Italy, and the 9/11 pilots turned to the most militant form of Islam while living in Hamburg. Indeed, last month, Robert Leiken, of the Nixon Center, presented his study of 373 radical Muslim terrorists arrested or killed in Europe and the United States from 1993 through 2004, of which an astonishing 41 percent were Western nationals, who were either naturalized or second generation Europeans, or were converts to Islam. Leiken found more terrorists who were French than the combined totals of Pakistani and Yemeni terrorists!

Future terrorist attacks that will be damaging to American national security are therefore likely to have a European connection. Citizens of the European Union who adopt Al Qaeda's ideology can both move around Europe easily and also have easy entrée into the United States because of the Visa Waiver Program that exists with European countries. European members of Al Qaeda, for instance, could either come to the U.S. to launch a significant attack on the scale of what took place in Madrid last March, or they could launch a major terrorist strike in Europe—such as a radiological 'dirty' bomb attack in London, a key financial center—that would have a devastating effect on the global economy, and by extension the American economy.

As the eminent French scholar, Gilles Kepel, has pointed out: "The war for Muslim minds around the world may turn on the outcome" of how European Muslims deal with Islamist militancy in their midst, and the extent

to which European Muslims can be truly integrated into their host societies. This will not be achieved quickly. First, there is the matter of numbers. France alone is host to some five million Muslims, about as many Muslims as live in the United States. And while on only a handful of American Muslims have proven susceptible to Al Qaeda's ideology, that is not so with a substantial minority of Europe's Muslims, many of whom are relatively recent arrivals. In 1945 less than one million Muslims lived in Europe. There are now as many as 20 million, a good number of whom are having problems integrating into their host countries because, by and large, Muslims in Europe are more discriminated against than Muslims in the United States.

A survey of Islamist militant groups and Islamist extremism in Europe would merit a book in itself, so my testimony will focus on the threat emanating from Britain, a country that illustrates many of the features of the wider European problem, and where the threat from Islamist extremists is especially high. In 2004, Sir John Stevens, London's former Metropolitan Police Commissioner, warned that an Islamist extremist attack in London was "inevitable," while a government report estimated that between ten and fifteen thousand British Muslims are supporters of Al Qaeda or related groups. The estimate was based on intelligence, opinion polls, and a report that eight thousand Muslims last year attended a conference held by Hizb-ut-Tahir, which the Home Office describes as an extremist organization. British authorities believe that between three and six hundred British citizens were trained in Al Qaeda and Taliban camps in Afghanistan. And several hundred men are believed to have fought in Kashmir and returned to Britain in the 1990s. In March, Sir Ian Blair, the present Metropolitan Police Commissioner, told a radio interviewer "I agree with the Prime Minister's assessment...that there are hundreds of people who came back from the [Afghan training] camps and are now in the United Kingdom, and that is a very dangerous issue."

Most British Muslims are young and many are poorly integrated into society and therefore vulnerable to extremism. Seventy percent of them are under thirty years old, compared to forty-five percent for the U.K. as a whole. The unemployment rate among the British Muslim community runs ten percentage points above the national average of 5%. In the case of 16-24 year

old Muslim men, the unemployment rate is 28%, and unsurprisingly a sense of anger shows up in polling data among British Muslims. Eight out of ten believe that the war on terrorism is a war on Islam, while a poll conducted by *The Guardian* found a surprising 13% who said that further attacks by Al Qaeda or similar organizations on the U.S. would be justified. This sort of sentiment can be found in a rap video that surfaced last year called "Dirty Kuffar" the lyrics of which included the following verse, "OBL [bin Laden] pulled me like a shining star! Like the way we destroyed them two towers, ha-ha!"

London has attracted a wide range of Islamist militants in the past decade who are inspired by the actions and rhetoric of bin Laden. One of the most well known is the one-eyed cleric, Abu Hamza, who until 2003 was the imam of the Finsbury Park Mosque, where both Zacarias Moussawi and Richard Reid worshipped. Serious Arab opposition figures in London regard Abu Hamza as a self-publicizing joke, as he is neither a profound scholar of Islam, nor an important political figure. But, as we shall see, sometimes jokes can turn deadly serious. And the story of Abu Hamza is also emblematic of how young British men are incited to acts of terrorism, and the somewhat slow response of the U.K. authorities to clamp down on those who abuse its honorable tradition of tolerating dissident views.

In late 1998, after Abu Hamza had called for the killings of "non-believers" in Yemen, a group of eight second-generation British Muslims of Asian and Middle Eastern parentage, several of whom had ties to Abu Hamza, responded to that call. One was his son, Mohammad; another was his son-in-law. The eight Britons, aged between 17 and 33, grew up in the Midlands or the London area. Most of them had gone to school for courses in business studies, computers or accounting, and those who had jobs worked in unexceptional lines of work like the insurance business. They told those who asked that they were on vacation in Yemen to visit family members, or pick up some Arabic. But a routine traffic stop by a Yemeni cop near Aden on December 24, 1998 unraveled a far more interesting tale. Inside the car were three of the Brits who sped away, only to be quickly arrested. Their arrests led the Yemeni government to a house where they found a trove of items not normally associated with a quiet vaca-

tion: mines, rocket launchers, computers, and encrypted communication equipment. The Yemeni government said that the Brits were planning a veritable festival of Christmas bombing attacks in Aden, directed at a church, the British consulate, and an American demining team working in the area.

Five days after the Brits were arrested, eighteen tourists from the U.S., Britain, and Australia vacationing in Yemen were seized by a group of jihadist kidnappers who were hoping to spring their British colleagues from jail. The leader of the kidnappers was in touch by phone with Abu Hamza during the operation. A botched rescue effort by the Yemeni army led to the deaths of four of the tourists. It took six years until Abu Hamza was finally arrested in the spring of 2004 on extradition charges from the U.S. on the grounds that he had provided recruits to Al Qaeda in Afghanistan, and that he was involved in the 1998 Yemen attack. Last August, British authorities also belatedly brought charges against Hamza for inciting racial hatred.

Another flamboyant, London-based Islamist militant is Sheik Omar Bakri Muhammad. In 1997, Bakri founded Al-Muhajiroun, an organization that attracted much media attention before its official disbanding in October 2004. Just as Abu Hamza influenced some impressionable second-generation British Muslims to try and attack western targets in Yemen in 1998 so too Bakri seems to have been a spiritual mentor for two second-generation, college-educated, middle-class men of Pakistani heritage who, on April 30, 2003, walked into a busy jazz club near the U.S. embassy in Israel, on a suicide mission. Once inside the club, one of the men succeeded in detonating a bomb, killing himself and three bystanders, while the other man fled the scene. Bakri told the *Daily Telegraph* that he knew one of the Mike's Place attackers, Omar Sharif, "very well and he used to attend regularly at my sessions. He was my brother and I am very proud of him and any Muslim who will do the same as him."

The Mike's Place bombing was highly unusual; it was the first time that a U.K. citizen had committed an act of suicide terrorism in Israel. If such an attack can happen in Israel it can also happen in the U.S. The Mike's Place attack demonstrates that the U.S. might be vulnerable to suicide attackers

who are British or are nationals of other European countries.

Omar Bakri has also been connected to a recent significant terrorist plot; the alleged plan by a group of young Islamic men to use half a ton of ammonium nitrate stored near Heathrow to blow up targets in the U.K. Ammonium nitrate was the material used in the Oklahoma City bomb that killed 168 people and also in the attack on the discothèque in Bali that killed 200 tourists. In March 2004, nine suspects were arrested in Luton, west London and Sussex in raids on twenty-four homes, following two months of surveillance. Eight of the nine arrested are of Pakistani descent. All were born and raised in Britain, and many are middle class. The uncle of two brothers charged in the plot told reporters that it had been Bakri's Al-Muhajiroun that had radicalized his nephews. The trial of five of those arrested is due to start in September 2005.

Also in 2004, police arrested twelve other terrorist suspects, aged nineteen to thirty-two, including senior Al Qaeda operative, Issa al-

Britani. Many of the suspects were British citizens of Pakistani descent, and some had fought in Kashmir in the 1990s. Raids were conducted in north London, Watford, Luton, and Blackburn, and police seized an estimated \$360,000 worth of equipment, including one hundred computers and two hundred mobile phones. The U.S. accused al-Britani of casing financial targets in New York and Washington between August of 2000 and April of 2001. Those targets included the IMF, the World Bank, the Prudential building in Newark and the New York Stock Exchange.

Al-Britani, age thirty-two, was either born in Britain or moved there when he was young. He fought in Kashmir in the 1990s after converting to Islam (from Hinduism) in his twenties, instructed militants in Al Qaeda's Afghanistan camps, and later wrote "The Army of Madinah in Kashmir." The book details strategies for conducting jihad, including the use of "gem warfare." The 9/11 Commission concluded that Al-Britani traveled with Tawfiq bin Attash, one of bin Laden's bodyguards, to Kuala

Lumpur in January 2000. This visit occurred several days before the Kuala Lumpur meeting where the September 11 attacks were discussed. From interrogations of Khalid Sheikh Mohammed (KSM), U.S. investigators believe that bin Laden told al-Britani through KSM to conduct surveillance of financial and Jewish targets in New York and Washington in 2001. British investigators also believe that al-Britani began planning to attack a British target in January 2000, potentially the Heathrow Express, which connects Heathrow airport with downtown London.

Since 9/11, British citizens have planned the kidnapping-murder of American journalist Danny Pearl, attempted to bring down U.S. airliners with shoe bombs, contemplated additional attacks on financial landmarks in New York and Washington, and carried out suicide operations in Israel. This record demonstrates that Islamist militant groups in the United Kingdom, as is the case in several other major European countries, represent a threat not only to their own homelands.

Terrorist Trials of Note

UNITED STATES

April 2005: Zacarias Moussaoui pleaded guilty to six counts of conspiracy to engage in terrorism in connection with the 9/11 attacks. His next trial will be regarding his sentencing; four of his convictions carry a possible death sentence. This is the first U.S. conviction of any terrorist associated with the 9/11 attacks. Prosecutor: Robert Spencer. Judge: Leonie Brinkema. Defense Attorney: Alan Yamamoto.

April 2005: Sentencing of Ahmed Ressam has been postponed until July on claims that Ressam has cooperated with investigators and may continue to give investigators information against other terrorists. Ressam was arrested in December of 1999 trying to enter the United States from British Columbia with a truck filled with explosives. He was convicted in 2001 of nine charges including smuggling and terrorist conspiracy. Prosecutors claim he has ceased to be cooperative. Prosecutor: Mark Bartlett. Judge: John Coughenour. Defense Attorney: Thomas Hillier.

GERMANY

February 2004: Abdelghani Mzoudi was acquitted of 3,000 counts of accessory to murder in connection with the 9/11 attacks. His acquittal was largely due to the refusal of the United States to present Ramzi bin al Shibh as a witness. Chief Prosecutor: Kay Nehm. Presiding Judge: Klaus Rühle. Defense Attorney: Gul Pinar.

April 2005: Mounir El Motassadeq will be retried on 3,000 counts of accessory to murder in connection with the 9/11 attacks. Motassadeq was formerly convicted, thus becoming the first person to be convicted in relation to the 9/11 attacks. However, the conviction was overturned when the United States refused to present Ramzi bin al Shibh as a witness. The United States is now providing interrogation notes and preparing more documents to present. Prosecutor: Matthias Krauss. Presiding Judge: Ernst-Rainer Schudt.

SPAIN

April 2005: The trial of 24 suspected members of Al Qaeda who were charged with planning the 9/11 attacks on Spanish soil has begun and continues. The trial is a product of the investigative efforts of Judge Baltasar Garzón of Spain. The defendants include Imad Eddin Barakat Yarkas, who faces 25-year sentences for each of the 2,973 victims of the 9/11 attacks, and Tayseer Alouni, a reporter for the Arab TV network Al Jazeera. Prosecutor: Pedro Rubira. Presiding Magistrate: Javier Gomez Bermudez.

UNITED KINGDOM

April 2005: Eight of the nine men accused of plotting to use ricin in an attack against the United Kingdom have been acquitted. The ninth, Kamel Bourgass, was convicted of plotting to use the chemical to create harm, but he was not convicted of attempted murder. Bourgass was also convicted of killing a police officer in the attack. Prosecutor: Nigel Sweeney. Judge: Justice Penry-Davy. Defense Attorney for Mr. Bourgass: Michel Massih.

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