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Terrorism and Legal Competence

Editor

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Too late to affect the guilty verdicts for Ramzi Ahmed Yousef and two accomplices convicted of plotting to blow up U.S. jetliners in the Far East. Too late, but in time for Yousef's upcoming trial for complicity in the World Trade Center bombing is a troubling appraisal of competency to stand trial.

Certain alleged terrorists, viz., ideological fanatics, may be ill-served by common notions of competency. For example, as explicated in the MacArthur Treatment Competency Study, there may be at least four different competency capacities. These are the abilities to (1) appreciate a choice, (2) understand relevant information, (3) manipulate information rationally, and (4) appreciate the nature of the situation and its likely consequences. Yet at least one type of ideological fanatic, the religious, may posit absolutely no choice, e.g., all acts are willed by God. The fanatic may not seem to understand information relevant to legal authorities, because the only relevant information is sacred, not secular. Other information is to be ignored or discounted. The fanatic may seem not to manipulate information rationally because the consequences of so-called facts, and the facts themselves, may lead to an act viewed as irrational by legal authorities, illogical by a so-called "jury of peers", as delusional by psychological authorities, but as none of the above by the fanatic. And the fanatic may appreciate a legal trial, the situation, as another test of religious legitimacy and commitment, rather than a conflict concerning legal consequences.

Are all fanatics--religious, nationalist, ethnic, and racial--uniquely incompetent in the judicial setting? If so, are trials within the United States ineluctably violating civil and, even, human rights? Psycholegal research on competency for the fanatic needs to be developed to inform legal adjudication. This research would facilitate developing reliable and valid assessment of impression management and other deceptive strategies and tactics. This development would be for conscious and unconscious phenomena and would be sensitive to cross-cultural issues.

The legal competence of alleged terrorists is a significant concern as the Central Intelligence Agency and Federal Bureau of Investigation are apparently being given greater authorization for police operations against alleged terrorists outside the United States, thereby increasing the potential pool of defendants for whom traditional approaches to competency may not apply. As it is, even certain racial subgroups of United States citizens, e.g., African American males, are more likely to be diagnosed and misdiagnosed as schizophrenic, which is itself correlated with determinations of incompetence. Also, current terrorist--perhaps genocidal--events in Rwanda, Burundi, and Zaire may be increasing momentum to effect an international criminal court to prosecute alleged perpetrators of such actions worldwide. Thus, the legal competence of alleged terrorists and perpetrators of crimes against humanity should be a growing research concern for political psychologists. (See Winnick, B. J. (Ed.) (1996.) Special theme: A critical examination of the MacArthur Treatment Competence Study: Methodological Issues, legal implications, and future directions. *Psychology, Public Policy and Law*. 2(1) for background on competency.) (Keywords: Terrorism, Competency.)