

7-13-2001

Terrorism and Remorse: Psychology and the Death Penalty

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Recommended Citation

Editor (2001) "Terrorism and Remorse: Psychology and the Death Penalty," *International Bulletin of Political Psychology*: Vol. 11 : Iss. 2 , Article 2.

Available at: <https://commons.erau.edu/ibpp/vol11/iss2/2>

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International Bulletin of Political Psychology

Title: Terrorism and Remorse: Psychology and the Death Penalty

Author: Editor

Volume: 11

Issue: 2

Date: 2001-07-13

Keywords: Forensic Psychology, Mohamed, Terrorism

Abstract. This article provides commentary on the forensic psychological task to develop information bearing on penalties for convicted terrorists.

One characteristic of the criminal justice systems of representative democracies is an attempted exemplification of a rule of law. One characteristic of this rule of law is a set of transgressions--each of which is linked with a penalty, range of penalties, or other consequence to be implemented upon conviction for each transgression. Especially when an individual is convicted of a transgression that can lead to more than one possible penalty or of more than one transgression leading to different penalties, forensic psychologists--usually psychiatrists and clinical psychologists--can be called on to develop information that may affect the penalty or penalties Issued forth by a court. The question is whether forensic psychologists have anything useful to contribute and, if so, whether the utility stems from any special area of expert knowledge.

For example, a psychiatrist recently testified for the defense in the case of Khalfan Khamis Mohamed who already had been convicted for his role in the 1998 terrorist bombing of the United States Embassy in Tanzania. The psychiatrist contributed information about the convicted terrorist that the defense lawyers believed would help mitigate against a death penalty. The psychiatrist asserted that Mr. Mohamed was unquestioning in obeying orders from complicit colleagues at one time but now believed that taking innocent victims was not justified under any circumstances. The psychiatrist also asserted that Mr. Mohamed's contributions to terrorism were only taken under a commitment to attenuate the suffering of Muslims around the world. As well, the psychiatrist asserted that Mr. Mohamed now expressed tearful remorse for his actions, was uneducated, lost his father at an early age, was easily led by others, and felt pained at being a minor player in the hierarchy of the terrorist plot.

What is one to do with such information based on the premises that a priori and ex post facto intent, motives, phenomenology, behavioral tendencies, and events may be relevant in issuing a penalty? Given these premises, the psychiatrist's information may be of use. However, it is difficult to identify the special area of expert knowledge that gives a unique status to the forensic psychologist in this case. One difficulty is that psychiatrists and clinical psychologists by definition and tradition are steeped in the art and science of psychopathology. However, psychopathology does not seem to be a mitigating Issue in published accounts of the psychiatrist's testimony. Another difficulty is that the psychiatrist's pertinent testimony could well be imparted by many kinds of professionals and, indeed, by many kinds of people. Thirdly, forensic psychologists often are no more knowledgeable of scientific research on what be considered pertinent psychological information than the "great unwashed" who are not considered experts.

With remorse as an example, the court was not informed that stated remorse can very effectively be an impression management strategy that can elicit expectations that a future negative act will not be committed and, also, feelings of forgiveness in others (Gold & Weiner, 2000). The same applies for findings that stated remorse--sincere or not-- has been found to affect the nature of an assigned sentence (Pipes & Alessi, 1999), to activate belief systems concerning health, philosophy, religion, and

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politics that lead to forgiveness (Scobie & Scobie, 1998), to elicit forgiveness depending on what cognitions have previously been activated among potential forgivers (Takaku et al., 2001), and to be difficult to discriminate between sincere and feigned versions (Blackman & Stubbs, 2001).

One could make a strong argument that--in this case--a forensic psychologist had no special expertise. One might also assert that the forensic psychologist could have been effectively countered with a social psychologist or other behavioral scientist familiar with the scientific literature on remorse, apology, and forgiveness. Finally, one might conclude that through letting psychological testimony focus only on the presence or absence of mitigating characteristics--as opposed to the social psychology of these characteristics in the context of a legal hearing--justice may not be served.

(IBPP Note: After this article was written, the federal jury adjudicating the case of Mr. Mohamed deadlocked on whether to impose the death penalty. Thus, through the application of relevant law, Mr. Mohamed will be given a life sentence without the possibility of parole. Also, according to the verdict form, none of the 12 jurors agreed that Mr. Mohamed felt remorse for the bombing.)

(See Gold, G.J., & Weiner, B. (2000). Remorse, confession, group identity, and expectancies about repeating a transgression. *Basic and Applied Social Psychology*, 22, 291-300; Pipes, R.B., & Alessi, M. (1999). Remorse and a previously punished offense in assignment of punishment and estimated likelihood of a repeated offense. *Psychological Reports*, 85, 246-248; Scobie, E.D., & Scobie, G.E.W. (1998). Damaging events: The perceived need for forgiveness. *Journal for the Theory of Social Behaviour*, 28, 373-401; Takaku, S., Weiner, B., & Ohbuchi, K-I. (2001). A cross-cultural examination of the effects of apology and perspective taking on forgiveness. *Journal of Language and Social Psychology*, 20, 144-166; Weiser, B. (June 28, 2001). Defense psychiatrist tells jury of Embassy bomber's remorse. *The New York Times*, <http://www.nytimes.com>.) (Keywords: Forensic Psychology, Mohamed, Terrorism.)