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**THE FEDERAL REPUBLIC OF GERMANY AND LEFT  
WING TERRORISM**

by

Brian S. Amador

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Thesis Advisor:

Daniel Moran

Thesis Advisor:

Maria Rasmussen

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**THE FEDERAL REPUBLIC OF GERMANY AND LEFT WING  
TERRORISM**

Brian S. Amador  
Lieutenant, United States Navy  
B.A., University of Nebraska at Lincoln, 1997

Submitted in partial fulfillment of the  
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December 2003**

Author: Brian Scott Amador

Approved by: Daniel Moran  
Thesis Advisor

Maria Rasmussen  
Thesis Advisor

James Wirtz  
Chairman, Department of National Security Affairs

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## **ABSTRACT**

From the late 1960s through the 1990s, West Germany confronted a domestic and international terrorist threat of considerable proportions; a threat that was unimaginative to many and a threat that caused considerable tribulations throughout the nation. This thesis analyzes how the transformation of radical student groups led to the ensuing left wing terrorism that arose within the fledgling democracy of the Bonn Republic, and the means by which the national government sought to suppress it. The thesis examines the evolution of official policy toward the terrorists and their supporting network, as well as the sometimes highly critical public reaction that these efforts inspired. It also considers the adaptations and reactions of the terrorists to official measures taken against them by the state. The thesis concludes by considering alternative measures, offer recommendations, and suggestions that might have better served the German government during its thirty-year ordeal against the Red Army Faction, June 2 Movement, and other left wing terrorists.

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Any mistakes are my own.

## **DEDICATION**

For the five women in my life:

My mother for raising me and giving me the guidance I needed and the discipline that was necessary to get me where I am today. Words cannot say enough. Thank You and I love you.

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## I. INTRODUCTION

This thesis addresses the issue of the emergence of left-wing terrorism in West Germany starting in the late 1960s and how it challenged the institutions of West Germany the thesis also discusses how the Federal Republic of Germany combated this brand of terrorism. It will examine and evaluate the effectiveness of the measures that were instituted by the government to curtail the terrorist's actions.

Many people are often confused and interchange the words terror and terrorism. Terror is imposed by the mighty onto the weak. However, just the opposite is true for terrorism where the minority try to impose their will onto the more powerful majority. This distinction is necessary in order to show that the Red Army Faction and the other Left-Wing radical groups were engaging in terrorist activities while the Federal Republic was deeply concerned with rekindling the memories of the previous government that suppressed the public with an atmosphere of terror. Combating terrorism has been and is a worldwide challenge. Terrorism and combating international terrorism as a systematic approach is relatively new to Americans, but to Europeans and Germany, terrorism has been a difficult issue for political leaders to deal with for decades. Initially, the paper will consider the beginning stages of left-wing terrorism in Germany. It needs to be stated that there will be no in-depth analysis of right wing terrorism. While this brand of terror is somewhat prevalent in Germany today as well as from the 1960s to 1990s, they are not to be included in any manner in this thesis.<sup>1</sup> There was an analytic difference between right- and left-wing terrorism in terms of the government's response. While Germany suffered intermittent right wing-terrorism, most of it was not classified as

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<sup>1</sup> See Bruce Hoffman's Right-Wing Terrorism in West Germany Right-Wing Terrorism in West Germany. Santa Monica, CA. Rand. October 1986 for information on this particular brand of terrorism in West Germany.

terrorism until the 1980s<sup>2</sup>, and there was little doubt that the Federal Republic's action of counterterrorism was geared towards the actions and activities of the left.<sup>3</sup>

## A. MAJOR RESEARCH QUESTIONS

This thesis seeks to answer the following major research question: How and why was the Federal Republic of Germany effective in combating terrorism from the late 1960s to the 1990s? In order to answer this question and evaluate the policies of the West German government, subsidiary questions need to be addressed as well: What were the policies of West Germany toward the radicals in the inception of growing discontent? How would the government react to the terrorist's arrangement with international terrorists from within the continent as well as organizations in the Middle East?

Social revolutionary terrorism began in Germany in the 1960's and lasted sporadically until the 1990's. How do you start a revolution in one of the world's richest, modern democracies? The Baader-Meinhof group, aka the Red Army Faction, attempted to start a revolution in the late 1960's in West Germany by first starting with rock throwing, arson, and burglaries and eventually growing to bombings, kidnappings, and murders.

The main terrorist organization that brought the word terrorism to many Germans was the Red Army Faction, also widely known as the Baader-Meinhof Gang, and splinter groups such as the June 2<sup>nd</sup> Movement. The crisis years between 1968 and 1977 represented one of the most tumultuous era in West Germany's entire social-political history. The student protests of 1967-1968 that promised so much hope quickly fizzled into riots. A select few of the radicals had no time for a march. They wanted revolution, and sought to kick-start the cause through terrorism. There were three separate and uniquely different "generations" encompassing the life span of the RAF. Each generation followed a trend of increased violence, decreased occurrences, and improved professionalism. The thesis will go into detail on the measures taken during each

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<sup>2</sup> Peter H. Merkl, "Rollerball or Neo-Nazi Violence?," in Peter H. Merkl (ed.) *Political Violence and Terror*, Berkley, CA: University of California Press, 1986 and Federal Ministry of the Interior, 2000, *Annual Report of the Office for the Protection of the Constitution 2000*. Available at <http://www.eng.bmi.bund.de/frame/liste/sonstiges/www.eng.bmi.bund.de/Publications>, Accessed on May 2003.

<sup>3</sup> John E. Finn, *Constitutions in Political Crisis. Political Violence and the Rule of Law*, Oxford: Oxford University Press, 1991, pp. 206-216.

respective “generation” as well as describing each “generation”. What was the attraction of the Baader-Meinhof Gang at the time? In the shallow sense, there were only a very small number of people doing these attacks and sheltering them but a lot of children and adolescents thought they were cool. They wore leather jackets and were full of sexy girls and were led by a handsome guy (Baader). This was the German equivalency to the Beatles! Historically speaking, the soon to be dubbed “68ers”, were extremely conscious of the suppressive and authoritarian Nazi regime that had scared and frightened an entire nation. Politically speaking, they wanted change. The “68ers” were restless with the status quo and the “imperialism” of the United States and Germany itself but the left wing terrorists were faced with the problem of how is terrorism used to achieve a political agenda? At one level, the question is unanswerable in the same way child abuse and rape is incomprehensible. For people who do not believe that violence is ever acceptable except to defend oneself or other innocent people, it is impossible to fathom what would motivate people to harm innocent bystanders; an element so integral to terrorism. However, clearly given the number of terrorist acts that occur in the world to other people, terrorism is something that simply makes good political sense.

Where did the Baader-Meinhof Gang get their influences? Primarily, it was from Mao Zedong and a few South American guerrilla leaders. In a way, the most important thing about the Baader-Meinhof Gang is that they read the guerrilla theories of Che Guevara and Carlos Marighella and decided to translate it to Western Germany. They translated a manual for warfare in one of the world's poorest countries to a manual of warfare in one of the world's richest. This new era of terrorism was influenced and helped by the Stasi, the East German intelligence, to include funding, finding jobs for fugitives, and supplying refuge to escapees.

In the political terrorism book by Schmidt and Youngman, they cited 109 different definitions of terrorism obtained in a survey of leading academics in the field. From these definitions, the authors isolated the following recurring elements, in order of their statistical appearance in the definitions<sup>4</sup>: Violence, force (appeared in 83.5% of the definitions); political (65%); fear, emphasis on terror (51%); threats (47%); psychological

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<sup>4</sup> Alex P Schmid and Albert Jongman, *Political Terrorism. A New Guide to Actors, Authors, Concepts, Data Bases, Theories, and Literature*, Amsterdam, North-Holland Publishing Company, 1988, p. 5.

effects and anticipated reactions (41.5%); discrepancy between the targets and the victims (37.5%); intentional, planned, systematic, organized action (32%); and methods of combat, strategy, tactics (30.5%). Respondents were also asked the following question: “What issues in the definition of terrorism remain unresolved?” Some of the answers follow<sup>5</sup>:

- The boundary between terrorism and other forms of political violence
- Whether government terrorism and resistance terrorism are part of the same phenomenon
- Separating “terrorism” from simple criminal acts, from open war between “consenting” groups, and from acts that clearly arise out of mental illness
- Is terrorism a sub-category of coercion? Violence? Power? Influence?
- Can terrorism be legitimate? What gains justify its use?
- The relationship between guerilla warfare and terrorism
- The relationship between crime and terrorism

What is terrorism? There are hundreds of definitions that are possible, ranging from academic versions to legal versions. Even the Federal Republic of Germany has issued various statements of what terrorism is over the years. With that being said, the definition that is most correct given the period to be examined and the country in question, the German Federal Republic’s Office for the Protection of the Constitution in 1985 stated that, “[t]errorism is the enduringly conducted struggle for political goals, which are intended to be achieved by means of assaults on the life and property of other persons, especially by means of severe crimes as detailed in Article 129a, sect. one of the penal law book (above all: murder, homicide, extortionist kidnapping, arson, setting off a blast by explosives) or by means of other acts of violence, which serve as preparation of such criminal acts.”<sup>6</sup>

The next question is what is left-wing terrorism? Left-wing terrorists were and are out to destroy capitalism and replace it with a communist or socialist regime. Since they see most civilians as suffering from capitalist exploitation, left-wing terrorists sometimes have limited their use of violence to avoid hurting the victims they say they

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<sup>5</sup> Schmidt, pp. 29-30.

<sup>6</sup> Information obtained from the website <http://www.utcc.ac.th/amsar/about/document7.html>, written by Alex P Schmid and Albert Jongman.



want to save. Left-wing terrorists sometimes focus instead on such tactics as kidnapping tycoons or bombing monuments.<sup>7</sup> Other such prominent groups were the Red Brigades of Italy and the Japanese Red Army Faction.

After one establishes what terrorism is and specifically what is left-wing terrorism, one must now ascertain how to combat it. The establishment of what German leadership thought was “effective” in combating terrorism and their definition and thoughts often swayed. Quite simply it had to since the terrorist themselves changed from the more traditional left-wing arson and rioting to the more violent kidnapping, murder, and bombs with the added ingredient of international terrorism. Chancellor Schmidt was faced with several issues that included the concern of Germany’s repressive past, curtailing civil liberties of people in a relative new democracy, and whether to treat these radicals as mere criminals or terrorists. The government decided to incorporate stiff but necessary stopgap measures like legislative changes to the German Basic Law and Criminal Code.

No terrorist expert has come up with a common definition of what effectiveness means when dealing with combating terrorism. Yonah Alexander has established the best available definition by establishing criteria on which this paper will focus. “Reduction in the number of terrorist incidents, reduction in the number of casualties in terrorist incidents, reduction in the monetary cost inflicted by terrorist incidents, reduction in the size of terrorist groups operating in a country, number of terrorists killed captured, and/or convicted, protection of national infrastructures, preservation of basic national structures and policies.”<sup>8</sup>

Lastly, the issue that has to be asked is did the Left-Wing terrorists create a lasting impact on Germany? The German Left in the 1960s was a rather large, heterogeneous and colorful force that had gigantic dreams of drastic change. From this, the Greens and the anti-nuclear movement of the late 1970s and 1980s were created. The Greens and the anti-nuclear movement had a tremendous impact on German society, and at times, it

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<sup>7</sup> Council on Foreign Relations, “Types of Terrorism”, Available at <http://www.terrorismanswers.com/terrorism/types2.html>.

<sup>8</sup> Yonah Alexander, *Combating Terrorism: Strategies of Ten Countries*, Ann Arbor: University of Michigan Press, 2002.

appeared that the Baader-Meinhof Gang was just a vicious and out of control sideshow that has struggled to keep its hope and beliefs alive. Therefore, did the RAF and the other left wing terrorists self-destruct or did the West German government generally squash the terrorists, albeit over thirty plus years? The following chapters will address this question.

## **B. ORGANIZATION**

This thesis is organized into five chapters. Chapter II: “The Emergence of Left-Wing Terrorism,” describes and examines the emergence of terrorism in the late 1960s and organizations such as the APO and the establishment of the Grand Coalition and how they effected the student movement. The chapter will describe the birth of the Red Army Faction (RAF) and its splinter groups, the June 2nd movement and Revolutionary Cells (RZ). This chapter will examine several questions, including: What was the makeup of the groups? What were their beliefs and how did these come about? Why did the groups shift from attacks on property to attacks on people?

Chapter III: “How Did the Government Combat the Terrorist,” goes into detail about the various methods and means the government attempted to defeat the terrorists. One such way was the passing of the 17<sup>th</sup> Constitutional amendment, which included numerous changes to previous Articles of the German Basic Law and to the newly created “state of tension” and “state of defense”<sup>9</sup>. The federal government had undertaken a massive reorganization in order to reorganize central and state governments while trying to evaluate their ability to respond to the security threats that left-wing terrorists now presented. In addition, the issue of how the German Left Wing terrorists collaborated with international terrorists will be examined.

Chapter IV: “Analysis of the Government’s Fight Against Terrorism,” will scrutinize the effectiveness of the previously mentioned measures. This is where the use of the predetermined definition of effectiveness is most needed. Discussion of the methods that Germany needed to adapt from the late 1960s on to effectively combat terrorism will follow. Immediately and for a couple of years after the initial acts of terrorism, German polls showed that a significant number of Germans, 10 to 20%,

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<sup>9</sup> Both terms were inserted into the German Basic Law in 1968 and will be talked about in greater detail in Chapter III.

supported the terrorists cause, which was primarily anti-American and anti-capitalist in one way or another. This number dwindled significantly over the long run. Was this directly related to the government's handling of the situation? Due to the measures implemented? It is necessary to address both of these questions.

Chapter V: "Conclusions," reviews the major areas of analysis and arguments presented in the preceding chapters. In general, the government was indeed effective in combating the terrorists but the terrorists themselves often-committed mistakes that increased the government's ability to be successful. This chapter is designed not only to fuse the conclusions reached in the thesis, but also to provide some recommendations for future policy on the issue of combating domestic terrorism as well as international terrorism.

While the underlying beliefs and views of the terrorists groups might have changed over time, many problems that faced the German government and police in the 1960's still face them today. In addition, there are similarities to the German's ordeal with left-wing terrorism as the United States is confronted with at present. Issues such as civil liberties and international terrorism need to be tackled by the United States today.

Within a few days of the attacks on the World Trade Center and the Pentagon, most Germans knew that at least three of the 19 terrorists suspected of having hijacked the planes had been living in Hamburg, including the Egyptian student Mohamed Atta, who is to have been the mastermind behind the attacks. Within a few weeks, they knew that Osama bin Laden's German network had probably included as many as 70 other sleepers spread across most of the big cities of Western Germany, and that one hijacker had even been traced to a town in eastern Germany, a part of the country not known for extending hospitality or, for that matter, much in the way of safety to strangers.

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## II. THE BIRTH OF LEFT WING TERRORISM, THE RED ARMY FACTION AND OTHERS

Social revolutionary terrorism began in Germany in the 1960s and lasted sporadically until the 1990s. There were several reasons, events, and people that helped change the peaceful protests of the early to mid-sixties to the death and destruction that would ensue from the terrorists. Three distinct “generations” encompassed the account of the most recognized terrorist group, the Red Army Faction (RAF), in the history of the Federal Republic of Germany. The first generation lasted from April 2, 1968 to the deaths of the founding members of the RAF in prison on October 17, 1977. The second generation encompassed late summer of 1977 until late 1982. This generation made a determined decision to use armed struggle from the beginning. Finally, the third generation lasted from 1984 until the final communiqué that was released to the German media disestablishing itself in 1998. There were also other groups that came about after the existence of the RAF, for instance, the Movement 2 June, the West Berlin Tupamaros<sup>10</sup>, and Revolutionary Cells. Why did the student protests evolve to such a previously unseen terrorist phenomenon?

The decade of the 1930s and its generation of Nazi’s would lay the groundwork for the problems to come in the forthcoming decades. The horrific ways of the SS and their intervening and suppressive approach to civil liberties were images and thoughts that would linger in the mindset of the next generation. This almost paranoia was captured by the 1962 *der Spiegel* affair. The police raided the weekly magazine’s offices after the publication of an article attacking the Government’s defense policy. A couple of Ministers attempted an immediate cover-up. In early 1963, Bernward Vesper, who was one of the main authors of a small publishing house called “Studio for New Literature,” stated, “For the first time, we felt the powerlessness of people delivered up to the political

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<sup>10</sup> Members of the West Berlin's Kommune I formed a low-level urban guerrilla group called “Tupamaros West Berlin” during the late sixties. Later the group disbanded, and the core members founded the Movement 2 June. Another low-level urban guerrilla group called “Tupamaros Munich” was also formed during the late sixties, but also disbanded without causing much harm. This information was taken from <http://baader-meinhof.com/terminology/terms/tupamaros.html> article called *Tupamaros* written by Richard Huffman. Accessed August 2003.

machine. We were afraid.”<sup>11</sup> The twenty-five year old images of suppressive Nazi Germany, images that the Federal Republic of Germany so intensely tried not to repeat, were now being rekindled into the national spotlight.

#### **A. GRAND COALITION**

The starting point for this specific revolution was difficult to establish, but the predominant thought is that the revolution first gained its roots after the formation of the Grand Coalition between the two major political parties in Germany, the Christian Democratic Union (CDU) and the Social Democrats (SPD). Both failed to win a majority in the 1966 national election. Unable to form a coalition with one of the smaller parties, the CDU and SPD, supposedly archrivals formed a “Grand Coalition” to create a government with a supermajority comprising over 95% of the Bundestag. Perceived by various Germans to be in direct contrast to the spirit of democracy, Professor Helmut Gollwitzer<sup>12</sup> best summarized this feeling in a university speech to students in 1967, when he said:

Grand Coalition means the vanishing of parliamentary opposition. The freedom of that opposition which acts outside parliament therefore becomes even more vital. Every professor, every student is for his own sake, for the sake of the university and for the sake of our country... interested in the freedom of that opposition.<sup>13</sup>

The Grand Coalition was very disillusioning to young left-leaning students who traditionally supported the SPD, and loathed the CDU. People are always decrying the lack of political choice behind the Iron Curtain, the students would note, but would ask what makes us so different if we have one “super-party” that supposedly represents the interests of 95% of our population. The Grand Coalition lasted until 1969.

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<sup>11</sup> Stefan Aust, *The Baader-Meinhof Group: The Inside Story of a Phenomenon*, London: The Bodley Head, 1985, p. 27.

<sup>12</sup> Helmut Gollwitzer taught from 1957 to 1975 as a professor at the Free University in Berlin. He belonged to the most well known and most formed theologians in Germany. He expressed himself particularly clearly in connection with the student movement, in addition, in the context of the controversies discussions about the activities of the Red Army Faction.

<sup>13</sup> Christoph Rojahn, *Left-Wing Terrorism in Germany: The Aftermath of Ideological Violence*, Warwickshire, Great Britain, Research Institute for the Study of Conflict and Terrorism, Conflict Studies; 313, October 1998, p. 2.

In West Berlin, as in most places in the democratic world, college campuses were the location for much political and social ferment during the tumultuous decade of the 1960s. Many university students, together with friends who were not in school, began experimenting with illegal drugs like pot and hashish and wearing a uniform of rebellion to distinguish themselves from their elders: jeans and t-shirts for everyone, long hair and beards for males. Some tried communal living. Student organizations grew up to challenge the archaic rules at colleges and demand that students have more of a voice in how they were educated. Many new political groups and public protests were organized. One such group that became one of great infamy was the free-living and free-loving late-1960s social experiment called West Berlin's "Kommune I".<sup>14</sup> There were many Kommunes beside Kommune I, such as Kommune II and the Wieland Kommune. They became the seedbeds for future terrorists' recruits. Many of Kommune I's members were prominent student leaders in the nearby Free University and included some of the best-known Federal Republic's young left wing radicals: Fritz Teufel, Rainer Langhans, Dieter Kunzelmann, and Rudi Dutschke. They tended to inject a strong element of clownishness into politics. Dieter Kunzelmann was the most deliberately outrageous character out of the four. Although Rudi Dutschke's stay at Kommune I was brief, he became a big shot among radicals and appeared on TV to speak of the Federal Republic leaning toward Fascism. Kommune I became prominent for advocating and carrying out humorous "praxis" like flinging paint-filled balloons at the American consulate. Several members of the Kommune were arrested in the late sixties, charged with conspiring to bomb American Vice-President Hubert Humphrey during a visit. The Kommune members were released when it became apparent that their "bombs" were actually balloons filled with custard.

Within a few short years, this student organization had veered sharply leftward. Perhaps it was because so few people were able to get to West Germany from the East and so refresh people's memories as to the reality of life in a communist dictatorship.

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<sup>14</sup> A Kommune was in its primitive form a group of people who live together and share everything, including shelter, food, significant others and most importantly an ideology. Kommune I was specifically students who were in their mid-twenties that studied and became involved in the student affairs of the Free University. This group included Rudi Dutschke, Fritz Teufel, and Rainer Langhans, all three would become very active towards in the road towards terrorism. As Becker would say in *Hitler's Children: The Story of the Baader-Meinhof Terrorist Gang*, New York, J. B. Lippincott, 1977, they would become "notorious as a troupe of political jesters, trendsetters, student leaders, convention defiers".

Thus, it was easy to romanticize Marx, always so much better in fantasy than in practice. Posters of Mao, along with Fidel, began appearing on the walls of West Berlin's college dorms. A group called the Socialist Student Union, in German *Sozialistischer Deutscher Studentenbund*, or SDS, became popular with young radicals. This SDS had no connection to the Students for a Democratic Society in the United States but was akin to it in being both left wing and youth-oriented. One of the chief targets of the radicals was the Springer publishing firm, a large company whose organs were staunchly conservative and often attacked the left.

## **B. EXTRAPARLIAMENTARY OPPOSITION (APO)**

Besides protests and sit-ins, there were other ways that the students would deal with some of the internal problems in Germany. When Germans grew disillusioned with the so-called "Grand Coalition" of the two major political parties, the left-wing SPD and the right-wing CDU, they did not give up on politics altogether. Instead, they formed an "anti" political party; the Extra Parliamentary Opposition (APO). The APO was the student-initiated opposition movement in West Germany during the late sixties and early seventies. In many ways, it was a product of a German trait, a strong desire by radical groups to associate with political parties. Since the Grand Coalition comprised over 95% of the Bundestag, there was only a negligible opposition, 5%, in parliament. The APO intended to rectify this imbalance in the public arena. "A community of political opinion rather than an organization,"<sup>15</sup> is how Becker described the APO. At its peak, in 1968, the APO succeeded in mobilizing around 60,000 workers, students, and leftist SPD members. Firebrand student leader Rudi Dutschke was the leader of the APO movement.

Specifically for the RAF, two key occurrences that thoroughly influenced their ideology was the war in Vietnam and the ever-increasing sentiment of anti-Americanism. This feeling of non-freedom and suppression can be traced well back in German history, but an event in 1958, called the Kuby affair, appeared to be instrumental in enhancing these sentiments. The first actions begin in Berlin and were directed against undemocratic measures of the university administration of the Free University. In 1965, the Free University of Berlin asked Kuby to be a guest addressee. Erich Kuby was a

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<sup>15</sup> Ibid.



journalist who in 1958 stated that the name Free University was “an extreme degree of non-freedom”<sup>16</sup> This was to imply that the university in East Berlin was not free and he believed this was a conscious exasperation of the Cold War. Protests against the prohibition of the speech of the journalist Erich Kuby occurred. The student council had asked Kuby to speak at the 20-year commencement but the rector vehemently refused to invite Kuby. The denial of letting him speak caused a remarkable amount of student protests and gained massive press and television coverage.<sup>17</sup> Despite appointing a new rector, the seeds of discontent and anger were now growing day by day.

The Vietnam War was the most popular cause for the new left. Protests, sit-ins, and strikes against the United States for its policy in Vietnam were designed to show that the students were suffering just like the Vietnamese. Ulrike Meinhof, prior to joining the RAF and still a journalist for the German magazine *Konkret*, reflected on the conflict of how protests should be carried; protests in respect to the Vietnam War. She stated:

Those who have understood what the war in Vietnam is all about start to walk about with gritted teeth and a very bad conscience; start to realize that the inability to stop this war leads to complicity with those waging it...On 21 October (1967) rocket carrying leaflets have been shot into American barracks in Berlin, calling upon the soldiers to refuse to go to Vietnam and to desert instead. This way of agitation is dangerous, it smells badly...Those having the courage to undertake this kind of oppositional activity have obviously got the courage to be efficient. This needs to be considered.<sup>18</sup>

Soon after the mood of the radical left was changing slightly to a stance that encouraged the use of force. The department store bombing on 2 April 1968 by Andres Baader and Gudrun Ensslin both stated that the attack had been committed to protest against the war in Vietnam.<sup>19</sup> Eventually the mood of the new left was now combining their distaste towards the United States and the Vietnam War. The Baader-Meinhof biographer Jillian Becker best captured this view by making mention of one of the chants

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<sup>16</sup> Jillian Becker, *Hitler's Children: The Story of the Baader-Meinhof Terrorist Gang*, New York, J. B. Lippincott, 1977, p. 24.

<sup>17</sup> Dr. Miklos Radvanyi, *Anti-Terrorist Legislation in the Federal Republic of Germany*, Washington D.C., Library of Congress: Law Library, 1979.

<sup>18</sup> Ulrike Meinhof, “Vietnam und die Deutschen”, *Konkret*, November 1967, Available at <http://www.sozialistische-klassiker.org/diverse/Div13.html>. Accessed September 2003.

<sup>19</sup> Rojahn, p. 2.

the students had been yelling at a protest: “Amis [Americans, contemptuous] get out of Vietnam and get out of the Dominican Republic too-and give us the right of self-determination. Down with the authoritarianism of the university-and of America.”<sup>20</sup>

### C. EVENTS THAT INFLUENCED THE RED ARMY FACTION

Two events in particular led to future violence and increased terrorist activity: the death of Benno Ohnesorg during a demonstration against the Shah of Iran on June 2, 1967,<sup>21</sup> and the attempted assassination of Rudi Dutschke on April 11, 1968. To elaborate on the first situation, the June 2 demonstration was believed to be the first demonstration that Benno had attended. The pro-Shah crowd whooped with joy while the anti-Shah demonstrators chanted negative slogans. The groups began jostling each other and some fighting broke out. Some among the pro-Shah group had come armed with wooden cudgels and violently bashed their opponents who naturally fought back furiously. The cops started making arrests and anti-Shah demonstrators were hit with police truncheons.<sup>22</sup> A plainclothes police officer shot this 26 year-old married college student whose wife was pregnant in the back of the head. There was a lot of violence and dozens of injured people were lying in the streets. It is believed that because of the clothes Benno was wearing<sup>23</sup>, a plain-clothes sergeant of the Kripo, Karl-Heinz Kuras, mistook him for the leader of the radical students, chased him and shot him without asking him any questions.<sup>24</sup> Ohnesorg’s death became a rallying cry for many on the left and led to the founding of the urban terrorist group called “Movement 2 June.” Although separate from the Baader-Meinhof Group, an alliance between the two came about.

The second situation occurred on April 11, 1968 when Dutschke was riding his bicycle to a SDS office and became the victim of an assassination attempt by Josef Bachmann. The three shots caught Dutschke in the head, throat, and chest. Dutschke

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<sup>20</sup> Ibid, p. 25.

<sup>21</sup> Ibid, p. 2.

<sup>22</sup> Denise Noe, *Slaying of Benno Ohnesorg*, [http://www.crimelibrary.com/terrorists\\_spies/terrorists/meinhof/3.html?sect=22](http://www.crimelibrary.com/terrorists_spies/terrorists/meinhof/3.html?sect=22). Accessed September 2003.

<sup>23</sup> It was common practice for the German police to identify the “ring-leader” of the protest by the clothes they were wearing and inflict “special attention” on the individual.

<sup>24</sup> Hodak Manuela and Marco Eder, *Student Movements in Germany and France*, <http://www.borg-ibk.ac.at/praesent/60er/11studentriots.htm>. Accessed August 2003.

would make a full recovery, while his assailant committed suicide in prison. Dutschke would become something of a god-like figure to leftists. The shooting of Dutschke, along with the general resistance of the Federal Republic to the sort of changes desired by the radical left, led some of his fellow radicals to eschew pacifism. Soon after Kommune, I fell apart.<sup>25</sup> Wolfgang Kraushaar also noted that the end of the APO seemed to trigger a substantial radicalization of the left-libertarian movement; “What then followed was an inner radicalization, which drove considerable numbers to violence. The antiauthoritarianism which had won over all competing political currents in such a meteoric way became its own victim.”<sup>26</sup> Many of its members participated in the low-level terrorism of the West Berlin Tupamaros. Eventually, they became the Baader-Meinhof Gang and believed that violence was thoroughly justified by the righteousness of their cause.

The next important question to bring up is why terrorism evolved from these previous events. To Meinhof the reason was rather simple and the timing was obvious. She stated, “The boundary between verbal protest and physical resistance has been transgressed in the protests against the attack on Dutschke these Easter holidays for the first time in a massive way, by many, not just individuals, over days, not just once, at many places, not only in Berlin, in actual fact, not only symbolically.”<sup>27</sup> She goes on further by saying that “ [I]et Us State: (speaking on behalf of the APO) Those who from political power positions here condemn stone throwing and arson, but not the incitement of the House of Springer, not the bombs on Vietnam, not the terror in Iran...their commitment to non-violence is hypocritical.”<sup>28</sup> Peter Merkl described the situation best when he said, “Terrorism, of course is not the logical result of the student movement, but one of its offshoots, or a by-product.”<sup>29</sup> “Political terrorism would not be able to survive without a corresponding ideology for ideology is the decisive criterion and the one that

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<sup>25</sup> Many feel the APO as an organization had reached its end after the advent of the social-liberal coalition of Willy Brand in October 1969.

<sup>26</sup> Wolfgang Kraushaar, *1968 als Mythos, Chiffre und Zäsur*, 2000, Available at <http://www.his-online.de/edition/programm/059.htm>, p. 35. Accessed July 2003.

<sup>27</sup> Ulrike Meinhof’s Article in *Konkret* of May 1, 1968 p. 1.

<sup>28</sup> Ibid.

<sup>29</sup> Peter H. Merkl, *Political Violence and Terror: Motifs and Motivations*, Berkley, CA, University of California Press, 1986, p. 193.

distinguishes terrorism from organized crime.”<sup>30</sup> “German terrorists in particular were compelled to develop an ideological argument for their actions, since the political situation in West Germany does not in any way justify a terrorist strategy.”<sup>31</sup>

#### **D. RED ARMY FACTION**

The main terrorist organization that brought the word terrorism to many Germans was the Red Army Faction, also widely known as the Baader-Meinhof Gang, and splinter groups such as the Movement 2 June. The crisis years between 1968 and 1977 represented one of the most tumultuous eras in West Germany's entire social-political history. The student protests of 1967-1968 that promised so much hope quickly fizzled into riots. A select few of the radicals had no time for a march; they wanted revolution, and sought to kick-start the cause through terrorism. As has already been suggested, the Red Army Faction's history of existence can usefully be broken into three separate and distinct “generations”.

##### **1. First Generation**

The “first generation” came about on April 2, 1968 when two department stores in Frankfurt burned in the night after two bombs exploded and caused about \$200,000 worth of damage. While on a pay phone screaming at the German Press Agency Gudrun Ensslin said, “This is a political act of revenge”<sup>32</sup>. These individuals plus future additions constituted a generation that promoted violence against property. However, violence against people and the use of guns were both tolerable and even encouraged in certain situations. As the underground paper *Agit 883* said, “Did some pig really believe we would talk about starting the class struggle, the reorganization of the proletariat without taking up arms?”<sup>33</sup> Captured and then subsequently freed by a deadly jail breakout, there was a change in the attitude of the leadership from ordinary criminals to something much greater. There would be no turning back. Although members of the

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<sup>30</sup> Ibid, p. 219.

<sup>31</sup> Ibid.

<sup>32</sup> Richard Huffman, *This is Baader-Meinhof*, <http://www.baader-meinhof.com/timeline/1968.html>. Accessed June 2003.

<sup>33</sup> Ibid. Quote taken from Underground paper “*Agit 883*” on 22 May 1970.

RAF committed many crimes, the generally regarded birthday is 14 May 1970.<sup>34</sup> This is the date of the infamous breakout of Andres Baader by Ulrike Meinhoff and their cohorts.<sup>35</sup>

For a time, it seemed as if the West German model of leftist urban guerrilla warfare might have a measure of success. German polls showed that a significant number of Germans supported their cause, which was primarily anti-American and anti-capitalist while desiring a socialist state, in one way or another. The support of level was only 10 to 20%, but a remarkable number nonetheless.<sup>36</sup> Further evidence of support was in July of 1971. *Institut Allenbach*, a public research firm that is comparable in nature and standing to the Gallup organization here in the United States, published a noteworthy poll.

Twenty percent of Germans under the age of thirty expressed a certain sympathy for the Baader-Meinhof Gang. One in ten young Northern Germans indicated that they would willingly shelter a member of the Baader-Meinhof Gang for the night.<sup>37</sup>

Unfortunately for them, most of the leaders of the West German terrorist group, the Baader-Meinhof Gang, were captured in mid-1972. Their followers would kidnap and kill close to a dozen people over the next five years in an effort to secure their leader's release from prison, but it was all in vain. No doubt, the terrorists were hoping for a continuation of an almost complete submissive policy by the Federal Republic of Germany (FRG) government displayed in earlier cases. For instance, the multiple hijackings by Palestinian terrorists in 1970 that resulted in the quick release of terrorists and in 1972 when the government paid a five million dollar ransom for the release of

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<sup>34</sup> Aust, p. 6. In addition, this date is mentioned in the RAF's *The Final Communiqué from the Red Army Fraction (RAF)* in March 1998.

<sup>35</sup> A masked woman, Baader's girlfriend named Gundrun Ensslin, and a masked man never officially identified, were let in by two other accomplices, Irene Goergens and Ingrid Schubert. Once the masked man is in, he shoots and critically wounds the librarian. Meinhof and Baader jumped out of the window with the other three following. The police never fired their guns, ever mindful of not creating another Ohnesorg-type fiasco.

<sup>36</sup> Richard Huffman, "The Germans: Public Opinion Polls, 1967-1980", <http://baader-meinhof.com/students/resources/print/opinion.html>. Accessed on July 2003.

<sup>37</sup> Richard Huffman, *The Gun Speaks: The Baader-Meinhof Gang and the West German Decade of Terror in 1968-1977*, <http://baader-meinhof.com/students/resources/print/opinion.html>. Accessed on August 2003.

hostages.<sup>38</sup> The German government used the terrorist crisis to approve new laws giving them broad powers in combating terrorism. Hard-core leftists grumbled, but the majority of the German people were firmly on the side of the government. Furthermore, the leftist terrorists were isolating themselves from previous supporters like “Rudi Dutschke, Herbert Marcuse, and Heinrich Böll, all leading figures for the splintered remains of the extra-parliamentary movement, [who] made an unprecedented move by publishing explicit statements in the popular press that distanced themselves from the terrorists and rejected their actions as an illegitimate form of oppositional politics.”<sup>39</sup>

From 1969-1979 there were only 247 attacks of arson and bombing, 69 attacks on people, 25 cases resulting in death, and 69 other serious offenses.<sup>40</sup> In comparison, eighteen terrorists from the Red Army Faction died during the same period. On a whole, compared to other prominent terrorists groups in other European countries this is a relatively low number of attacks. “The arrest of the leaders of the RAF during the summer of 1972, the general assumption in Germany was that terrorism would be finished for good.”<sup>41</sup>

After the arrests, it appeared that it was pointless to try to win over the working class in developed capitalistic countries. This coincided with the end of the Vietnam War, which had been one of the key means of legitimizing the RAF’s acts in the beginning stages of its group. The focus then shifted towards students, marginal groups, and suppressed people in Third World countries. These countries were

seen as allies, stood high on the RAF’s list of priorities. This was particularly true for the Palestine Liberation Organization (PLO), who trained members of the group in the late sixties.<sup>42</sup>

The interaction between the PLO and the German terrorist groups first become prominent in 1972.<sup>43</sup> The RAF was the only group to express solidarity with the Black

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<sup>38</sup> David Charters, et al, *The Deadly Sin of Terrorism: Its effect on Democracy and Civil Liberty in Six Countries*, Westport, CT, Greenwood Press, 1994.

<sup>39</sup> Rudi Dutschke, “Kritik am Terrorismus muss klarer werden;” Herbert Marcuse, “Mord darf keine Waffe der Politik sein;” Heinrich Böll, “Wer Freunde hat, birgt eine Bombe,” all printed in *Die Zeit*, September 16, 1977.

<sup>40</sup> Merkl, p. 192.

<sup>41</sup> Rojahn, p. 7.

<sup>42</sup> Merkl, p. 221.

September Organization, at least in writing. Many German terrorists trained alongside members of the Popular Front for the Liberation of Palestine (PFLP) organization in terrorists camps in Jordan, Lebanon, and South Yemen. “The main type of cooperation between the RAF and RZ and the Palestinian terrorist organizations, was operational cooperation.”<sup>44</sup> Working with Carlos Ilich Ramirez Sanchez, better known as the famous Carlos the Jackal, and the PFLP, several joint-operations were executed. Some examples of the cooperation were “[t]he seizure of the OPEC headquarters in Vienna in 1975, the attempted bombing of an El-Al plane in Paris and the attempted hijacking of an El-Al plane in Nairobi in January 1975, as well as the hijacking of an Air France plane to Entebbe, Uganda, in June 1976.”<sup>45</sup> There was a deep commitment by the PFLP towards their German comrades, and kidnapping and hijackings were attempted to free imprisoned leaders of German terrorist groups.

Late in 1977, after an airplane hijacking by some Palestinians failed to secure the release of the three imprisoned leaders of the Baader-Meinhof Gang, the terrorists recognized the warning sign. Allegedly, while in jail at Stammheim, Andreas Baader, Gudrun Ensslin, and Jan-Carl Raspe all committed suicide deep in the night of October 17, 1977.<sup>46</sup> However, this issue has been debated for over a quarter century, with many believing that they were murdered. Despite the deaths of the leaders, their movement continued its shadowy existence for another twenty years, until its communiqué sent in

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<sup>43</sup> See Dr. Ely Karmon’s *German and Palestinian Terrorist Organizations: Strange Bedfellows-An Examination of the Coalitions Among Terrorist Organizations*, [www.ict.org.il/articles/articleledet.cfm](http://www.ict.org.il/articles/articleledet.cfm). Accessed July 2003.

<sup>44</sup> Ibid, p. 5.

<sup>45</sup> Ibid.

<sup>46</sup> No Author cited. *What Happened....* [www.oberlin.edu/~hhaupt/whathappened.html](http://www.oberlin.edu/~hhaupt/whathappened.html). Accessed June 2003. There was great controversy into whether or not multiple suicides took place or whether the inmates were killed by the prison guards. Both Becker and Aust’s books cover this subject with great depth and quality analysis.

1998 to a German newspaper.<sup>47</sup> Following the shocking death of the leadership, the first generation appeared to be deceased but a second generation of RAF terrorists ensued.

## 2. The Second Generation

With the leaders and founding members in jail, the RAF's "second generation" in the summer of 1977, were lead by Christian Klar, Adelheid Schulz and others.<sup>48</sup> This faction was much more magnificent in lethality. There was a change in the way the terrorists carried out their agenda in comparison to the first generation. There was a concerted decision to use an armed struggle from the beginning.<sup>49</sup> In 1980, 77 acts of violence were registered and by 1981, the number of attacks had increased to 129.<sup>50</sup> Why the change to violence? A key point in the evolution of a terrorist group is when a death occurs to a member; specifically to the RAF were the deaths after the hunger strike. The death of Holger Meins and the decision to take up arms were the same. It seemed that reflection was not possible anymore. The whole situation favored the idea of going underground and the only thing that was missing was the connection.

In addition, Klein describes the death of Holger Meins as the "decisive point" at which "to break with the legal policy of helplessness and powerlessness"<sup>51</sup>

If all I needed not only to propagate armed struggle but also to take it up myself was the right kick then Holger Meins was the "kick." His death made my misery and my powerlessness in the face of this political system reach such a pitch that it became too much for me. I had had enough of legal policy and I was prepared to fight.<sup>52</sup>

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<sup>47</sup> Richard Huffman, 'Generations' of the Red Army Faction, [www.baader-meinhof.com/terminology/terms/generation.html](http://www.baader-meinhof.com/terminology/terms/generation.html). Accessed August 2003. The period of 1970-1975 was the commonly accepted first generation of the RAF, when the original leadership of Andreas Baader, Gudrun Ensslin, Ulrike Meinhof and others held sway. When former members of the Socialist Patient Collective (SPK) blew up the German Embassy in Stockholm, Sweden in 1975, the so-called "second generation" of the RAF was clearly defined. Many of these members were captured in the years leading up to the 1980s, and a third generation took hold. Some sources cite up to five distinct generations of the RAF from their beginnings until the RAF's demise in 1998.

<sup>48</sup> As noted in Aust's *The Baader-Meinhof Group* on page 413, the leaders also included Brigitte Mohnhaupt, Sieglinde Hofmann, Elisabeth von Dyck, Willy Peter Stoll, Peter Jurgen Boock, Susan Albrecht, Rolf Clemens Wagner, and Stefan Wisniewski.

<sup>49</sup> Merkl, p. 199.

<sup>50</sup> Ibid, p. 192.

<sup>51</sup> Hans-Joachim Klein, Available at <http://www.txt.de/id-verlag/BuchTexte/Zorn/ZornA04.html>. p. 195. Accessed September 2003.

<sup>52</sup> Ibid.



This generation was much less organized and only produced one major ideological publication and that was in 1982. In addition, this generation was not fighting for its conclusions but was using those articulated by the previous groups.<sup>53</sup> In 1979-1981, there was a concentrated attack on American targets and personnel. Two specific attacks were first, an attempted assassination of General Alexander Haig, the Supreme Commander of NATO forces in Europe on June 25, 1979. A second example was when a bomb exploded near the headquarters of the United States Air Force in Ramstein on August 31, 1981. Finally, the leader Christian Klar and Adelheid Schultz were arrested in late 1982 and this event marked the end of the second generation.

### **3. The Third Generation**

Once again, the disappearance of a key leadership figure marked a major transition in the history of the terrorist movement, without ending it. Within nor more than a couple of years, a third generation of terrorist agitation was visibly underway, as was evidenced by a wave of particularly spectacular and cold-blooded murders and bomb attacks against some of the highest ranking and best protected personalities of the country. These included Ernst Zimmermann, head of the German armament corporation MTU (1985), Karl Heinz Beckurts (member of the board of Siemens) (1986), Alfred Herrhausen, speaker of the board of Deutsche Bank (1989) and Detlev Karsten Rohwedder, chief of the “Treuhand-Anstalt”, the public trust-company in charge of privatization, respectively liquidation of the former East German public sector (1991).<sup>54</sup> This generation of the RAF focused on three main points: first, trying to cooperate with other European terrorist groups; secondly, disregarding the previous generations’ persistent demand for freedom of imprisoned members, and changing the focus to attacking military and industrial complexes; and thirdly, operating with extreme

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<sup>53</sup> Rojahn, p. 11.

<sup>54</sup> Gerhard Wisniewski, *The Phantom of Terrorism in Germany: Who Hides Behind The Label “Red Army Faction”?* Fortress Europe?-Circular Letter (FECL), 13 March 1993, [http://ourworld.compuserve.com/Homepages/Gerhard\\_Wisniewski\\_/english.htm](http://ourworld.compuserve.com/Homepages/Gerhard_Wisniewski_/english.htm), p. 3. Accessed on October 2003.

professionalism. Evidence of the last point is that from 1981 to the 1993 shoot-out in Bad Kleined <sup>55</sup>, the police found no fingerprints from any RAF member at any RAF attack.

#### **E. MOVEMENT 2 JUNE**

Movement 2 June was the second most prominent left-wing German urban guerrilla group of the seventies. Based in West Berlin and founded by former members of Kommune I, the formation of Movement 2 June occurred around 1971. Built from the remnants of a small, proto-terrorist group called Berlin Tupamaros, Movement 2 June had been around for about three years. The group mostly bombed property targets in Berlin. Movement 2 June achieved its greatest “victory” in 1975 when it kidnapped Peter Lorenz, the CDU candidate for Berlin mayor in the upcoming election. The kidnapers demanded and secured the release of four of their imprisoned comrades and Horst Mahler from the RAF and then were flown to South Yemen where Lorenz was released unharmed the next day. Movement 2 June remained loosely connected to the Baader-Meinhof Gang, but more often than not, the two groups feuded. Baader-Meinhof was more Marxist in nature, while Movement 2 June was almost anarchist. Movement 2 June disbanded early in the 1980s, with many of its members joining the Red Army Faction.

#### **F. REVOLUTIONARY CELLS (RZ)**

A third group, called the Revolutionary Cells (RZ), had roots in the 1970s as well. Among their more striking achievements were the June 1981 bombings of the U.S. Army Fifth Corps headquarters in Frankfurt and of officer clubs in Geinhausen, Bamberg, and Hanua. In addition, they claimed responsibility for the numerous bombings that preceded President Regan’s visit to Germany in 1982. While similar to the RAF in their quest for a revolution, the RZ held a different opinion on who should fight. Peter Merkl described the difference best when he stated,

From the beginning in 1973, the RZ differentiated itself by taking exception to the RAF theory that only the ‘revolutionary intelligentsia,’ or

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<sup>55</sup> GSG-9 was suspected and cleared of having executed the alleged RAF terrorist Wolfgang Grams. Grams died in a shoot-out with strong police forces in the East German town of Bad Kleined in June 1993. This event led to the resignation of two leading figures of German internal security policies, Interior Minister Rudulf Seiters and the Federal Prosecutor General Alexander von Stahl.

student elites, should guide the revolution. Instead they stressed the need to keep action in contact with the masses, a kind of Maoist 'mass line.'<sup>56</sup>

The Kommune, APO, and the student protests of 1966 established the seeds of revolution that was to take place in West Germany and, as it were hoped and imagined, throughout the Third World. One cannot forget Germany's history. Meinhof herself stated in 1974

[r]esistance does not become something wrong just because of the lengthiness of the war. What do the comrades expect anyway in a country that has allowed Auschwitz to happen without any resistance? Whose working class has the history of the German working class and whose police the history of the SS?<sup>57</sup>

However, those advocating protest consolidated a new and more radical approach after the passing of the new "Emergency Laws" for they felt that their basic political rights and the entire democratic structure were under attack. With the increase of frequency and lethality in terrorists' attacks and the apparent failure of police brutality to subdue these problems, the West German government was backed into a corner and had to react in some forceful manner, even if that meant curtailing civil liberties and infringing even more on the protester's or terrorist's individual rights.

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<sup>56</sup> Peter Merkl, "West German Left-Wing Terrorism," in Martha Crenshaw, ed., *Terrorism in Context* University Park: Pennsylvania State University Press, 1995.

<sup>57</sup> Garrett O'Boyle, "Theories of Justification and Political Violence: Examples from Four Groups, Terrorism and Political Violence", Volume 14, Number 2, Summer 2002, London: Frank Cass Publication, p. 34, Attributed to Ulrike Meinhof and Gudrun Ensslin, *The Urban Guerrilla and the Class Struggle* c 1974, Translated by Heinz Brandenburg.

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### **III. MEASURES TAKEN BY THE GOVERNMENT**

With the growth of the Red Army Faction, 2<sup>nd</sup> June Movement, and the Revolutionary Cells (RZ) in the 1960s and early 1970s, the West German government was forced to deal with these terrorists, as well as with the sympathizers and potential supporters. From 1978 to 1983, there were 1,537 arrests of “left-wing extremists”, who were sentenced for violations of laws unrelated to terrorism as such.<sup>58</sup> Differing opinions on how to handle the groups arose, ranging from pacification and appeasement to outright brutality and violence aimed at wiping out any resemblance of the rebellious youth. Specific measures included immense expansion of police technologies, the restriction of constitutional rights for citizens, the use of the media, changes to the Basic Law and the German Criminal Code (*Strafgesetzbuch*) and finally the decision to change from passive to coercive force in the fight against terrorism. As it is a distraction to be able to understand how to combat a terrorist or terrorist organization, one must be able to differentiate between counter terrorism (offensive measures) and anti-terrorism (defensive measures). Counterterrorism involves offensive measures taken to prevent, deter, and respond to terrorism. The general objective of anti-terrorism programs is neutralizing terrorist groups. As in most stability and support operations, neutralization in this context means rendering the source of threat benign, not necessarily killing the terrorists. In counterterrorism, the objective can be further refined as preventing attacks and minimizing the effects if one should occur. It includes any action to weaken the terrorist organization and its political power and to make potential targets more difficult to attack.

#### **A. ANTI-TERRORIST LEGISLATION**

The initial anti-terrorist legislation resulted from government and state reactions to the APO faction in the 1960s. There were several high level meetings among the legislatures of both houses in the spring of 1968. The first was held on April 17, 1968 where it was announced that the “government would use all legal means to deal with

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<sup>58</sup> 43.99 percent were arrests of high school or college students and a large portion of the arrests were over the issue of protesting over nuclear weapons. Information gathered from the Federal Ministry of the Interior, Bonn, 1984.

radical left-wing student groups such as the Socialist German Student League (SDS)”<sup>59</sup>. On May 16, 1968, the second reading of the emergency legislation was completed and two weeks later emergency legislation was passed with a two-thirds majority.

### 1. 17<sup>TH</sup> Amendment

On June 24 1968, the 17<sup>th</sup> constitutional amendment was adopted, encompassing major revisions and introducing emergency procedures. This encompassed amending several articles of the basic law:

- Article nine pertaining to association. The sentence “measures taken pursuant to articles 12a, 35 II & III, 87a IV, or 91 may not be directed against industrial conflicts engaged in by associations to safeguard and improve working and economic conditions in the sense”<sup>60</sup> that all Germans have the right to form clubs and societies was inserted.
- Article 10 letters, mail, and telecommunication. “Where a restriction serves the protection of the free democratic basic order or the existence or security of the Federation or a State [Land], the statute may stipulate that the person affected shall not be informed and that recourse to the courts shall be replaced by a review of the case by bodies and auxiliary bodies appointed by Parliament.”<sup>61</sup>
- Article 11 movement. The words “or pursuant to a statute” as well as the partial sentence “to avert an imminent danger to the existence or the free democratic basic order of the Federation or a State [Land]” and “to deal with natural disasters or particularly grave accidents”<sup>62</sup> were added.
- Article 12 work and forced labor. All Germans have the right to choose their job freely. The practice of an occupation can be regulated by “or pursuant to” a statute.<sup>63</sup><sup>64</sup>
- Article 19 restriction of basic rights. If any person’s rights have been violated than they have the recourse to go to court. Recourse is available to the courts of ordinary jurisdiction only if no other jurisdiction has been established. “Article 10 II 2 is not affected by the provisions of this paragraph.”<sup>65</sup>

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<sup>59</sup> Dr. Miklos Radvanji, *Anti-Terror Legislation in the Federal Republic of Germany*, Washington D.C. Library of Congress, 1979, p. 34.

<sup>60</sup> German Basic Law Article 9.

<sup>61</sup> Sentence was inserted into Article 10 of the German Basic Law.

<sup>62</sup> Sentences were inserted into Article 11 of the German Basic Law.

<sup>63</sup> Sentence was inserted into Article 12 of the German Basic Law.

<sup>64</sup> Words in quotations were inserted into Article 12 of the German Basic Law.

<sup>65</sup> Words in quotations were inserted into Article 19 of the German Basic Law.

- Article 73 exclusive legislation. Foreign affairs and defense, the words “including the protection of the civilian population”<sup>66</sup> were added.
- Article 87a establishment of armed forces. The key point here is that any use of the armed forces in the role of supporting the police and the Federal Border Guard while protecting civilian property and battling against armed insurgents has to have the consent of the *Bundestag* or the *Bundesrat*.<sup>67</sup>
- Article 91a participation of the Federation. To avoid imminent danger to basic order of the Federation or State, a State may call upon police forces of other States “or of the forces and facilities of other administrative authorities and of the Federal Border Guard.” Secondly, if the State in danger is not willing to act then the Government may place police forces in that State under its own control “and use units of the Federal Border Guard”<sup>68</sup>

Some sections were repealed as well, including Articles 59a, 65a, paragraph (2), 142a and 143. Articles 12a, military and other services, 53a, composition, rules of procedure under the Chapter IVa Joint Committee, 80a, state of tension, 115a-1 state of defense<sup>69</sup>, were introduced for the first time and new parts of Article 20 basic principles of state and resistance, and Article 35 legal, administration, and emergency assistance, were inserted.

## 2. "State of Tension" and "State of Defense"

The *Bundestag* incorporated amendments into the Basic Law that introduced the constitutional concepts of a “state of tension” and “state of defense” as provisions to handle emergencies. The “state of defense” asked the question when does an emergency exist. The amendment states simply that,

it exists if the Federal Republic is under attack by an armed force or if such an attack is directly imminent. Only then can the Federal government request the *Bundestag* to determine a “state of defense.”<sup>70</sup>

The “state of tension” occurs:

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<sup>66</sup> Words in quotations were inserted into Article 73 of the German Basic Law.

<sup>67</sup> See Article 87a for more information.

<sup>68</sup> Words in quotations were inserted into Article 91 of the German Basic Law.

<sup>69</sup> Article 80a is under the “Federal Legislative Powers” chapters whereas article 115a-1 was part of an entirely new chapter called “Chapter Xa State of Defense”.

<sup>70</sup> Radvanji, p. 37.

[W]hen the federal law on defense, including the protection of the civilian population, stipulates that legal provisions may only be applied in accordance with this Article [80a], their application shall, except when a state of defense exists, be admissible only after the *Bunestag* has determined that a state of tension exists or if it has specifically approved such application.<sup>71</sup>

The passing of these amendments affected the Federal Republic of Germany's Government as a whole because of the ensuing battle that took place between the states and central government over the newly passed amendments.<sup>72</sup> In the case of extreme emergencies, the newly formed Joint Committee<sup>73</sup> acted as a:

kind of substitute legislature in times of emergency, [they] shall make the determination in place of the *Bundestag* and *Bundesrat* if there is urgent need for immediate action and it is absolutely impossible for immediate action and it is absolutely impossible for the *Bundestag* to meet in time, or if there is no quorum present in that body.<sup>74</sup>

The West German government in the 1970s was well aware of its action in the late 1960s actions that ultimately lead to an increase of terrorism inside its borders. In the seventies there seemed to be a general push towards police work in solving the criminal acts perpetrated by the various student organizations. There was great anti-government and anti-capitalist sentiment in all parts of West Germany in the late 1960s and thereafter, as previously stated, but the West German government was extremely careful not to overreact to terrorist acts, thus avoiding a vicious cycle of action-reaction violence.

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<sup>71</sup> German Basic Law Article 80A.

<sup>72</sup> Stephen M. Sobieck, "Democratic Responses to International Terrorism in Germany," p. 53 in David Charters et al, *The Deadly Sin of Terrorism: Its Effects on Democracy and Civil Liberty in Six Countries*, Westport: CT, Greenwood Press, 1994.

<sup>73</sup> Two-thirds of the members of the Joint Committee are deputies of the House of Representatives [*Bundestag*] and one third are members of the Senate [*Bundesrat*]. The House of Representatives [*Bundestag*] delegates its deputies in proportion to the relative strength of its parliamentary groups, deputies may not be members of the government. Each State [Land] is represented by a Senate [*Bundesrat*] member of its choice; these members are not bound by instructions. The establishment of the Joint Committee and its procedures are regulated by rules of procedures to be adopted by the House of Representatives [*Bundestag*] and requiring the consent of the Senate [*Bundesrat*].

<sup>74</sup> Radvanji, p. 37.



## B. LEVEL OR RESPONSE

The first level of response from Bonn was the legislative makeshift legal adaptations that were enacted in the early 1970s. These laws were something of a stopgap measure and dealt with civil aviation and hostage taking. On January 28, 1972, the so-called *Berufverbot* created a set of exclusionary guidelines for civil service applicants, which denied government jobs to anyone implicated in civil unrest. A January 1973 weapons law established nationwide control over guns and ammunition.<sup>75</sup> On February 15, 1974 the Conference of Ministers of the Interior made the *Grenzschutzgruppen 9* (GSG-9) duties precise.

As stated by Major John D. Elliot before the United States Congress in 1978, “[i]t is evident that the terrorists expected Bonn to overreact to their attacks and begin a series of increasingly repressive measures that would drive the population into the arms of the terrorists.”<sup>76</sup> As Dr Nicholas Berry points out

[w]orking for justice is a prerequisite for tracking down and bringing to account those who reject the pursuit of justice. It facilitates and legitimizes the use of force against hard-core terrorists. Without taking into consideration the motives of terrorists and dealing with those grievances that may have merit, counter-terrorism is compelled to rely on brute force.<sup>77</sup>

This is precisely what the terrorists had hoped to happen. This would have allowed the RAF to justify the increased level of terrorist activities. Since the government did not overreact, the RAF and others never received that wave of support from the “common people” to allow the overthrow of the government they so desperately desired.

Around this time, there was a shift in the collective attitude of the government on what actions would be necessary to deal with the terrorists. Stefan Aust expressed the mood of the spring of 1972 when he stated,

<sup>75</sup> This was amended by the June 1, 1977 explosives law that consolidated older laws under the supervision of the Federal Minister of the Interior.

<sup>76</sup> Major John D. Elliot, Hearing before the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary United States Senate, Ninety-Fifth Congress, Second Session, “West Germany’s Political Response to Terrorism”, p. 11, Washington, April 26, 1978.

<sup>77</sup> Dr. Nicholas Berry, *Effective Counter-terrorism deals with Motives*, Center for Defense Information, November 2, 2001.

this was not the time for reason. The newspapers were stirring up more fear of the Baader-Meinhof group daily, whipping up emotions, and thus giving the members of the group, who regularly studied the reports of their activities in the press, a sense of their own accomplishments.<sup>78</sup>

Karrin Hanshew supports the belief that there was a change when she said:

[t]he general consensus on where the line between democratic and undemocratic uses of state force lay began to break down in the wake of Federal Attorney General Siegfried Buback's murder in April 1977. Only then did leaders of both the SPD and the FDP begin to show signs of support for CDU proposals to monitor all oral communications between imprisoned terrorists and their defending attorneys—a limitation of an individual's constitutional rights that the coalition government had previously killed when it came to the parliament floor in 1974 and again in 1976.<sup>79</sup>

When the arrests of Baader, Raspe, Ensslin, Muller, and Meins took place all occurring from June 1 to 15 June, many in Bonn made a collective sigh of relief and thought that the ringleaders were now taken care of. Ironically, these leaders would become a nuisance in jail that was almost as dangerous as if they were still free. The still-at-large members of the RAF were now on a mission to ensure the release of their fellow comrades. Attempts, like the 1975 taking of the German Embassy in Stockholm, failed in achieving their goal.

There was a countrywide attempt at spreading propaganda to give the impression that the prisoners were living under inhumane conditions. In reality, they had cells bigger than fellow prisoners had and were blessed to have extra benefits that others did not have, including radio, television and an abundance of books. Support groups like *Anti-Fascist Group*, the *Solidarity Committee for Political Prisoners*, and *Red Help* all were diehard supporters that strove to spread anti-German ideas. However, the best supporter group appeared to have been the member's attorneys, for they smuggled in almost anything they wanted, including guns.<sup>80</sup> In 1976, the 24 imprisoned members of RAF had established a

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<sup>78</sup> Stefan Aust, *The Baader-Meinhof Group: The Inside Story of a Phenomenon*, 1985, The Bodley Head: London, p. 191.

<sup>79</sup> Karrin Hanshew, "Militant Democracy, Civil Disobedience and Terror: Political Violence and the West German Left During the "German Autumn" 1977", *AICGS Humanities*, University of Chicago, Volume 14, 2003.

<sup>80</sup> Baader and Raspe both committed suicide by the use of guns that were smuggled into their cell and Ensslin stabbed herself with a knife that she smuggled into her cell.

network system that allowed them to keep in touch with not only themselves but also their free comrades and thus allowing them to monitor their activities. This system led to the well-orchestrated hunger strikes that would take place.<sup>81</sup> Baader's access to information was such that he was "able to monitor everybody's weight loss and therefore, any noncompliance with the discipline of the strike."<sup>82</sup> Even the commercial radios that they had were rigged to "receive police and other security messages, to broadcast themselves, to interfere with police communications, and to detonate remote-control bombs."<sup>83</sup>

### C. SCHLEYER AFFAIR

This success sealed the SPD's willingness to place armed force among the legitimate powers of the state in its defense of democracy. Helmut Schmidt ended 1977 roundly praised for his leadership skills under pressure and his ability to circumvent the worst of party politics. On 19 October, the RAF killed Hans Martin Schleyer, the President of the Federation of German Industry. On September 5, 1977, the RAF undertook what was certainly its largest action, kidnapping Hans Martin Schleyer, who, as the president of the Federal Association of German Industries and the president of the Federal Employers Association, was probably Germany's most important and influential capitalist. They demanded the release of eleven leading RAF prisoners in exchange for Schleyer. This kidnapping elicited a state of emergency. A stalemate punctuated by police actions against perceived RAF supporters continued until October 13 when a Palestinian commando calling himself "Commando Martyr Halimeh" of the Struggle Against World Imperialism Organization (SAWIO) hijacked a *Lufthansa* airliner en route from Palma de Majorca to Frankfurt, Germany. They demanded the release of the eleven aforementioned RAF prisoners, as well as two members of the Popular Front for the Liberation of Palestine (PFLP) being held in Istanbul. The RAF also issued a communiqué supporting this action and reiterating the demands.

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<sup>81</sup> There were roughly nine coordinated strikes that took place over the years of the RAF imprisonment. All demanding better standards or consolidation of fellow comrades.

<sup>82</sup>Peter Merkl, *Political Violence and Terror: Motifs and Motivations*, Berkley, CA, University of California Press, 1986, p. 187.

<sup>83</sup> Ibid.

Following five days of tense negotiations, negotiations which saw German Secretary of State Hans-Jurgen Wischnewski visit several nations to include: Algeria, Libya, Yemen, and Iraq, to which he was seeking a country willing to accept the prisoners, and during which the prisoners were put in complete isolation and even denied access to their lawyers and any form of media . With the unanimous support of the crisis management team and the agreement of the Somali government, stormed the hijacked plane, *Landshut* on October 18, while it was waiting to refuel in Mogadishu by Germany's crack anti-terrorist unit the GSG-9, which was created in 1972 by the expansion of the BGS.<sup>84</sup> Three of the four hijackers were killed, the fourth, Irmgard Moeller, who was stabbed, was severely injured, and more importantly to the German government, all 86 hostages escaped harm. In retaliation for the killings of the Commando Martyr Halimeh and the prisoners, the RAF executed Schleyer, leaving his body in the trunk of a car in the French border town of Mullhausen.

#### **D. PROPAGANDA AND THE MEDIA**

During the entire Schleyer crisis, the governments decided on a news blackout, and asked the press not to endanger the investigation through their reporting and are were, overall, supported by the National Press Council.<sup>85</sup> The problem was the unusually long kidnapping, 45 days all together, allowed foreign new services to break the unwritten agreement between the West German government and its press. News organizations from Holland and France received information from the Baader-Meinhof group and they then printed and televised the information. The German press would then follow suit and print the information while citing the foreign news agencies. Coincidentally, an *Allensbach* opinion poll revealed that 70% of those questioned found the “news blackout reasonable and justified and did not demand dramatic stories or blow-by-blow reporting.”<sup>86</sup>

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<sup>84</sup> However the GSG-9 were not used in any capacity for several years, partly because of the fears of West Germans in the role of a national security service while in uniform were to close to an image of Germany 30 year's prior. The government kept the profile of the anti-terrorist task force low.

<sup>85</sup> Horchem, Hans Josef, *Terrorism in West Germany*, The Institute for the Study of Conflict, 1986: pp. 2-3; Aust 1987: pp. 423-542.

<sup>86</sup> Horchem, p. 19.

Another way the German government tried manipulating the press in its battle against the terrorists was the calculated release of information at times that served its interests. During the trials of Baader and the others, the Federal Republic was concerned that the statements made by the defendants would turn the trial and proceeding into a political platform and spread their propaganda. As the *Stuttgarter Nachrichten* reported in 1974:

The judicial authorities now possess comprehensive material, which reveal that the Baader-Meinhof people intend to transform the forthcoming trial into a political demonstration. The entire system in the Federal Republic is to be put in the dock<sup>87</sup>

In direct response to the attempts of the terrorists, the Federal government tried to circumvent this problem by using the media. The Federal Public Prosecutor Buback admitted in 1975 to providing the public with potentially harmful information to the defendants and their case.

Federal Public Prosecutor Buback expressed his support for a campaign of providing the public offensive information on the Baader-Meinhof gang. He stated, however, that the important factors were how, when, and which information was passed on.<sup>88</sup>

The Federal government published a “documentation on the activities of violent anarchists” containing parts of defending counsel’s letters evidence, investigating files, and other information related to the case.<sup>89</sup> The Minister of the Interior, Werner Maihofer, stated, “[e]very line of this published material will have been the subject of consultation between the Federal Public Prosecutor and the Federal Office of Criminal Investigation, which means that informing the public in this manner will result only in benefits and in no damage whatsoever.”<sup>90</sup> The defendant’s complaint that the releasing of the information was both detrimental and illegal in German Law was ignored by the judicial authorities by pointing out that the state of emergency took priority over the law.

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<sup>87</sup> *Stuttgarter Nachrichten*, March 1974.

<sup>88</sup> *Frankfurter Allgemeine Zeitung*, 25 February 1975.

<sup>89</sup> Kurt Groenwold, “The German Federal Republic’s Response and Civil Liberties”, *Terrorism and Political Violence*, Volume 4, Number 2, 1992.

<sup>90</sup> Bundesministerium des innern, *Dokumentation uber Aktivitäten anarchistischer Gewalttater in der Bundesrepublik Deutschland*, Bonn, 1974.

The government in a sense was trying to do what Martha Crenshaw described as “de-legitimation” of the polices and practices designed to decrease the legitimacy of the terrorists or to undermine their political support.<sup>91</sup>

#### **E. BUNDESKRIMINALAMT AND THE BUNDESGRENZSCHUTZ**

The violence led directly to the unprecedented strengthening of personnel in various offices. For example, the Federal Criminal Office increased from 933 in 1969 to slightly over 2,500 in 1977.<sup>92</sup> This office was now the central agency for information and communication on combating terrorism. The Federal Frontier Protection Force was extended to supplement the existing police force. Faced with this growing threat, in the 1970s Horst Herold, head of Germany's *Bundeskriminalamt* (BKA, or federal police), had a bold plan: to create a computer network for electronic profiling. This would allow the BKA to mine data from real-estate agencies, utility companies, and other sources, in hopes of pinpointing the terrorists' whereabouts. The SPD-led government increased funds and personnel for the Federal Criminal Office (Synonymous with BKA) and the Federal Border Control (*Bundesgrenzschutz* or BGS), the organ with the sole responsibility for anti-terrorism countermeasures. In 1971, the BGS began to guard airports. Updating and expanding the use of information and communications used by the West German police. This choice vice the use of brute strength was the choice that both the BKA and BGS favored. The government argued that only the improvement of such methods would increase police chances of apprehending criminals, early detection, and perhaps even help police to anticipate terrorist actions. “Unsaid was that an emphasis on police technologies also allowed the Social Democrats to avoid overt repression, a centralized executive power, and the creation of new legislation and thus avoid major internal party conflict over the issue of strong state power.”<sup>93</sup>

Prior to this both the BKA and the BGS relied on the state level for implementation—requiring each state to invite the federal agencies into any criminal or

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<sup>91</sup> Martha Crenshaw, *How Terrorism Ends*, Paper presented to the American Political Science Association, 1987.

<sup>92</sup> Horchem, p. 16.

<sup>93</sup> Hanshew, p. 24.

terrorist investigation before either was free to act.<sup>94</sup> When Herold initiated the aforementioned nationwide program in data mining and computer profiling, much was already known about the terrorists. “The police knew that they rented apartments to conduct their crimes,” recalls Hansjürgen Garstka, the State of Berlin's commissioner for data protection and freedom of information.

But they used them only a couple days before the event. Also, the police knew these people paid their electricity and rent only in cash.

The terrorists preferred high-rise apartments with underground garages and direct access to the highway, and they were primarily young and German. Profile in hand, the police contacted electricity companies, to find out which apartments used no or little electricity, and apartment complexes, to find out which people paid in cash; they also combed through household registrations (German citizens are required to register with the state). “The results were all merged, and in the end, they found one flat which fit absolutely this profile,” Garstka says. Police put the apartment under surveillance and soon seized RAF member Rolf Heissler. It was a stunning achievement and widely hailed by the law enforcement and intelligence community. Unfortunately, for Herold, it was illegal infringing on civil liberties. Press accounts about the BKA program fueled a public outcry, which soon ended the effort and forced Herold to resign.

In April 22, 1976, the first anti-terrorism law and the 14th Amendment Act of the Criminal Law respectively criminalized the formation of terrorist organizations and supporting and encouraging serious violent crimes. These provisions made it a criminal offense for anyone to endorse offenses with the intent to threaten the West German Constitution. In addition, any person promoting or assisting in an association that was designed to commit terrorists' acts could receive a ten-year sentence and another example was the state's ability to monitor any correspondence between lawyer and clients. <sup>95</sup> April 22, 1976 Section 129 and 129A were amended to the constitution. This made it

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<sup>94</sup> Sobieck, pp. 57-61.

<sup>95</sup> This was in direct response to the circus-like atmosphere around the trials of the leaders of the Baader-Meinhof.

explicitly illegal to form a “terrorist organization.”<sup>96</sup> Section 129 of the Criminal Code criminalized the formation or membership of an association whose aims or activities are directed towards the commission of crime. Section 129a provided for an even more severe penalty if the association is a terrorist association.

In the fight against the supporters of terrorists, there were times when the defendant was either underground or outside the sovereign borders of West Germany or trying to obstruct the trial, and there was several amendments to the Criminal code in order to deal with those situations. Sections 231a, 231b, and 255 were created to hold hearings in the absence of the accused if he “intentionally and willfully causes his own unfitness to stand trial.”<sup>97</sup> If a trial was required to be held in a defendant’s absence and he does not have an attorney then one would have been appointed by the court. Likewise, if the accused, having sought to avoid trial by leaving the country or by some medical pretext suddenly regained his mental fitness and his ability to stand trial then the judge must tell him all the events that took place in his absence.<sup>98</sup> The second part of this section states, “the presence of the accused may be dispensed with even before interrogation on the matter at issue, provided he has been given opportunity to plead to the charge.”<sup>99</sup> The most controversial article was the exclusion of defense attorneys based off their previous history and possible shady ways<sup>100</sup> Otto Schily, defense attorney of Gudrun Ensslin, was excluded from representing her by the order of the Investigating Judge of the Federal Supreme Court. This was affirmed by the Third Criminal Senate of

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<sup>96</sup> “Pursuant to paragraph (1) of section 129, anyone who forms an association (*Vereinigung*) whose aims or activities are directed towards the commission of an offense, or who participates as a member of, recruits for, or aids such an association shall be punished by deprivation of liberty up to five years or by a fine.” However, these offenses only can occur in an organization that has been deemed unconstitutional by the Federal Constitutional Court. Section 129A, “Forming a Terrorist Association”, anyone who forms an association (*Vereinigung*) whose aims or activities are directed towards the commission of specified crimes, or who participates as a member of, recruits for, or aids such an association shall be punished by deprivation of liberty up to five years or by a fine.” To include murder, homicide, genocide, offenses against freedom as listed in section 239a or 239b, and offenses constituting a public danger sections 306 to 310b paragraph (1); section 311, paragraph (1); section 311a, paragraph (1); section 312; section 316b, paragraph (1); or section 324. Information is from the German Criminal Code.

<sup>97</sup> German Criminal Code sec231A, par 1.

<sup>98</sup> Radvanji, p. 77.

<sup>99</sup> German Criminal Code sec231b, par 1.

<sup>100</sup> Including, having participated in any offense, misusing his right of contact with the incarcerated client in order to commit an offense or to endanger the security of a penitentiary, aiding and abetting an offense, or endangering the security of the state as determined in criminal code sec 138a, par 2. See Radvanji, p. 79.



the Federal Supreme Court on August 25, 1972 but was reversed by the decision of the Federal Constitutional Court in February 1973 because there were no grounds.

In response to the problems with the lawyer-client relationship during the trials of Ensslin, Raspe and others, the *Kontaktsperregesetz* (Contact Ban Law) was instituted on September 20, 1977.<sup>101</sup> The Federal Republic passed this special law a week after its introduction to the *Bundestag*. Given the history of the snail like movement of German Bureaucracy, this was nothing short of remarkable. A normal law could take months if not years to pass and only three members of the *Bundestag* voted against the law. Essentially this gives the presiding judge the authority to enforce a strict contact ban between the convicted terrorists and anyone else they so desire, not just the lawyers. This was largely established because of the shady conduct of attorneys, like Otto Schily, the current Minister of Interior, and the first generation of RAF leaders at the Stammheim prison.<sup>102</sup> One such example of potential foul play between lawyers and their clients was on November 30 1976 when two lawyers; Siegfried Haag and Roland Mayer, were arrested at a routine autobahn checkpoint. There were papers found in the vehicle that showed what new actions the terrorist group was planning. In addition, the bank notes that they possessed were the same ones that had been taken during recent bank robberies in Hamburg and Cologne.<sup>103</sup> The first arrests occurring because of this law took place only one month later with the arrest of a Baader-Meinhof lawyer Arnt Muller in Stuttgart and then in December with the arrest of Klaus Croissant after he was extradited from France. On February 16, 1978, five articles of the Criminal Code were amended to include search warrants, police checkpoints, apprehension of suspects, and conduct of the defense attorney after the assassination of Chief Federal Prosecutor Siegfried Buback.

Section 88a of the Criminal Code punished support of offences against the Constitution. Up to three years of jail time could be ordered if the offender

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<sup>101</sup> The following year the West German Ministry of Justice wrote the pamphlet "Contact Ban Between Prisoners and the Outside World-Information About a Law To Fight Terrorism." This was to explain the background and provisions of the Contact Ban Law. Interestingly enough the pamphlet included information on what other European countries has done to limit client and lawyer contact.

<sup>102</sup> Most of the imprisoned Baader-Meinhof members choose lawyers who were sympathetic to their views, largely chosen from the Socialist Lawyers' Collective.

<sup>103</sup> Horchem, p. 3.

disseminates, publicly issues, placards, produces or otherwise renders accessible a text that supports an unlawful act named in section 126<sup>104</sup>, or who obtains, provides, keeps, offers, announces, praises, or attempts to import or export it within the spatial jurisdiction of the German Criminal Code.<sup>105</sup> Other changes to the Criminal Code of importance were Section 131, “glorification of violence” and Section 140, public “approval of criminal acts.”<sup>106</sup>

The law-and-order tactics employed by the state awoke fears about Germany’s inability to break free from its authoritarian and fascist past. There was a split among generational lines, as Karrin Hanshew stated, “the older generation moving with alarm to avert a repetition of Weimar, while their children railed loudly against perceived continuities with National Socialism.”<sup>107</sup> There was a great fear that some of the legislation might seriously curtail civil liberties, but in 1973 after the Munich debacle, the BKA was given a much larger scale of central authority. This was to include the broad use of electronic data processing equipment and an electronic intelligence system for all the BKAs forces, Federal and in the *Lander*.

One huge problem is the fact that at this time West Germany did not have a federal type police organization similar to that of the United States that would thus allow the integration of all the information obtained on the terrorists and their supporters. The Office for the Protection of the Constitution was created in order to centralize the antiterrorist campaign. The office was now in charge of analyzing and trying to understand all aspects of terrorist activity. Their job was of the most difficult variety, uncover a support systems and discover underground personnel and operations all while not infringing on the civil liberties or ruffling the feathers of the previous generations ordeal with the Nazi’s.

The path pursued by the coalition government throughout the 1970s in its desire to combat terrorism was not one of new, anti-terrorism legislation and harsher criminal punishment (the conservatives’ answer), however, nor did it justify itself overtly in the name of “militant democracy.” After the Hanns-Martin Schleyer kidnapping, Helmut

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<sup>104</sup> Disturbance of the Public Peace by threatening to Commit Crimes.

<sup>105</sup> German Criminal Code Section 88a.

<sup>106</sup> German Criminal Code Sections 131 and 140.

<sup>107</sup> Hanshew, p. 26.

Schmidt called a meeting of the *Krisenstab* (crisis management team). This team was first conceived during the Stockholm hostage crisis in 1975 by Chancellor Schmidt and consisted of his ministerial cabinet and the House Speaker of each parliamentary party. For the length of the “German Autumn”<sup>108</sup>, the crisis management team was the ruling body, responsible for all negotiations with the terrorists and the enactment of security measures such as the ban on all news related to the terrorist situation. This move by the government to facilitate expedient decision-making in situations where time was considered crucial did generate accusations of unconstitutional behavior and abuse of power from within the party ranks of the SPD. The crisis management team ultimately concentrated decision-making powers in the hands of the executive. Arguing that each party was represented on the committee, the need to consult parliament in matters of national importance was effectively curtailed.<sup>109</sup>

#### **F. AMENDMENTS TO THE CRIMINAL CODE**

In the meantime, the German legislature in 1986 amended the criminal code to allow such computer searches under certain circumstances.<sup>110</sup> The government learned to tough it out during Schleyer’s captivity and the Mogadishu hijacking, crisis staffs and the Federal Criminal Office (BKA) took on sweeping authority in the country and at times took liberties with the constitutional protections and rights of individual citizens in order to track down the terrorists. These sweeping reforms were eerily similar to that of the Nazi’s relative quick rise to power in the 1930s, especially to anyone that had lived or had any knowledge of that era.

In 1989, the *Bundestag* approved the *Kronzeugeregelung*, a variation of Italy’s Penitence Law.<sup>111</sup> The German version provided for reduction of sentences for terrorists who collaborate, in certain cases the commutation

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<sup>108</sup> This took place in 1977 when the terrorists unleashed a heightened wave of violence on West Germany that was never seen before.

<sup>109</sup>Hanshew, p. 26.

<sup>110</sup> No comparable effort began until September 2001.

<sup>111</sup> The Penitence Law, passed in January 1982, substantially reduced the sentences of terrorists who confess their crimes and dissociate themselves from violence and their companions prior to final sentencing. Further reductions are given to those who provide information that leads to decisive proof of identity or the capture of terrorists. The law, which is limited to political terrorism, depenalizes serious terrorist crimes by offering incentives to accept defeat, admit guilt, and inform on others in order to limit the dangers of terrorism to society. Information can be found at the website, <http://www.humboldt.edu/~go1/terrorism/unit3/redbrigades.html>. Accessed July 2003.

to time served. In addition, the German version does not allow for simple dissociation. A key law was passed in 1989 that allowed *Aussteiger* (repentant terrorists) to be allowed to receive reduced sentences or even released from detention in return for cooperating with police and divulging information.<sup>112</sup>

Other aspects of the German Criminal Code were amended as well. Specifically the reduction of a terrorist holding hostages and agreeing to release them, as well as attacks on aviation and then sub sequentially releasing the hostages.

A serious dilemma facing the government was the issue of posting “wanted signs.” At the height of the terrorist’s attacks, many storeowners were reluctant to post those signs on their grounds for the fear of retaliation from the terrorists themselves. This situation is very similar to the threat of the mafia in cities like New York and Chicago. It seemed more dangerous to act on behalf of the state than it is to act against or at the very least remain neutral.<sup>113</sup>

## **G. INTERNATIONAL TERRORISM**

Despite its domestic terrorist foundation, there were several ties into international terrorism. The researcher has chosen Paul Wilkinson’s definition of international terrorism that was gathered from his book *Terrorism and the Liberal State*. He states,

terrorists acts can also be accurately designated “international” if they are committed as a result of connivance, collaboration or alliance between terrorists and the governments, terrorist movements or factions of foreign states. In short, political terrorism becomes international in the strict sense when it is (i) directed at foreigners or foreign targets; (ii) concerted by the governments or factions of more than one state; or (iii) aimed at influencing the policies of a foreign government.<sup>114</sup>

With the advent of ties to the international terrorists another problem came about, that of the German readiness to give way and release prisoners in lieu of dealing with hostage takers. This did not go unnoticed by several terrorists groups. Germany had a history of caving in to terrorist’s demand in three such instances. Interestingly enough, it

<sup>112</sup> This information was gained from Maria Rasmussen, Associate Professor, National Security Affairs, Naval Postgraduate School, Monterey, CA. Notes were used from a Homeland Security Course that she teaches at the Naval Postgraduate School.

<sup>113</sup> Horchem, p. 16.

<sup>114</sup> Paul Wilkinson’s definition of international terrorism that was gathered from his book *Terrorism and the Liberal State*, Second Edition, New York: New York University Press, 1986.

was the Germans and Japanese that were most likely to give into the terrorists demands, and quite possibly could be that both have a similarity in the link to a fascist history and where trying to dispel the belief that they had a lack of concern or regard for human life. In 1970, three hijacked aircrafts and its passengers were held on the Dawson's Field in Jordan. While these planes were not of German origin, they were British, Swiss, and American, there were numerous West Germans on board those planes. It is believed that the German Government put enormous pressure on the Swiss and British governments to release the prisoners earlier than was expected. The second event took place on February 1972, when a German Boeing 747 was hijacked to Aden and the German government paid a five million dollar ransom for the safety of the hostages. On September 5 of the same year, eight members of the Black September group kidnapped 11 Israeli athletes at the Munich Olympics. In this case, the government did not pay anyone or release any political prisoners but rather released the actual remaining terrorists after they were captured after another hijacking took place. Finally, on February 27, 1975, the June 2 Movement kidnapped Peter Lorenz in Berlin and demanded the release of six prisoners. One of those released was Gabriele Krocher-Tiedemann. She was then part of a combined team consisting of Palestine and German terrorists that abducted 11 oil ministers of the Organization of Petroleum Exporting Countries (OPEC). The three police officers were killed, the Austrian government flew them to Algiers and it is believed that some of the Arab countries paid approximately 25 million dollars to get the ministers freed. Chancellor Schmidt was mortified and furious at the leniency towards the terrorists. In October of 1977, the kidnapping of Dr Hans-Martin Schelyer changed when a Lufthansa aircraft was hijacked by four Arab terrorists demanding the release of the RAF leaders as well as some Arab prisoners. The plane was denied entrance into airspace by several countries before it finally landed in Mogadishu. Chancellor Schmidt now was able to change the pattern of giving in to terrorists demands by sending in the GSG-9 to secure the rescue of the hostages, which they did in a perfect manner, and killed three of the four hijackers.

There were attempts, starting in the early eighties, to create an alliance with other terrorist groups in Europe. Attempts with the French Action Directe (AD), the Belgian Communist Combatant Cells (CCC) and even the Italian Red Brigades were made to

combat and strike at NATO and American assets and interests. The first piece of evidence showing cooperation took place on January 25, 1985 during the assassination of the French defense official General Rene Audran. There is belief that the attack included cooperation with several RAF members.<sup>115</sup> This attack occurred only 10 days after the RAF and the AD publicly announced a joint statement stating the formation to combat NATO imperialism.<sup>116</sup>

The evolution of the student protesters and the 68ers into the RAF, RZ, and 2 June Movement terrorist groups now led the West German government to react in various ways including knee-jerk ad-hoc measures, manipulating the media to its advantage, massive legislative amendments and changes to the Basic Law and the German Criminal Code. Nevertheless, the overriding question that remained was; were these measures at this time effective in combating the left-wing terrorists.

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<sup>115</sup> Merkl, p. 168.

<sup>116</sup> Horchem, p. 5.

#### IV. THE EFFECTIVENESS OF THE MEASURES

Now that the measures taken by the West German Government have been discussed, it only makes sense to analyze those measures. Was the government too strict, too forceful, and too aggressive? How cognizant was the government of its devious past with respect to curtailing civil liberties and potentially suppressing and infringing on citizens rights? Can a democratic society subdue terrorism without surrendering the values central to the system. The overriding question that needs to be addressed is did the government and the judicial system cause the downfall of the left-wing terrorists or did the terrorists simply implode and cause their own demise by isolating the public, the non-fringe leftists, and turning to more violence. These questions are among the few that are to be addressed in the forth-coming pages.

The German government was effective in combating terrorism in some manner but the benefit of having hindsight enables us to see that several mistakes occurred by the West German government and policy makers but also by the left-wing terrorists themselves. Ultimately, there were two main objectives for the Red Army Faction (RAF), first they hoped that the state would introduce and enact measures that were over the top and draconian.<sup>117</sup> Overall, they were successful in this, for example, denying any public demonstrations for any organization that promoted dangerous behavior and the infringing rules placed on the defendant-lawyer interaction, but failed to meet the primary objective, which was to muster the support of the masses in unveiling the oppressive ways of the state. Did the government really change its ways when the terrorists changed theirs? As compelled by the Ministry of the Interior, there were 1,493 violent acts committed in the 1970s causing 99 deaths and 404 injured. Forty percent of the attacks were directed at the police. In the 1980s, there were 13,073 violent incidents, 95.2% committed by left-wing terrorists.<sup>118</sup> The government had three broad consequences it had to keep in mind before any laws were passed or measures taken to combat the

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<sup>117</sup> Christopher Hewitt points out in *The Effectiveness of Anti-Terrorist Policies*, anti-terrorist laws often impose penalties upon those convicted of terrorist offences in the hope that this will serve as a deterrent.

<sup>118</sup> A. J. Jongman, "Trends in International and Domestic Terrorism in Western Europe, 1968-1988", *Terrorism and Political Violence*, London: Frank Cass, Volume 4, Number 4, Winter 1992, p. 60.

terrorists. First, the loss of confidence in the government could not occur for this would drastically affect the ability of the government to ensure the safety of all its citizens. Second, the government could not allow the terrorists to obtain any of its political goals. Third, any changes in regards to civil liberties had to be carefully scrutinized.

How do you combat terrorism if you are not sure what you are combating is terrorism. In Alex Schmid's book, there were 109 different definitions of terrorism provided between 1936 and 1981, and there have been more since.<sup>119</sup> The Germans view of terrorism was greatly different from that of the British. For example, in 1985, the German Federal Republic Office for the Protection of the Constitution stated: "[t]errorism is the enduringly conducted struggle for political goals, which are intended to be achieved by means of assaults on the life and property of other persons, especially by means of severe crimes as detailed in article 129a, section one of the penal code or by means of other acts of violence, which served as preparation of such criminal acts."<sup>120</sup> Conversely, the United Kingdom in 1974 stated, "for the purposes of the legislation, terrorism is the use of violence for political ends, and includes any use of violence for the purpose of putting the public or any section of the public in fear."<sup>121</sup> The difference between the countries respective statements is even more evidence of the German fears about their Nazi past. The British definition is much broader and encompassing, it was offense if you simply put fear into a portion of the public, whereas the Germans definition was much more focused on specific events and activities, such as life and property, thus reducing the ability of the government to have total empowerment as stated in section 129a, section one. Having said that, the German government was much stricter in comparison to other European nations on some issues. "About 12 percent of the total number of violent incidents is related to breaches of transport and other resistance activities. Some other European governments do not consider these activities as terrorists but as politically-motivated activism."<sup>122</sup>

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<sup>119</sup> Alex Schmid, *Political Terrorism: A research Guide to concepts theories, data bases, and literature*, New Brunswick, NJ, North-Holland Publishing; Transaction Books, 1984.

<sup>120</sup> Ministry of the Interior Verfassungsschutzbericht 1984 (Bonn: Bundesministerium des Innern, 1985).

<sup>121</sup> Prevention of Terrorism Act of 1974.

<sup>122</sup> Jongman, p. 60.



## A. WHY GERMANY?

The first key question was why was Germany a feeding ground for left-wing terrorism? As Therese Delpech points out, there had been a great deal of suspicion that Germany was a shelter for some terrorists or supporter for terrorists.<sup>123</sup> The problem for Germany being a feeding ground was threefold. First,

democracies have well-known weaknesses when facing terrorism. Among those is their openness, their dedication to freedom of speech and information, their defense of minorities and the rights of accused persons.

In large part, Germany was vulnerable to terrorism because of its free press and democratic values. Also, the Western democracies have tended to be the most attractive and vulnerable targets of international terrorism not only because they are open societies with an unregulated media, but also because they can least easily combat the terrorist using terrorist tactics, that is, the use of terror in retaliation. Secondly, there has been, and still is, a great fear of another German nightmare if people's liberties and freedoms are curtailed. History and memory have a powerful effect on policy and the German experience was proof of this. "[T]he authorities, sensitive to the country's Nazi past, have been reluctant to introduce measures that could be seen as intrusive on the rights of citizens."<sup>124</sup> Interestingly enough, this problem has come full circle with some of the 68ers now in prominent positions being weary of the states response to the RAF and others. Third, the private lives of citizens are not the business of the state and they want their privacy protected. This freedom allows the terrorists to have the ability of movement and association with other supporters that are unattainable in non-democratic states.

What methods were effective? In order to win the battle you have to decrease the public's support of the terrorist or not allow them to further increase their support network. The terrorist movement does not have an unlimited life span. If after a period of time, whether years or decades, that the murdering of innocent businessmen or politicians has not brought them close to their goal than their resolve will drastically

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<sup>123</sup> Therese Delpech, "International Terrorism and Europe", Paris: *Institute for Security Studies*, December 2002, p. 33.

<sup>124</sup> Sources: Associated Press, Agence France Presse, "Germany Adopts New Anti-Terror Package", Available at [www.ict.org.il/spotlight/det.cfm?id=704](http://www.ict.org.il/spotlight/det.cfm?id=704). Accessed September 2003.

dwindle. This is especially true for the urban-guerrilla type terrorism that the RAF and others engaged in as compared to nationalist terrorists, like the Irish Republican Army (IRA) that tends to hold out longer because of a wider based support. Legislative matters are another way to suppress the young radicals. Possibly one method that might have been chosen was to provide greater power to the lower courts to intervene in crimes that would ultimately tie into terrorism. The Spanish in their ongoing battle against terrorism adopted the measure of increasing the power given to the lower courts. Giving the local courts more power vice the initial overreaction from the government might have subdued the violent backlash that soon took place. Focus needed to be on the support system and the assets that the radicals had. Another possibility should have been the initiation of giving financial rewards for the exchange of pertinent information. An example of this was when Uruguay offered a reward for information to leading to the rescue of kidnapped victims (\$20,000 to \$90,000 or the arrest and conviction of a Tupamaro (\$8,000)). In addition, the British used this tactic in Cyprus while dealing with an *Ethnike Organosis Kypriakou Agonos* (EOKA) cell.<sup>125</sup>

Terrorism is fundamentally a form of psychological warfare. The left-wing terrorists, for that matter any terrorists, are targeting this warfare on a target audience and fear and intimidation are a profound part of their strategy. If the terrorists are able to undermine the government's ability to maintain order and peace than panic and chaos will follow shortly and the terrorists will have succeeded in their goal to create an anarchic society.

One area that the German government had failed in, and actually the burden more accurately falls on the local police, was their initial over reaction in the infancy stages of the student movements. This brutal and unnecessary violent approach was one, if not the spark, to start the fire that would become the left-wing terrorist movement. The police tried to follow the fundamental view that Christopher Hewitt expressed in his extensive studies that concluded what many would deem obvious "the more terrorists in prison, the lower the violence level."<sup>126</sup>

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<sup>125</sup> Christopher Hewitt, *The Effectiveness of Anti-Terrorist Policies*, University Press of America, 1984, p. 100.

<sup>126</sup> Ibid, p. 47.

Determining how best to reduce Germany's vulnerabilities was a huge challenge that cut across federal, state, and local governments and the private sector. Germany's challenge was to discern the strategies of terrorists, especially as the terrorists adapt to efforts that the Germans and others make to protect themselves; to assess their vulnerabilities; to gauge the effectiveness of their measures to protect themselves and recover from an attack; and to weigh the costs of those measures, including the economic and social ones. In this situation, characterized by numerous vulnerabilities but constrained resources, it is as important to decide what *not* to do as what to do. The challenge cuts across almost all policy domains and makes a mockery of the idea that national security and domestic policy are separate. It requires a large vision of the research agenda and a comprehensive approach to the problem so that German citizens can be assured that their government is focusing a sensible amount of resources on key vulnerabilities. The important thing to remember is that, no matter how powerful the terrorist group is, it is still in the minority when compared to the entire population; and the government must keep it that way and do not give the terrorists any undue just publicity or help. Restraint is necessary to both pursuing objectives and retaining legitimacy in combating terrorism. Premature action against individuals, for example, can be counterproductive if it interferes with developing intelligence in depth that might neutralize an entire terrorist group. Similarly, overreaction, such as imposing severe populace and resource control measures, can undermine legitimacy and unnecessarily irritate the civilian populace. This was evidently a considerable cause for the breakout of terrorist groups and actions in the 1960s.

## **B. WHAT SHOULD GERMANY HAVE DONE?**

How should have the West German government combated terrorism in order to combat terrorism more effectively? There are four key points that should be analyzed.<sup>127</sup> First, focus efforts at mid-level leaders in terrorist groups. A measure that the Germans tried was targeting the top leaders of a terrorist group, which was very often ineffective. The success or failure of a terrorist organization's operations, even perhaps its longevity,

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<sup>127</sup> See Bruce Hoffman and Kim Cragin, "Four Lessons from Five Countries" in *RAND REVIEW-Hitting Home: What We've Learned Since 9/11 and What We Should Do About It*, Volume 26, Number 2, Summer 2002, pp. 42-43.

depends more on the ability of the mid-level leaders to step into decision-making roles or carry out operational objectives than on the top leaders themselves. The Germans, for example, often removed the top leadership of the Red Army Faction, but this policy did not result in a dramatic decrease in terrorist attacks or the dissolution of this group, and it could be argued that a reverse effect took place. Once Andreas Baader was imprisoned, his fellow comrade and co-founder Ulrike Meinhof and a couple of the linchpins broke into his cell and freed Baader. His status and aura were quickly elevated greatly beyond what they had been before he was imprisoned.<sup>128</sup> Israel with Hezbollah and Hamas is another example of leaders being taken out of the picture but someone else “stepping-up” and leading the faction. In the RAF, numerous top-level leaders were imprisoned or committed suicide, but to no avail. The mid-level leaders of the group were able to step into the new role of top decision makers relatively easily. It needs to be restated that three of the original founders and proponents of this social revolutionary movement killed themselves in October 1977<sup>129</sup>, but the movement survived and lived on for another twenty years. Two examples of the group continuing its some fifteen plus years later were the assassination of Detlev Rohwedder in 1991, who was the point man for the agency that was to privatize the state holdings of former communist East Germany and the 1993 operation that destroyed a new prison. The ensuing shootout ended in the death of a GSG-9 officer and RAF member Wolfgang Grams.<sup>130</sup>

Second, the government needs to de-legitimize the entire group and their standing in society, not just arrest or kill the top leaders of terrorist groups. The German government failed in this critical area to the greatest degree. It appears that there was a great deal of relaxation after the arrest of Baader, Ensslin, Raspe, and Meins in 1970 by the government. The inability to squash the standing in the society thus caused splinter groups like Revolutionary Cells and Movement 2<sup>nd</sup> June to come about as well as internationally speaking they were unable to isolate the urban guerilla warfare philosophy from other nations. It must be stated that the latter is and was much more difficult to deal

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<sup>128</sup> Stefan Aust, *Baader-Meinhof Group: The Inside Story of Phenomenon*, London, The Bodley Head, 1985.

<sup>129</sup> The fourth, Holger Meins had killed himself at an earlier date.

<sup>130</sup> “Red Army Faction (RAF): Baader Meinhof Gang”. Available at [www.ict.org.il/inter\\_ter/orgdet.cfm?orgid=35](http://www.ict.org.il/inter_ter/orgdet.cfm?orgid=35). Accessed June 2003.

with since effectively combating international terrorism would require international support on all levels from various nations. Third, target essential support and logistics networks, for without money, lodging, and transportation, a terrorist existence will be substantially ineffective. By incorporating measures into the 14<sup>th</sup> amendment in the Basic Law, as well as adding articles into the German Criminal Code, this enabled? the government to meet the goal. Fourth, establish a dedicated counterintelligence center to obstruct terrorist reconnaissance. The centralizing of the BGS and giving it the necessary manpower and funding allowed the consolidation of intelligence and increase the ability of counterterrorism.

In the late 1960's onward, the government seemed to be surprised by the growing support for the terrorists and, as mentioned in the previous chapter, enacted stopgap measures to subdue the problems occurring in the state. The basic problem in this premise is that playing off security against liberty is a problem central to all politics. This is a problem still looming over Germany today. As Mr Fritz Teufel has added, "it is not possible to have either absolutely. It is always a question of either-or, of balance."<sup>131</sup>

The taking of hostage for political gain is one of the most dramatic and potent forms of contemporary terrorism. No other tactic is more likely to cause a severe disruption to the normal flow of national and international relations. Governments are truly held to ransom and political order directly threatened.<sup>132</sup>

The Federal Republic of Germany was in a quagmire that all democratic nations are faced with at some point in time. An overreaction to hostage taking that results in the avoidable deaths of hostages while security forces are attempting to neutralize terrorists, for example, raises questions of judgment as well as the legitimacy of the undertaking. The deaths of hostages can call into question the legitimacy of trying to rescue them because statistically speaking the hostages are going to be released if the government stands pat and negotiates. Approximately 94% of all hostages from 1970 to 1982 have

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<sup>131</sup> Stefan Dietrich, "Liberty and Security", Available at [www.faz.com/IN/INtemplates/eFAZ/docinfocus.asp?rub={B1312000-FBFB-11D2-B228-00105A9CAF88}&sub={C09564E2-2C4D-463B-B607-3D580697DFC1}&doc={1C3F0E7C-C74B-4885-A53D-48490395FC89}](http://www.faz.com/IN/INtemplates/eFAZ/docinfocus.asp?rub={B1312000-FBFB-11D2-B228-00105A9CAF88}&sub={C09564E2-2C4D-463B-B607-3D580697DFC1}&doc={1C3F0E7C-C74B-4885-A53D-48490395FC89}) Accessed July 2003. Mr. Teufel is the Premier of Baden-Wurttemberg, he commented in the Bundesrat debate on 18 October 2001 p. 2.

<sup>132</sup> Clive C. Aston, *A Contemporary Crisis: Political Hostage-Taking and the Experience of Western Europe*, Westport, CT, Greenwood, 1982, p. 1.

been released regardless of whether demands have been met.<sup>133</sup> Conversely, perceived softness can be just as detrimental for the government in trying to deter future terrorist attacks. The latter issue surfaced when the West German government tried to deal with the Red Army Faction in the 1970s. The West German government was severely criticized when they released six imprisoned terrorists and paid them 20,000DM after members of the June 2 Movement kidnapped Peter Lorenz, the Christian Democrat candidate for mayor of West Berlin. Conversely, Chancellor Schmidt also was criticized for being far too aggressive for sending in the commando group GSG-9 to alleviate the hostage situation in Mogadishu. However, by the end of 1977, the conservative Schmidt had gained the support of the liberal SPD members that had not supported him when he replaced the liberal Willy Brandt in 1974. Schmidt had the general population believing that he was in charge and was going to lead the country through this difficult time without falling back into any type of government or situation that troubled so many Germans so deeply.

The SPDs' attempt and success at restricting West German civil liberties was a key point during the Bundestag fight against terrorism. The first such case where this is evident was with the "contact ban" (*Kontaktsperregesetz*). Only taking three days to finish the law the *Bundestag* had, with the President's endorsement, empowered the Federal Minister of Justice and his contemporaries at the State (*Lund*) level to restrain the prisoners' contact with one another and with the entire outside world if there was a strong belief that the terrorists posed a "present danger to life, limb, or liberty." The isolation of the prisoner went so far as to ban the visitation rights of defending attorneys and all written communications. The SPD rejected their earlier unwillingness to restrict civil rights and make legislative changes during a time of crisis, a surprise since the SPD had come to power on an agenda guaranteeing the liberalization of government and the socialization of society.<sup>134</sup> The establishment of this law was one that proved to be a necessary step in order to disrupt the ongoing collaboration between the prisoners. As documented in both Aust and Beckers books<sup>135</sup>, communication between the prisoners

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133 Aston, p. 6 and Table 6.

134 Hanshew, p. 26.

135 Aust and Jillian Becker, *Hitler's Children: The story of the Baader-Meinhof Terrorist Gang*, New York, J. B. Lippincott, 1977.

was key and instrumental among the founding fathers of the RAF as well as the ensuing generations to continue organized terrorists activities while the leaders remained in prison cells.

The strength of the conservative voice slowly took precedence against the younger, more liberal wing of the SPD. This shift in the balance of internal party politics, intimately connected to the leadership's successful resolution of the terrorist crisis and thus the party's changed position on the legitimate use of state force, signaled the Social Democrats general tilt right. Confident, however, that if the parliament and members of their party had access to the security information they possessed there would be no question as to whether their actions were warranted, the SPD leadership requested their party's trust and promised to fully divulge suppressed information and minutes of committee meetings once the crisis had ended. While it is true that the party's leaders avoided centralizing power in the hands of "one strong man," their readiness to sacrifice the rights of parliament and public sphere to the benefit of the functioning executive body, when coupled with the lack of dissent from the rank-and-file, confirmed that the SPD had come to abandon much of its previous position on state force. This new willingness on the part of the SPD to circumscribe checks on executive power ultimately allowed the last of their earlier convictions, namely their aversion to the display of coercive state force, to be overcome.

In a matter of days, the party's traditional deep distrust of state power retreated to the background as doubts about democracy's ability to defend itself rose to the fore amidst a rhetoric pregnant with the terrors of Weimar, when law was lost to the streets under other SPD-led governments and (in their minds) a similar political extremism heralded in the Third Reich.<sup>136</sup> One of the government's first actions was the release of massive funds for the final creation of a centralized police information system—an act that not only threatened state rights, but also the rights of each West German citizen with its compilation of data on individuals other than those convicted of a crime.

The left wing terrorist groups in Germany started to lose a portion of its potential supporters. With age often comes wisdom. In realizing that their armed eternal struggle

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<sup>136</sup> Hanshew, p. 26.

would not allow them to pay for homes, bills, or any materialistic items while in jail, many supporters slowly turned their attention to careers in politics and sought institutional reforms vice an outright revolution. The emergence of the Green Party<sup>137</sup> had an undeniable effect on the pacification of the left-wing terrorist movement. A new-middle class has emerged with different social objectives. They viewed the efforts of the Greens in the parliaments of the Federal Republic, the Lander and the cities with sympathy. Part of this middle class in the past supported the theories of the RAF or the RZ.<sup>138</sup>

This middle class arose coincidentally at the same time that anti-Americanism seemed to become a growing sentiment.

### **C. WHAT WAS EFFECTIVE?**

The implementation of criminal law in of itself will not eliminate terrorism. You must get to the root of the problem and in this case, it was the disgruntled youth of Germany. There was this fear that the elders had lost control. After the building of the Berlin Wall and the establishment of the grand coalition of Christian Democrats and Social Democrats in 1966, the youth felt that the older generation was no longer capable of solving the problems of the society.<sup>139</sup> In addition, in the mid-1980s when the focus of terrorists attacks shifted to NATO and more so American targets, the German government never really focused on why this take place. The politicians never carefully examined aspects of the U.S.-German relations that would thus fuel the anger and violence of the terrorists, such as the United States's role in Vietnam and the issue of the presence of nuclear weapons in Germany.

The most effective counter-terrorists measure might have been self-inflicted by the terrorists themselves. When the left-wing movement changed from protesting and committing fires to a more violent and vicious agenda, a large portion of their base was, at the very least, with holding their support and questioning the movements' methods. Joschka Fischer, captured this sentiment by stating,

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<sup>137</sup> Originally their platform was for peace and ecology.

<sup>138</sup> Horchem, Hans Josef, *Terrorism in West Germany*, The Institute for the Study of Conflict, Conflict Studies; 186, 1986.

<sup>139</sup> Radvanyi, p. 106.



[t]he more isolated we became politically, the more militaristic our *Widerstand* became, thus the easier we became to isolate and the easier it was for the cops to change our label from ‘political rockers’ to ‘terrorists,’ adding charges of criminal organization and murder to those of disturbing the peace.<sup>140</sup>

Finally, the phenomenon of international terrorism has come into existence as a major problem only in the last few decades. This is largely due to the revolution in communication and transportation technology that has made it possible for small groups of extremists both to reach target populations outside their domestic borders and to have their actions instantly broadcast worldwide by the western media. The surprisingly small size of terrorist organizations makes tracking them down a challenge. Germany was content with a policy that focused police attention only on possible terrorists acts committed on German soil, rather than concerning itself with the possible terrorist threats that extremist groups operating in Germany created for other countries or vice a versa.<sup>141</sup> Germany should have been concerned about terrorism beyond its own borders, because it was another avenue for the left-wing terrorists to expand its ideals, desires, and possible recruitment.

While the RAF had ties to the PFLP and others, there was never that level of worldwide appeal against one enemy or one cause. Dr. Nicholas Berry offered an important insight in this regard,

if intelligence is the key weapon to thwart terrorist acts, pursuing justice is the key method to make them disappear...counter-terrorism involves a propaganda contest where the appearance of injustice must be dealt with. The terrorists' line must be made invalid — without, of course, ever saying that the redress of grievances is a product of a terrorist attack.<sup>142</sup>

The problems is that often governments stop thinking about why terrorism has occurred once the initial legal, judicial, and police measures have been put into place. One must not confuse understanding with containment. Unfortunately, this is exactly

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140 For a reprint, see Frankfurter Spontis, “Uns treibt der Hunger nach Liebe, Zärtlichkeit und Freiheit” Links, Number 85, Sozialistische Zeitung, Offenbach, July/August 1976.

141 Peter Katzenstein, September 11th in Comparative Perspective: The Anti-Terrorism Campaigns in Germany and Japan, Cornell University, October 2001, Available at <http://www.einaudi.cornell.edu/9-11/content/pdf/pkatzenstein.pdf>. Accessed August 2003

142 Dr. Nicholas Berry, “Effective Counter-Terrorism Deals with Motives”, November 2, 2001, Available at [www.cdi.org/terrorism/motives.cfm](http://www.cdi.org/terrorism/motives.cfm). Accessed September 2003.

what the West German government did. A fight that the Germans had thought they had defeated when the RAF sent out their final communiqué in 1996. Most German people were adamantly surprised to find out that several of the September 11 hijackers were living in Hamburg exposing the German people to the belief that terrorism, whether it be right-wing terrorism<sup>143</sup> or international religious terrorism, could resurface at any moment. The struggle against the terrorists just as the “war“ on crime, on cancer, on poverty, on drugs is never-ending and they thrive on the ability to adapt and overcome the countermeasures of the government. In order to defeat terrorism or at the very least curtail it, one must use efforts that are tireless, innovative and forceful as the terrorists themselves. These are all matters in which success is measured in terms of varying levels of control, rather than total eradication.

Bruce Hoffman said it best when he put into perspective how the Europeans vice the Americans view the war on terrorism, “the United States tends to regard counterterrorism as something akin to a moral crusade, Europeans are far more skeptical of blanket approaches and rigid policies and instead adopt what they see as more practical and, in their minds, more productive approaches.”<sup>144</sup> While Hoffman was talking about the situation after September 11, 2001, the tendencies and beliefs of the Germans and in general Europeans were the same during the era of left wing terrorism. The German government had instituted and implemented various policies and procedures. Some were effective and some were counter productive. The government, the citizens, and even the terrorist themselves all were very aware of the history of suppression and terror of the government. This proved a point that would affect all things involved during the struggle between the government and the terrorists.

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143 See Bruce Hoffman’s, *Right-Wing Terrorism in West Germany*, Santa Monica, CA, RAND, October 1986.

144 Bruce Hoffman, “Is Europe Soft on Terrorism?” *Foreign Policy* Summer 1999 [www.foreignpolicy.com/issue\\_SeptOct\\_2001/hoffman.html](http://www.foreignpolicy.com/issue_SeptOct_2001/hoffman.html). Accessed September, 2003

## V. CONCLUSION

### A. MAJOR ARGUMENTS OF THE THESIS

This thesis has examined when and how the emergence of left wing terrorism occurred in the Federal Republic of Germany. It explains how and why the student protests and the Kommunal society it desired turned so lethal and disturbing. The West German government initially addressed the problems that had come about because of the existence of the radical left by a variety of means. It expanded powers given to the *Bundeskriminalamt* (BKA) and Federal Border Control (*Bundesgrenzschutz* or BGS), and created the elite anti-terrorist unit, the GSG-9. It passed the *Kontaktsperregesetz* (Contact Ban Law) and several other legislative measures. Nevertheless, questions persist as to whether the government was forceful and decisive enough. Did the actions taken by the government ultimately defeat the terrorists, or did the terrorist's errors, miscalculations, and lofty dreams lead to its own demise?

The Red Army Faction (RAF) not only rejected society as a whole in the Federal Republic of Germany, but also the world order which it described as capitalist, fascist, and repressive. Horst Mahler, stated at his trial that “[t]he imperialist system forms a world-unit which transcends national boundaries...Exploitation and repression are globally organized.”<sup>145</sup> This conscience decision to take on the entire capitalist society proved to be fatal in the RAF's quest for change.

The RAF weighed heavily on the media, as Bauman stated “the RAF said the revolution wouldn't be built through political work, but through headlines, through appearances in the press, over and over again, reporting: ‘Here are the guerillas fighting in Germany’”. This was in complete contrast to the Provisional Irish Republican Army (PIRA) and their struggles choosing terrorists activities and the use of the media but they equally used the political aspect of the Sinn Fein.

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<sup>145</sup> Jillian Becker, “Another Final Battle on the stage of history”, in Paul Wilkinson (ed.) *British Perspectives on Terrorism*, London: George Allen and Unwin, 1982, p95.

As Klein pointed out in the following passage, the left was failing to communicate, “they did nothing ...they got used to broken windows, the battles with the police, even the petrol bombs. So there came a point when it was decided that something new would have to be found”.<sup>146</sup>

In the end it appears that, the RAF had some fundamental flaws that it was never able to overcome. The inability to incorporate the other fringe groups into its system proved to be detrimental. With only an estimated ten hardcore persons and approximately a peripheral support group of 200,<sup>147</sup> the RAF appeared to the other left-wing German terrorist to be an elitist. Due to the size and nature of the RAF they were forced to be elaborately conspiratorial life-style, which the RZ [Revolutionary Cells] reasoned was one weakness of the RAF’s operating system.<sup>148</sup>

While the RAF and others were trying to gain support from the non-radical left as well as the everyday German, the rhetoric of communist-like revolution was one that did not appeal to many West Germans. They simply could not relate to the workers of Vietnam or Palestine. The word communism was often parallel to depression and the German Democratic Republic. Many families in the West had relatives in the East that were far worse off and could not afford many necessities that the West Germans had enjoyed. Why then would this wave of terrorists be appealing if what they were striving for was a decrease in wealth.

The history of the fascist past in Germany and the German mainstream that had generally accepted the changes that allowed increase powers to the security forces proved to be a large stumbling block for the RAF to overcome. The Left had no reason not to distance itself from the ideological stance that the RAF had stood for. However, it was not until April 20, 1998 that a mysterious eight-page letter arrived at the Reuters news agency, signed "RAF" with the machine-gun red star, declaring the group dissolved:

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146 J.M. Bougreau, *Memoirs of an International Terrorist. Conversations with Hans Joachim Klein*, Orkney: Cienfuegos Press, 1981.

147 Bommi Baumann, *How it all Began*, Vancouver: Pulp Press, 1977, p.9.

148 Joanne Wright, *Terrorist Propaganda, The Red Army Faction and the Provisional IRA, 1968-86*, New York: St Martins Press, 1990, p141.

"Almost 28 years ago, on May 14, 1970, the RAF arose in a campaign of liberation. Today we end this project. The city guerrilla in the shape of the RAF is now history."<sup>149</sup>

Finally, what can one conclude about the emergence of left-wing terrorism in West Germany and how the Federal Republic of Germany dealt with this radical fringe group? Several conclusions are in order. First, in general, the German government was effective in combating the terrorists, but the terrorists themselves often committed mistakes that increased the government's ability to be successful. Second, it is likely a unified Germany will continue to take whatever measures are necessary to protect civilian population from the reemergence of terrorism and its ghastly consequences. After September 11, the German government for the first time banned three religious organizations, including the Caliph State and the Hizb ut-Tahir, which was accused of spreading violent anti-Semitic and anti-American propaganda. This was something that would never have occurred before, even at the height of the battle against the RAF and others. Even before September 11, 2001, the government was looking into abolishing the "privilege of religion" in the Law of Associations.<sup>150</sup> Third, it is likely that Germany will now more than ever show virtually unconditional support towards combating international terrorism, something that the West German government was extremely slow and uneasy with during the 1970s and 1980s, even up until September 11, 2001.

## **B. TERRORISM IN GERMANY TODAY**

While the underlying beliefs and views of the terrorists groups might have changed over time, many problems that faced the German government and police in the sixties still face them today. After the left wing terrorism of the 1960's and '70s was dealt with, there was a general tranquility and calmness from the unification of Germany until September 11, 2001. Within a few days of the attacks on the World Trade Center and the Pentagon, most Germans knew that at least three of the nineteen terrorists suspected of having hijacked the planes that had been living in Hamburg—including the

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<sup>149</sup> Red Army Faction, "The Urban Guerrilla is History...The Final Communiqué from the RAF", Available at <http://www.baader-meinhof.com/students/resources/communique/engrafend.html>. Accessed April 2003.

<sup>150</sup> "Fight against Terrorism: Schily: Germany well armed in the fight against terrorism." Available at [http://eng.bundesregierung.de/dokumente/Background\\_Information/German\\_Foreign\\_Policy](http://eng.bundesregierung.de/dokumente/Background_Information/German_Foreign_Policy). Accessed January 2003.

Egyptian student Mohamed Atta, who is said to have masterminded the attacks. Within a few weeks, they knew that Osama bin-Laden's German network had probably included as many as seventy other sleepers spread across most of the big cities of Western Germany, and that one hijacker had even been traced to a town in eastern Germany, a part of the country not known for extending hospitality or, for that matter, much in the way of safety to strangers.

Upon hearing about the attacks across the Atlantic, the German government took several steps to combat terrorism. There have been three major categories: (1) Measures taken immediately after the 9-11 attacks (2) First counter-terrorism package (3) Second counter terrorism package.<sup>151</sup> Immediately following September 11 Chancellor Schroder called the Federal Security Council together. The head of the Federal Chancellery established a security commission that is believed to meet daily. <sup>152</sup> “Their primary task is to analyze actual and potential danger to the Deutschland and to coordinate activities between different authorities and to prepare the necessary measures and decisions”, <sup>153</sup>Increase in security measures for transportation routes, border control, federal, U.S., and Israeli facilities were implemented. Crisis management teams were created for various offices and improving air traffic safety occurred.

The Germans have in fact given 100% support in combating terrorism, whether domestic or international, after September 11. The Germans provided 2,800 troops to the CENTCOM AOR, second only to the French, as well as Navy ships, aircraft, Special Forces, and humanitarian assistance. <sup>154</sup> However, many concerns and problems still lie ahead. One of the key problems is that it is difficult to increase a nation’s anti-terrorist spending when Euro-zone nations cannot have a deficit greater than three percent of their gross domestic product. The French have recently stated that they are both willing and ready to go beyond the three percent deficit requirement to ensure that their national needs are met. Are the Germans willing to do the same? Absolute security is impossible

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<sup>151</sup> Erik Van deLinde et al., *Quick scan of Post 9/11 National Counter-Terrorism Policymaking and Implementation in Selected European Countries*. Santa Monica, Ca. RAND, May 2002.

<sup>152</sup> High ranking representatives of the Foreign Office, Federal Ministry of Defense, Federal Ministry of the Interior, Federal Ministry of Justice, the Federal Chancellery and the German Intelligence Services.

<sup>153</sup> Van deLinde et al.

<sup>154</sup> Office of Public Affairs. “International Contributions to the War Against Terrorism”. Revised June 14, 2002.

and the “hardening” of targets takes a toll on the nation’s resources. If so, are they willing to use those new resources in combating terrorism? In the future after a lull between terrorist attacks will the people of Germany, as the United States have shown, be so affectionate towards a tax increase of any sort? Maintaining international cooperation, curtailing some civil liberties, and manpower-intensive programs will all be needed to take on and defeat 21<sup>st</sup> century terrorists. The biggest problem could be simply how to define this war on terrorism. Bruce Hoffman said it best when he put into perspective how the Europeans vice the Americans view the war,

...the United States tends to regard counterterrorism as something akin to a moral crusade, Europeans are far more skeptical of blanket approaches and rigid policies and instead adopt what they see as more practical and, in their minds, more productive approaches.<sup>155</sup>

While the underlying beliefs and views of the terrorists groups might have changed over time many problems that faced the German government and police in the sixties, still face them today. One-step that the Germans have done that would not have happened some thirty years ago was restraining the rhetoric that is used by some radical religious groups. The issue of religious terrorism is indeed new to the Germans.

Now that Germany is reunited and is past its democratic growing pains, the German people can now look at the events of the previous generation in a different light. Recently the RAF has received what some would say is positive press coverage. In Christopher Roth's film "Baader," RAF leader Andreas Baader is portrayed as a cool, womanizing gangster. The film itself resembles one long music video, with exploding bombs, sexy women, and a "Butch Cassidy and the Sundance Kid"-style shoot-out at the end. Another feature film, Christian Petzold's "The Inner Security," portrays a terrorist couple on the run with their 14-year-old daughter. It must be pointed out that the RAF is never mentioned by name. In addition, a documentary that showed in cinemas across Germany, "Black Box Federal Republic Germany," sets the biographies of one RAF member, Wolfgang Grams, against that of one of the RAF's victims, the banker Alfred Herrhausen. In addition, there recently has been a museum exhibition that has opened up

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<sup>155</sup> Bruce Hoffman, “Is Europe Soft on Terrorism?” *Foreign Policy*, Summer 1999, [www.foreignpolicy.com/issue\\_SeptOct\\_2001/hoffman.html](http://www.foreignpolicy.com/issue_SeptOct_2001/hoffman.html). Accessed June 2003.

in Germany to promote Ulrike Meinhof and her beliefs. This promotion of left wing terrorism in general and the RAF specifically, was unimaginable only several years ago. Why is that? Wolfgang Gast, a journalist for the daily *Die Tageszeitung* stated: "[t]his topic can be looked at so impassioned today because these ideas aren't a threat to the Federal Republic anymore, they can now be historicized. This was unthinkable even ten years ago."<sup>156</sup> Finally, in 2002 a comedy was released in theatres that depicted several middle-aged terrorists as individuals who now are trying to find a bomb that they had left back in the 1970s. This is significant in the sense that just like when comedian and New Yorker David Letterman was able to go back on the air after September 11 and tell jokes about Osama bin-Laden, the German public are now able to put this period of upheaval and terror behind them and even are able to poke fun of that particular situation.<sup>157</sup>

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<sup>156</sup> Paul Hockenos, "Hindsight turns German militants into T-shirt icons", Available at <http://www.csmonitor.com/2002/1031/p07s02-woeu.html>. Accessed July 2003

<sup>157</sup> Last point was brought to the authors' attention by Maria Rasmussen, associate professor, Naval Postgraduate School, Monterey, CA.



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