

MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY

UNITED STATES OF
AMERICA

v.

KHALID SHAYKH MOHAMMAD,
WALID MUHAMMAD SALIH
MUBARAK BIN 'ATTASH,
RAMZI BIN AL SHIBH,
ALI ABDUL AZIZ ALI,
MUSTAFA AHMED ADAM
AL HAWSAWI

AE 488 (MAH)

**Defense Motion to Dismiss
for Lack of Subject Matter Jurisdiction
Due to the Absence of Hostilities**

Filed: 3 February 2017

1. **Timeliness:** This motion is timely filed under R.M.C. 905(b)(2), which provides that jurisdictional defects in the charges and specifications may be raised at any time during the pendency of the proceedings.
2. **Relief Sought:** The Defense seeks dismissal of this case for lack of subject matter jurisdiction under the Military Commissions Act of 2009 (MCA).
3. **Overview:** Under the MCA, this Commission may try the accused for the specified crimes only if these offenses were committed “in the context of and associated with hostilities.” “Hostilities” are defined in the Military Commissions Act as “any conflict subject to the laws of war.”

Under well-established international law, a conflict is not subject to the laws of war unless it exceeds a minimum threshold of intensity. State practice—which directs what becomes the law of war—before 9/11 demonstrates that governments treated conflicts between themselves and small armed groups like al Qaeda as “terrorism” or as some other crime, rather than as armed conflicts, even when those groups were larger and undertook more sustained campaigns than al Qaeda. Historical examples of state practice illustrate this fact, as does the United States Government’s own behavior before and on 9/11.

Even if one accepts that hostilities now exist, the charged offenses must nonetheless be dismissed because under the Law of War as it stood on 9/11, no one could be prosecuted for war crimes as a result of actions that took place *before* hostilities began. Since Mr. al Hawsawi is charged only with actions that took place before 9/11, and since there were no hostilities at that time, the Commission lacks jurisdiction to try him.

Mr. al Hawsawi's alleged misconduct, because they were not carried out during hostilities, were therefore not subject to the laws of war. And because the Military Commissions Act confers jurisdiction on this Commission only for offenses that were committed "in the context of and associated with hostilities," this Commission lacks jurisdiction to try this case.

4. **Burden and Standard of Proof:** The Prosecution has the burden of showing that the Commission has jurisdiction. R.M.C. 905(c)(2)(B).

5. **Facts:**

a. Mr. al Hawsawi has been charged with seven specifications, all based on his alleged involvement in the al-Qaeda "planes operation" on September 11, 2001. According to the charge sheet, the acts alleged were committed "in the context of and associated with hostilities."

b. The Government has further alleged that this attack was planned by "the al-Qaeda organization."

c. The Government has made specific allegations against Mr. al Hawsawi in connection with Charge I. All the specific overt acts alleged against Mr. al Hawsawi in support of the attacks of 9/11 predate the actual attacks of that day.

d. For purposes of the instant motion only, the Defense requests judicial notice of the

facts detailed below.¹

Mau Mau Emergency, Kenya—1952-56.

e. The Mau Mau (or *Muhimu*) were an armed political movement in Kenya that sought the end of British rule over lands of the Kikuyu people (att. B, p. 420-21). Its membership exceeded 11,000 at its peak in 1953 (att. C., p. 261), falling to less than 4000 by the end of 1954 (att. C, p. 269). It had a command structure, with “generals” and “field marshals,” but it was never effectively unified under one commander (att. C, p. 243, 248; att. B, p. 420).

f. Mau Mau attacks killed about 1851 civilians and wounded another 942 (att. C, p. 84, att. B, p. 420), with another 600 government security forces killed and 729 wounded in the fighting (att. B, p. 420). The most prominent attack was an organized assault on the settlement of Lari in 1953, in which almost 1000 Mau Mau fighters took part (att. D, p. 137-39), killing 74-84 persons and wounding 31-50 (att. D, p. 141; att. C, p. 126, 128). In the course of the fighting, over 10,000 Mau Mau fighters were killed, with another 2600 captured and 26,000 arrested (att. B, p. 420).

g. The British government did not recognize the Mau Mau uprising as a “war” or “rebellion,” but only as a “civil disturbance” (att. C, p. 114). They responded to the threat by outlawing the Mau Mau organization and conducting a large number of criminal trials in civilian courts, including “Special Emergency Assize [criminal] Courts” staffed with experienced magistrates (att. C, p. 152). These trials were for offenses such as murder, unlawful weapons possession, or consorting with the outlawed organization (att. C, p. 353-54). These led to over 1000 executions (against 240 commutations and 160 successful appeals) and, at peak, almost 18,000 persons in prison convicted of Mau Mau offenses (att. D, p. 353-56).

¹ The Defense previously sought, but was denied, expert assistance to establish such facts as these. See AE 421C (Ruling) (Ex Parte and Under Seal), dated 5 Oct 2016.

h. The Lari massacre, in particular, led to 19 criminal trials with 309 defendants, of whom 236 were acquitted or otherwise released (att. C, p. 157, 176).

i. The government also engaged in collective punishments (mainly cattle seizures) and security detention (att. C, p. 355-56).

Provisional Irish Republican Army, Northern Ireland—1969-2001

j. In the 1970s and 80s, the Provisional Irish Republican Army [hereinafter “IRA”] was a political, armed organization that sought the reunification of Ireland (att. B, p. 285). Its membership fluctuated between 100 and 800 members (att. E, p. 100, att. F, p. 253). It was organized in a disciplined cellular structure designed to prevent government penetration, with all cells reporting through a chain of command to an Army Council that made strategic decisions and issued binding orders (att. G; att. B, p. 290; att. H, p. 95-96).

k. Between 1960 and 2001, the IRA killed about half of the approximately 3500 people killed during the entire conflict in Northern Ireland (att. B, p. 288). A thorough tabulation from 1969 to 1993 shows the IRA as having killed 1755 persons during that time (att. I, p. v-vi, 206), and that its killings focused primarily on British forces (att. I, p. 196-97). Examination of the charts from this tabulation for the years 1977-81 reveals the following figures:

Year	Number of Attacks by IRA	Number Killed by IRA
1977	64	70
1978	39	56
1979	56	93
1980	39	45
1981	49	59

(att. I, p. 100-132, 206).

The largest attack in this period was the killing of nineteen British Army Soldiers by

remote controlled bombs in August 1979 (att. I, p. 117). From the 1970s through the 1990s the IRA developed and deployed a wide and sophisticated range of weapons and tactics (att. H, p. 97-109).

l. The British Government outlawed the Provisional IRA in 1973 (att. F, p. 263; att. J, p. 180) and permitted their trials before civilian magistrates (instead of juries), in “Diplock courts,” the same year (att. E, p. 120; att. J, p. 183-84). From 1972 to 1976, convicted IRA prisoners were granted “special category” status, in which they were exempt from some prison regulations (att. K; att. J, p. 193), though the British government never considered the prisoners as “political” rather than ordinary prisoners (att. J, p. 193). When, in 1976, the British took away certain prisoners’ privileges from the IRA which resulted in IRA members being treated as any other prisoners, the IRA protested (att. K, L). The British government paid no heed to the IRA’s vision of itself as more than common criminals; rather, the government continued to treat the IRA’s actions as terrorist acts punishable as ordinary crimes handled under civilian criminal statutes—and not as war crimes. (att. J, p. 179, 183; att. L).

Brigate Rossi (Red Brigades), Italy—1969-88.

m. In the 1970s and 1980s, the Red Brigades were a political armed organization that sought to overthrow the Italian State, with about 400-500 full-time core members at any given time (att. M, p. 18), though approximately 1300 members or former members were in prison by 1989 (att. B, p. 579). They were organized in self-sufficient “columns” and Regional Revolutionary Committees, all falling beneath a central Strategic Directorate (att. M, p. 17-18; att. N, p. 61-62), with separate “fronts” to provide logistical and propaganda services (att. N, p. 61).

n. Between 1974 and 1988 the Red Brigades committed at least 50 “noteworthy”

attacks, as well as 47 assassinations, 19 “kneecapping” assaults, and 13 kidnappings (att. B, p. 578). During the “years of lead” (1977-79), terrorist groups in Italy, of which the Red Brigades were the most prominent, committed 6670 “acts of political violence” (att. N, p. 183), though precise numbers attributed to each group are hard to come by. The Red Brigades’ most prominent operation was the kidnapping, “trial,” and killing of former Prime Minister Aldo Moro, involving a carefully planned ambush by ten experienced militants drawn from throughout the organization (att. N, p. 102-03, 110-11; att. B, p. 577).

o. The Italian State responded to the threat using civilian criminal law. Members of the Brigades were tried for ordinary crimes, including crimes such as creating, promoting, or joining terrorist organizations or “armed bands” (att. N, p. 212). In 1987, Italian prosecutors attempted to try 253 members of the Brigades and similar organizations (who had previously been convicted under other civilian criminal laws) for “waging an armed insurrection against the state.” All were acquitted of that particular offense because Italian law did not recognize “domestic terrorism” as falling within that additional category of “waging armed insurrection against the state.” (att. O).

Aum Shinrikyo, Japan—1989-1995.

p. In 1995, Aum Shinrikyo was a religious organization with approximately 40,000 members, including 9,000 in Japan (att. B, p. 59). It organized itself in governmental fashion, with a Ministry of Defense that was to organize its “Army,” a Ministry of Health that controlled its own hospital, a Ministry of Construction to acquire land and buildings, and similar divisions (att. P, p. 51-56). It sought to establish itself as a new government in Japan by coup d’état, for which purpose it manufactured 10,000 rifles (att. P, p. 65, 68) and also acquired other arms and training for some of its members in Russia (att. P, p. 58).

q. Aum Shinrikyo members carried out the following attacks:

- 4 Nov 1989: Killing anti-Aum lawyer Tsutsumi Sakamoto and his family (att. P, p. 48).
- Mid-November 1993: Attempted poisoning of a rival religious leader, Daisaku Ikeda (att. P, p. 82-83).
- 9 May 1994: Attempting poisoning of Taro Takimoto, a lawyer who assisted disaffected Aum members (att. P, p. 83).
- 27 June 1994: Release of Sarin gas in Matsumoto, Japan, killing 7 and injuring up to 500 (att. P, p. 87, 100).
- 28 November 1994: Attempted poisoning of Mr. Noboru Mizuno, an attorney who was helping an Aum escapee (att. P, p. 182).
- 12 December 1994: Poisoning of Mr. Chyujin Hamaguchi, who was thought to be a police spy (att. P, p. 184).
- 4 January 1995: Poisoning of Mr. Hiroyuki Nagaoka, father of an Aum member who tried to get him out of Aum and created an anti-Aum organization to help Aum victims (att. P, p. 183).
- 1 March 1995: Kidnapping and murder of Mr. Seishi Kariya, brother of an Aum member who left the organization (att. P, p. 139-40).
- 20 March 1995: Release of Sarin gas in Tokyo subway (12 dead, 3796 injured) (att. P, p. 153-54).
- 5 May 1995: Attempted poison gas attack at another Tokyo subway. This attack failed because the device was discovered early; it was planted in an area where hundreds of thousands of passengers pass every day. (att. P, p. 187).

r. The successful Tokyo subway attack required ten operatives: five drivers and five attackers (att. P, p. 199).

s. The Government of Japan prosecuted 118 Aum Shinrikyo members for involvement in these attacks and other crimes. The prosecutions took place in Japan's criminal courts for civilian offenses, such as murder, attempted murder, kidnapping, and violations of Japan's explosives control law (att. Q, R).

Al Qaeda and the United States.

t. According to the 9/11 Commission Report, al Qaeda had perhaps “a few hundred” members at the time of the 9/11 attacks. National Commission on Terrorist Attacks Against the United States, *The 9/11 Commission Report* 67 (2004) [hereinafter 9/11 Commission Rept.]. The Government has provided a translated paraphrase of a letter by Mr. Mohammad, suggesting that al Qaeda was organized in a top-down fashion, with major decisions to be made by Osama Bin Laden himself, in consultation with a council of advisors. (att. F)

u. Before the 9/11 attacks, al Qaeda had carried out three other attacks against the United States: The simultaneous bombing of two U.S. embassies in Africa in August 1998, with 23 dead and 5000 injured (9/11 Commission Rept. 70), the attempted attack on the USS *The Sullivans* in January 2000, and the successful attack on the USS *Cole* in October 2000, with 17 dead and 40 wounded (9/11 Commission Rept. 190).

v. According to an interrogation summary of Mr. Mohammad provided by the Government, the 9/11 attacks themselves involved only 35 persons (att. S).

w. In response to the embassy bombings, the United States indicted and tried four persons for their roles in the attack. All four were convicted under civilian statutes on 29 May 2001, and sentenced to life imprisonment later that year. *In re Terrorist Bombings of U.S. Embassies in East Africa*, 552 F.3d 93, 101-02 (2d Cir. 2008).

x. In a Presidential Radio Address (14 October 2000) occurring after the *Cole* attacks, the President acknowledged that the United States was not at war. Remarks of President Bill Clinton at the Memorial Service for the *U.S.S. Cole* in Norfolk, Virginia (18 October 2000) (att. T) (“Their tragic loss reminds us that *even when America is not at war*, the men and women of our military still risk their lives for peace. I am quite sure history will record in great detail our

triumphs in battle, but I regret that no one will ever be able to write a full account of the wars we never fought, the losses we never suffered, the tears we never shed because men and women like those who were on the *U.S.S. Cole* were standing guard for peace.”).

y. On 9/11 itself, President Bush announced his intention to bring the persons responsible for 9/11 “to justice” using “the full resources of our intelligence and law enforcement communities.” President George W. Bush, *Address to the Nation on the September 11 Attacks* (Sept. 11, 2001).

z. In December 2001, the Government indicted Zacarias Moussaoui in a civilian federal court under civilian statutes for conspiring to commit the 9/11 attacks. Mr. Moussaoui was convicted in federal court of the crime of conspiracy to commit acts of terrorism. *See United States v. Moussaoui*, 382 F.3d 453, 457 (4th Cir. 2004).

6. Law and Argument:

I. Standards

The charges against Mr. al Hawsawi are all specified in Subchapter VIII of the Military Commissions Act of 2009. Section 950b(c) of the Act provides that “[a]n offense specified in [subchapter VIII] is triable by military commission under this chapter *only if* the offense is committed in the context of and associated with hostilities.” (emphasis added). This language is jurisdictional on its face. The Military Commissions Act defines “hostilities” as “any conflict subject to the Law of War.” 10 U.S.C. § 948a(9). Thus, this Commission has jurisdiction only if the 9/11 attacks were part of a “conflict subject to the Law of War.”

Under the law of war more broadly, law of war commissions such as this one have jurisdiction to try only war crimes or breaches of certain military orders. *See Hamdan v.*

Rumsfeld, 548 U.S. 557, 597-98 (2006). Under the Principle of Legality,² moreover, the law of war cannot be redefined in the moment and made to apply retroactively, and war crimes tribunals do not have jurisdiction over cases created by the retroactive modification of the Law of War. See *Prosecutor v. Cerkez*, Decision on the Motion to Dismiss the Amended Indictment for Lack of Jurisdiction Based on the Limited Jurisdictional Reach of Articles 2 and 3, No. IT-95-14-T, 1999 WL 33916901, at ¶ 20 (Int'l Crim. Trib. for the Former Yugoslavia 1999) (acknowledging the Principle of Legality as limiting the Tribunal's jurisdiction to try war crimes, and doing so even though that principle is not specifically mentioned in the statute of the ICTY).

At the time of the events of September 11, 2001, the accepted standard for determining the existence of armed conflict (i.e., a conflict subject to the laws of war) in a war crimes tribunal was laid down in *Prosecutor v. Tadic*:

The test applied by the Appeals Chamber to the existence of an armed conflict for the purposes of the rules contained in Common Article 3 focuses on two aspects of a conflict; the intensity of the conflict and the organization of the parties to the conflict. In an armed conflict of an internal or mixed character, these closely related criteria are used solely for the purpose, as a minimum, of distinguishing an armed conflict from banditry, unorganized and short-lived insurrections, or *terrorist activities*, which are not subject to international humanitarian law.

Case No. IT-94-1-T-7, Judgment ¶ 562 (Int'l Crim. Trib. for the Former Yugoslavia 1997) (emphasis added); see also Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 1(2), June 8, 1977, 1125 U.N.T.S. 609 (provides that armed conflicts do not include "disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature.").

Thus, for the Law of War to apply to a conflict, that conflict must meet a minimum threshold based on its *intensity* and the *organization* of the parties; "sporadic" attacks and

“terrorism” do not trigger the laws of war. *See, e.g.*, U.S. Department of Defense Law of War Manual (2016), Section 3.4.2.2 (p. 83), *Distinguishing Armed Conflict From Internal Disturbances and Tensions* (“situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature do not amount to armed conflict.”).

The treaties establishing the Law of War provide no specific formula for determining whether a given act of violence exceeds the threshold. Therefore, the Commission should examine *custom*, that is, the practice of states before 9/11, to determine whether the conflict between al Qaeda and the United States exceeded that threshold before 9/11 itself. The law of war is defined by looking to the “‘universal agreement and practice’ both in this country and internationally.” *Hamdan*, 548 U.S. at 603 (quoting *Ex Parte Quirin*, 317 U.S. 1, 30 (1942)); *see also The Paquete Habana*, 175 U.S. 677, 711 (1900) (“[T]he laws of nations . . . rest[] upon the common consent of civilized communities. It is [in] force, not because it was prescribed by any superior power, but because it has been generally accepted as a rule of conduct.”); *Kadic v. Karadzic*, 70 F.3d 232, 238–39 (2d Cir. 1995) (“We find the norms of contemporary international law by ‘consulting the works of jurists, writing professedly on public law; or by the general usage and practice of nations; or by judicial decisions recognizing and enforcing that law.’” (citing *United States v. Smith*, 18 U.S. (5 Wheat.) 153, 160–61 (1820))); *United States v. Schultz*, 4. C.M.R. 104, 114 (C.M.A. 1952) (“[T]he common law of war has its source in the principles, customs, and usages of civilized nations”). Customary international law is “created and sustained by the constant and uniform practice of States and other subjects of international law. . . in circumstances which give rise to a legitimate expectation of similar conduct in the future.” International Law Association, Statement of Principles Applicable to the Formation of

General Customary International Law (2000), *quoted in* Barry E. Carter, Phillip R. Trimble, and Curtis A. Bradley, *International Law*, 120 (4th ed. 2003); *see also* Statute of the International Court of Justice, Art. 38. Consistent state practice is the most objective way to determine the meaning of an ambiguous treaty. *See Trial of the Major War Criminals before the International Military Tribunal, Nuremberg, 14 November 1945—1 October 1946*, vol. XXII, p. 557-59 (1948)) (acquitting Admiral Dönitz of breaching the international law of submarine warfare, in part by examining the practice of other states).

In *Hamdan v. Rumsfeld*, the Supreme Court examined the law of war and implicitly recognized that no one may be found guilty of war crimes based on actions taken before the beginning of hostilities. Thus, in questioning whether Hamdan's alleged five-year conspiracy was properly seen as a *war crime* (and thus within the jurisdiction of the Presidential tribunals at issue in that case), it noted that

All but two months of that more than 5-year-long period preceded the attacks of September 11, 2001, and the enactment of the AUMF—the Act of Congress on which the Government relies for exercise of its war powers and thus for its authority to convene military commissions. Neither the purported agreement with Usama bin Laden and others to commit war crimes, nor a single overt act, is alleged to have occurred in a theater of war or on any specified date after September 11, 2001. None of the overt acts that Hamdan is alleged to have committed violates the law of war. These facts alone cast doubt on the legality of the charge . . .

Hamdan v. Rumsfeld, 548 U.S. 557, 598-600 (2006).

II. State Practice Before 9/11 Demonstrates that the Law of War Did Not Apply to the Conflict Between al Qaeda and the United States, Either Before 9/11 Or On It

State practice prior to 9/11 strongly *disfavored* finding armed conflict between small (or even large) private groups, such as al Qaeda, and states. As a noted international law scholar wrote in 2004,

[U]ntil now, terrorist acts by private groups. . . have not customarily been viewed as creating armed conflicts. The United Kingdom stated when it ratified Additional Protocol I: “[i]t is not the understanding of the United Kingdom that the term ‘armed conflict’ of itself and in its context denotes a situation of a kind which is not constituted by the commission of ordinary crimes including acts of terrorism whether concerted or in isolation.” The British and Spanish campaigns against the Irish Republican Army (IRA) and Euskadi ta Askatasuna (ETA) have not been treated as armed conflicts under IHL [International Humanitarian Law].³

Marco Sassòli, *Use and Abuse of the Laws of War in the ‘War on Terrorism*, 22 *Law & Inequality* 195, 202 (2004), *citing, inter alia*, Leslie C. Green, *The Contemporary Law of Armed Conflict* 53-54 (I.M. Sinclair et al. ed., 1993) (“[A]cts of violence committed by private individuals or groups which are regarded as acts of terrorism. . . are outside the scope of ‘IHL’”). France made a similar reservation to Additional Protocol I, understanding that the term “armed conflict” did not apply to criminal acts including terrorism, whether concerted or in isolation. *See* France, Reservations and Declarations, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, para. 4 (4 April 2001).⁴ The French statement, and the British statement quoted above are in keeping with the practice of States before 9/11.

Thus, the Mau Mau rebellion involved over 10,000 fighters (versus the “few hundred” estimated al Qaeda members on 9/11), and its assault on Lari was carried out by thousands of men in contrast to the nineteen 9/11 hijackers (out of thirty-five involved persons in all). While

³ “Law of war,” “law of armed conflict,” and “international humanitarian law” are synonymous. *See* Chairman, Joint Chiefs of Staff, Instruction 5810.01D, *Implementation of the DoD Law of War Program*, para. 5a & n.1 (2010).

⁴ <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Notification.xsp?action=openDocument&documentId=D8041036B40EBC44C1256A34004897B2>.

the Mau Mau organization was limited due to rivalries between its commanders, it sustained combat operations for four years, killing and wounding over 4,000 persons, and sustaining over 10,000 deaths itself. Yet the British consistently treated the Mau Mau “emergency” as civil unrest rather than armed conflict, not only in word but indeed. They treated membership in the organization as a crime, arrested more Mau Mau than they killed or captured, and held large numbers of civilian trials (in which acquittals and reversals on appeal were common). Moreover, the British engaged in collective punishments, particularly the seizure of cattle, punishments only allowable *outside* the Law of War, as shown by a United Kingdom Law of War Manual from the same era. *See* 2 International Committee of the Red Cross, *Customary International Humanitarian Law* para. 3770 (2005), *quoting* United Kingdom, *Military Manual* § 647 (1958). Thus, although from its intensity and the organization of the Mau Mau themselves, the Mau Mau emergency resembled a war far more than al Qaeda’s conflict with the United States before 9/11, the British government nevertheless handled the Mau Mau under civilian criminal statutes.

The Red Brigades and Provisional Irish Republican Army were closer in size to al Qaeda before 9/11, reckoning their numbers in the hundreds. Both were as well organized as al Qaeda, and both maintained intense campaigns against the governments they opposed far longer than the three years that separate the embassy bombings and 9/11. Both also attacked far less sporadically than did Al Qaeda, with monthly, weekly, or even daily attacks. Yet both were outlawed by civilian statutes and prosecuted before civilian courts. In deciding how to treat these groups, governments steadfastly refused to treat them as political or military combatants.

Aum Shinrikyo’s conflict with Japan in some ways bears a closer resemblance to al Qaeda’s with the United States before the 9/11 events. It focused on a small number of

ambitious single attacks, injuring hundreds or thousands at a time, rather than a constant barrage of smaller attacks. Its attacks required only a few operatives, but did damage out of proportion to their numbers by matching the method of attack to the vulnerabilities of the targets. Aum Shinrikyo was two orders of magnitude larger than al Qaeda before 9/11, and it organized itself as a shadow government—indeed, its purpose was to replace the Government of Japan itself. Yet the Japanese Government never treated the Aum Shinrikyo attackers as anything but criminals, to be tried for murder and other crimes in civilian courts under civilian statutes, and hanged or imprisoned per civilian decisions.

These responses were typical worldwide—indeed, it was a common complaint among private armed groups that they were being treated as criminals rather than combatants.⁵ The United States itself followed this practice. Thus, L. Paul Bremer III, U.S. Ambassador at Large for Counterterrorism,⁶ in a 1993 book based on the proceedings of a 1989 conference, left no doubt about “an American perspective on the Western approach to counter-terrorism:”

⁵ “Members of the Irish Republican Army...called for many years for their members who had been imprisoned to be granted prisoner of war status; however, they were viewed only as ‘terrorists’ and dealt with under domestic legislation. Similarly, the Indonesian government...applied domestic criminal law when dealing with GAM members.” Noelle Higgins, *The Regulation of Non-State Actors: Promoting the Application of the Laws of War to Conflicts Involving National Liberation Movements*, Human Rights Brief, Fall 2009, at 12, 16. (Gerakan Aceh Merdeka, or GAM, was a separatist militia allegedly responsible for terrorist attacks such as a 2003 concert bombing on Sumatra.) See also Churchill Ewumbue-Monono, *Respect for International Humanitarian Law by Non-State Actors in Africa*, 88 International Review of the Red Cross 905, 921-22 (2006) (“The need to promote justice was also a strong argument used by the racist governments in southern Africa to justify their failure to respect members of liberation movements as having prisoner-of-war status, despite the special agreements by those movements to respect IHL . . . In Rhodesia, the Government of Ian Smith stated in January 1977 that it would not grant POW status to members of the various liberation movements . . . arguing that as Rhodesian citizens they were liable to legal prosecution and punishment by hanging for their terrorist acts”).

⁶ Paul Bremer served as U.S. Ambassador at Large for Counterterrorism from 1986-89. Att. J, p. 355.

Another important measure of our overall strategy is applying the rule of law to terrorists. Terrorists are criminals. They commit criminal actions like murder, kidnapping, and arson, and countries have laws to punish criminals. So we have sought to delegitimize terrorists, to get society to see them for what they are—criminals—and to use one democracy’s most potent tools, the rule of law, against them.

(att. J, p. 255, 258, 355). This approach characterized the American response to attacks by al Qaeda, both at least until 9/11, and to some extent even after it.

Thus, the United States responded to the bombing of its African embassies by obtaining indictments and conducting prosecutions under civilian law in federal court—prosecutions that ended in death sentences a few months before 9/11. The bombing of the U.S.S. *Cole* was less deadly than the embassy attacks, and did not cause an appreciable change in the U.S. posture towards Osama bin Laden or al Qaeda. On the day of the 9/11 attacks, the President spoke about bringing the perpetrators “to justice” by mobilizing “law enforcement” as well as intelligence assets—for those were the normal terms governments used about attackers they called terrorists. Then-Assistant Secretary of Defense Douglas Feith wrote afterwards in his memoir, *War and Decision*,

Early interagency discussions among lawyers clarified that the 1949 Geneva Conventions on the laws of war applied to conflicts between ‘High Contracting Parties’ to the Conventions – and al Qaeda was not such a party. I heard no one argue that the Conventions, as a matter of law, applied to America’s new conflict with al Qaeda. . .”

Douglas J. Feith, *War and Decision* 160 (2008) (att. U).

Indeed, the Government indicted its first 9/11 “conspirator,” Zacarias Moussaoui, in a federal civilian court three months *after* 9/11. Thus, the Government’s new doctrine—the one that converts the 9/11 attacks into an armed conflict subject to the laws of war—*was not in place* on 9/11 itself, but had to be invented afterwards.

In limiting the Commission's jurisdiction to "hostilities" to which the Law of War applies, Congress cannot have meant to assert new theories to fit a "State practice" that no government, including the United States, had practiced (or even preached) before the attacks. In fact, Congress explicitly recognized the importance of *not* trying the detainees based on any novel theory of criminality: the MCA asserts that detainees may be tried for the crimes defined in that Act because these were *traditionally* triable "under the law of war."⁷ Furthermore, federal statutes "ought never to be construed to violate the law of nations, if any other possible construction remains." *The Charming Betsy*, 6 U.S. 64, 118 (1804), *cited in United States v. Yunis*, 924 F.2d 1086, 1091 (D.C. Cir. 1991) Since, as noted above, international law prohibits retroactive changes to the Law of War, Congress should not be read to have intended to violate that prohibition here. Accordingly, to "retrofit" the MCA with any post-9/11 Law of War theory runs afoul of congressional intent and customary international law itself.⁸

⁷ See 10 U.S.C. § 950p(d) ("Because the provisions of this subchapter codify offenses that have traditionally been triable under the law of war... this subchapter does not preclude trial for offenses that occurred before the date of the enactment of this subchapter...") The MCA also claims that it codifies offenses that have traditionally been triable by military commission, but this amounts to the same thing, because "law of war violations" constitute the only legally cognizable basis for trying Guantanamo detainees by military commission. See *Hamdan v. Rumsfeld*, 548 U.S. 557, 597 (2006). And such violations are only triable by commission if committed *during* the war, i.e., during the period when the law of war applies. See *id.* at 598. Thus, later events – such as the U.S. war in Afghanistan – cannot "reach back" to 9/11 to make the law of war apply.

⁸ Mr. al Hawsawi is also protected against *ex post facto* laws by the U.S. Constitution and Common Article 3 of the Geneva Conventions of 1949. The Constitutional prohibition is categorical and is not limited to actions against U.S. residents or citizens; it applies to this Commission. See American Law Institute, Restatement (Third) of the Foreign Relations Law of the United States § 722 (1987) ("An alien in the United States is entitled to the guarantees of the United States Constitution other than those expressly reserved for citizens"); *Boumediene v. Bush*, 553 U.S. 723, 743 (2008) (foreign nationals litigating in U.S. courts enjoy Constitutional protections if they protect *persons* as well as citizens; this includes substantive protections such as due process and structural guarantees such as separation of powers). See *Hamdan v. Rumsfeld*, 548 U.S. 557, 632-33, 645 (2006) (Common Article 3 forbids "the passing of

Thus, in defining “hostilities” as actions “subject to the laws of war,” Congress expressed its intent to apply the laws of war *as they actually are*. This stance continued with the 2009 Military Commissions Act, the purpose of which was to try to bring the military commissions in line with constitutional and international law.⁹ By recognizing that the 9/11 attacks were not “hostilities,” and dismissing on that basis, the Commission will be complying with the intent of Congress as well as Constitutional and international law.

III. Conclusion

The Commission should dismiss the case for lack of jurisdiction due to the absence of hostilities.

7. Request for Oral Argument: The Defense requests oral argument. RMC 905(h).

8. Witnesses: None.

sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples”; “regularly constituted courts” must give the same protections given to a country’s servicemembers at court martial); *see, e.g., United States v. Gorski*, 47 M.J. 370, 373 (C.M.A. 1997), *United States v. Lilly*, 34 M.J. 670, 676 (A.C.M.R. 1992) (applying U.S. Constitution’s prohibition on ex post facto laws to court-martial proceedings).

⁹ “In its 2006 decision in the *Hamdan* case, the Supreme Court held that Common Article 3 of the Geneva Conventions applies to the Guantanamo detainees... The Military Commissions Act of 2009 is intended to meet the standard imposed by the Supreme Court’s ruling in *Hamdan* and should help ensure that convictions obtained through military commissions will hold up on appeal and will be perceived as fair by the American public and by the rest of the world.” Senator Carl Levin, Chairman, Senate Armed Services Committee, 155 Cong. Rec. S10663-02, S10664 (Oct. 22, 2009) (remarks on introduction of the Military Commissions Act of 2009); *see also* Conference Report on H.R. 2647, National Defense Authorization Act for Fiscal Year 2010, 155 Cong. Rec. H10561-01, H10858 (Oct. 7, 2009) (in discussing the MCA and considering whether a constitutional provision applied to the Guantanamo detainees, the conferees “encourage[d] the Secretary of Defense to give appropriate consideration to this decision in light of Common Article 3 of the Geneva Conventions, which requires that military commissions afford ‘all of the judicial guarantees which are recognized as indispensable by civilized peoples.’”). Defining “hostilities” in conformance with customary international law – as the 2006 MCA failed to do – is part and parcel of the 2009 MCA’s effort to comply with Common Article 3.

9. **Conference with Opposing Counsel:** The Prosecution opposes the motion as to the morning session of the 25th of January 2017.

10. **Attachments:**

- A. Certificate of Service;
- B. Extract from Sean Anderson & Stephen Sloan, *Historical Dictionary of Terrorism* (3d ed. 2009).
- C. Extract from David Anderson, *Histories of the Hanged: The Dirty War in Kenya and the End of Empire* (2005).
- D. Extract from Fred Majdalany, *State of Emergency* (1963).
- E. Extract from Thomas R. Mockaitis, *British Counterinsurgency in the Post-Imperial Era* (1995)
- F. Extract from Martha Crenshaw, *The Persistence of I.R.A. Terrorism*, in *Terrorism in Ireland* (Yonah Alexander and Alan O'Day, eds., 1984)
- G. Extract from Benedetta Berti, *Armed Political Organizations: From Conflict to Integration* (2013)
- H. Extract from Brian A. Jackson, *Provisional Irish Republican Army*, in *Aptitude for Destruction: Vol. 2, Case Studies of Organizational Learning in Five Terrorist Groups* (2005)
- I. Extract from Malcolm Sutton, *Bear in Mind These Dead: An Index of Deaths from the Conflict in Ireland 1969-1983* (1994)
- J. Extracts from David Bonner, *The United Kingdom's Response to Terrorism*, and L. Paul Bremer, III, *The West's Counter-Terrorist Strategy*, in *Western Responses to Terrorism* (Alex P. Schmid and Ronald D. Crelinstein, eds. 1993)
- K. Extract from Phil Scraton, foreword to Feargal Mac Ionnrachtaigh, *Language, Resistance, and Revival: Republican Prisoners and the Irish Language in the North of Ireland* (2013)
- L. Extract from Peter R. Neumann, *Britain's Long War: British Strategy in the Northern Ireland Conflict, 1969-98* (2003)

- M. Paul J. Smith, *The Italian Red Brigades (1969-1984): Political Revolution and Threats to the State*, in *Armed Groups: Studies in National Security, Counterterrorism, and Counterinsurgency* (Jeffrey H. Norwitz, ed., 2008).
- N. Extracts from Robert C. Meade, Jr., *Red Brigades: The Story of Italian Terrorism* (1990)
- O. Charles Ridley, *Mass Trial of Italian Red Brigades Ends in Acquittal*, UPI (Oct. 13, 1989), <http://www.upi.com/Archives/1989/10/13/Mass-trial-of-Italian-Red-Brigades-ends-in-acquittal/1471624254400/>
- P. Extracts from Anthony T. Tu, *Chemical Terrorism: Horrors in Tokyo Subway and Matsumoto City* (2002)
- Q. Jun Hongo, *Last Trial Brings Dark Aum Era to End*, Japan Times, Nov. 22, 2011, <http://www.japantimes.co.jp/news/2011/11/22/reference/last-trial-brings-dark-aum-era-to-end/>
- R. Tomohiro Osaki, *Ex-Aum Shinrikyo Member Katsuya Takahashi Gets Life in Prison Over 1995 Sarin Attack*, Japan Times, Apr. 30, 2015, <http://www.japantimes.co.jp/news/2015/04/30/national/crime-legal/aum-driver-takahashi-gets-life-term-role-95-sarin-attack-tokyo-subway/>
- S. [REDACTED]
- T. Remarks of President Bill Clinton at the Memorial Service for the *U.S.S. Cole* in Norfolk, Virginia (18 October 2000)

U. Extract from Douglas J. Feith, *War and Decision: Inside the Pentagon at the Dawn of the War on Terrorism* (2008)

//s//
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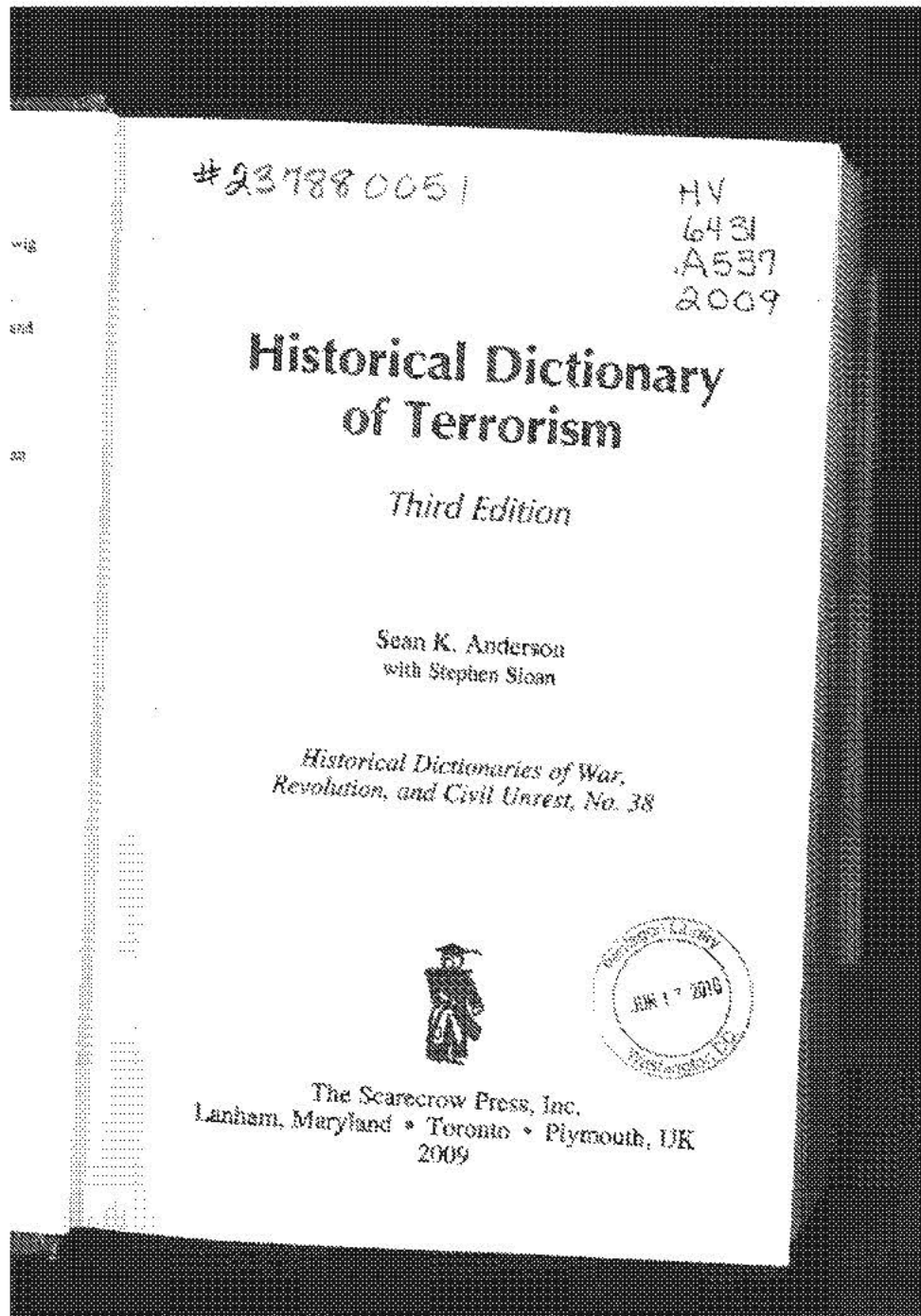
A

CERTIFICATE OF SERVICE

I certify that on 3 February 2017, I caused to be electronically filed **AE 488(MAH)**,
Defense Motion to Dismiss for Lack of Subject Matter Jurisdiction Due to Absence of
Hostilities, with the Clerk of the Court and caused the same to be served on all counsel of record
by e-mail.

 //s//
WALTER B. RUIZ
Learned Counsel for Mr. Hawsawi

B



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convictions could bar refugee status unless the supposed offenses were not recognized as criminal by the state granting asylum. During the 1990s the threats of sexual exploitation, discrimination based on sexual orientation, and genital mutilation have also gained ground in some Western nations as legitimate grounds for those seeking asylum.

ASYMMETRIC WARFARE. This refers to warfare, insurgency, or terrorism conducted by weak opponents against opponents having advantages of strength in numbers, hardware, and technology in which the weaker opponent seeks to outwit or defeat the stronger opponent by lucid and incisive use of tactics and strategy, resourcefulness, patience and determination, and disregard for conventions of "fair" fighting and warfare.

Asymmetric warfare is also often referred to as fourth-generation warfare. To put this into perspective, the several generations of warfare are reviewed here: First-generation warfare is essentially warfare by attrition of the enemy's force. Second-generation warfare involves maneuvers to use better and faster troops and weapons against potentially larger forces. Third-generation warfare involves better use of command, communications, control, and intelligence using psychological operations, and the "soft" power of technology to overcome the "hard" power of an enemy's troops and weapons. Beyond the fourth generation of asymmetric warfare, there is a fifth-generation model derived from Maoist insurgency doctrine in which propaganda, or information-based warfare, is joined with high technology to demoralize a targeted vulnerable government or set of institutions. An example of this is Sendero Luminoso's use of armed propaganda to undermine the morale and legitimacy of the Peruvian government.

AUM SHINKIKYO (AUM). The Aum Supreme Truth group is an apocalyptic doomsday cult founded by Shoko Asahara that was responsible for the Tokyo subway gas attack using sarin nerve gas on 20 March 1995. Asahara, originally named Matsumoto Chozuo, was born in February 1955 and attended a special school for the blind from which he graduated in 1975. In 1982 he was arrested for selling a counterfeit medicine that he claimed was merely officially unapproved. In 1984 he established his group, originally named Aum Shinzen No Kai and changed his name to Shoko Asahara. After go-

ing to India in 1986 to study yoga and Tantric mysticism, Asahara returned to Japan in 1987 and changed the group's name to Aum Shinrikyo; it received official recognition as a religion in August 1989, giving it tax-exempt status.

The Aum is an eclectic synthesis of Hindu mysticism, Christian millennialist and apocalyptic beliefs derived from the book of Revelation, and prophecies taken from the writings of Nostradamus. Asahara was regarded as Christ by his followers, who he claimed numbered about 40,000 worldwide, with 9,000 in Japan alone by the time the Tokyo subway sarin gas attack took place. Asahara claimed to have revelations of an imminent world war that would initiate Armageddon, in which his group would fight and overcome the enemies of Japan, including the United States. Asahara commanded his followers to begin trying to procure nuclear, biological, and chemical weapons of mass destruction to be able to fight and win the coming prophesied war.

In November 1989 Tsutsumi Sakamoto, a lawyer investigating allegations of brainwashing on behalf of concerned family members of cult members, was murdered, along with his wife and infant son, by the Aum members. Asahara and 24 of his followers ran for seats in the Japanese House of Deputies in February 1990 but none of them won a seat. The murder of Sakamoto combined with this electoral failure convinced Asahara that the Japanese government was conspiring against him. A siege mentality prevailed in the group, leading it to carry out the sarin gas attack to paralyze the national police headquarters by introducing the gas into the police offices from the subway tunnels running under that building.

Prior to the 20 March 1995 sarin gas attack on the Tokyo subway system, the Aum group had attempted on nine occasions to deploy botulinum poison via airborne dispensers against targets as varied as the Japanese Diet, the Imperial Palace complex, and housing on U.S. military bases in Japan, without causing even one casualty. After testing the use of its homemade sarin against the Japanese city of Matsumoto on 27 June 1994, killing seven civilians and injuring 150, the sect then deployed the gas in the Tokyo subway system. Until the Tokyo attacks, the Matsumoto authorities had believed the deaths and sicknesses had been the result of some sort of food poisoning epidemic.

Following the subway gas attack on 20 March 1995, in which 12 people died and more than 5,000 were injured, Asahara was arrested

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on 16 May 1995, while found hiding in a cubbyhole in one of his group's properties. With the arrest of Asahara and 400 of his followers, who faced charges ranging from kidnapping, to illegal production of drugs and weapons, to murder, the Japanese government moved to ban the sect under the Anti-Subversive Law in December 1995. Despite the ban, the sect continued to recruit new members and operate in Japan and abroad in Taiwan. The government decision to ban the group was overturned in January 1997 on the grounds that the cult posed no further danger to society, but it had lost its tax-exempt status in October 1995.

On 28 March 1996 the Tokyo District Court declared Aum Shinrikyo bankrupt as a result of the expenses for the defense of Asahara and his followers on criminal charges and also from the effects of the civil lawsuits filed by those who lost family members or who had suffered disabilities from the subway sarin gas attack. In 1997 the United States declared Aum Shinrikyo a Foreign Terrorist Organization pursuant to the Antiterrorism and Effective Death Penalty Act of 1996. Shoko Asahara and 104 of his followers were tried on several charges arising from the sarin gas attack, the murders of cult members and enemies, and other cult-related activities. In February 2000 the acting leader of the group, Fumihiko Joju, declared that the group, which had changed its name to Aleph, was reorganizing itself. In the following months Aleph publicly distanced itself from Asahara and the sarin gas attack.

On 27 February 2004 Shoko Asahara was convicted for the murders of 12 people killed in the Tokyo subway gas attack and also for the deaths of 13 other people, including cult members and cult opponents whom he had ordered murdered, and was condemned to death. On 16 September 2006 the Supreme Court of Japan upheld the death sentence against Asahara. The previous day, about 250 Public Security Intelligence Agency officers raided 25 of the cult's offices around the country to preempt any violent reaction to the pending news from the Supreme Court. Prior to Asahara's sentencing, 11 other cult members had also been convicted and sentenced to hang for the sarin gas attacks and other murders.

By late 2006 the renamed Aum Shinrikyo cult had dwindled to about 1,650 members in 13 locations throughout Japan and had about 300 followers in Russia. While the current cult leader, Fumihiko Joju, claimed that the cult, now known as Aleph, had renounced violence

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Thatcher and a vocal critic of Irish republican terrorists, by a bomb rigged inside his car, which detonated within the underground parking garage of Westminster Palace. On 17 April 1979 the INLA killed four members of the Royal Ulster Constabulary with a remote-control bomb, the most severe blow ever inflicted on the Ulster police unit then. The INLA then proceeded with a campaign of killing Ulster prison guards as well as British and Ulster undercover operatives. From November 1979 until September 1986 the INLA carried out three successful bombings and at least two other attempts. The worst of these occurred on 6 December 1982, when the INLA bombed a nightclub in Ballykelly, killing 17 people (11 of them soldiers) and injuring 66 others. From January to June 1987, the INLA reverted to internecine fighting, killing at least 12 of its veterans before members of other republican groups negotiated a truce among the surviving INLA members. On 27 December 1998 three INLA inmates of the Maze Prison murdered Loyalist Volunteer Force leader Billy Wright. This prompted Ulster Protestant paramilitaries to retaliate against Catholics, leading in turn to the INLA assassination of Ulster Defence Association official Jim Guiney, which jeopardized the peace process in Northern Ireland.

During the IRA's 1994 cease-fire, the INLA did not declare a cease-fire but rather declared a "no-first-strike" policy. Following the 1998 Good Friday Agreement, the INLA declared its own cease-fire on 22 August 1998. The INLA has been responsible for killing about 125 people during its existence, 46 of whom were members of the British security forces, 42 civilians, two members of the Irish national police, seven members of loyalist paramilitaries, 10 its own members and six members of rival republican groups. The INLA claims to have lost 33 of its own members in the Northern Ireland conflict. While the INLA remains a proscribed group in Great Britain, it is not listed as a Foreign Terrorist Organization by the U.S. State Department. See also GUILT TRANSFER.

IRISH REPUBLICAN ARMY (IRA). The name of the IRA has been used loosely to refer to the Irish National Liberation Army, the Official Irish Republican Army, the Provisional Irish Republican Army, and other Irish republican or nationalist splinter groups. In reality, the group known as the Provisional Irish Republican Army (PIRA) is the main body of the IRA. Historically the name was used first by James

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Connolly to designate the nationalist forces used in the Dublin Easter Rebellion of 1916. Following the creation of the Irish Free State in 1922, the IRA split. The new Irish state turned the members of the IRA loyal to the new government into the national army of the Free State. The remaining IRA faction, made up of members opposed to the partition of Ireland and who refused to obey the Free State government, was proscribed and repressed. Various IRA splinter groups that have rejected their leadership's accommodation to the 1998 political settlement have pursued violence on their own and have taken names such as the Continuity IRA, the Real IRA (also called the True IRA), and the 32 County Sovereignty Committee, but the followings and arms held by these groups are negligible. The U.S. government in 2001 designated these factions as Foreign Terrorist Organizations, thus forbidding U.S. citizens from giving material aid to these groups.

The IRA began a bombing campaign in Great Britain during most of 1939 and the early part of 1940, striking more than 50 targets in London, Manchester, Glasgow, and Birmingham. The Irish government again banned the IRA in 1939, cooperating with the British in suppressing the group. From 1955 to 1962, the IRA unleashed a "border campaign" directed against the Royal Ulster Constabulary, which again was suppressed through official Anglo-Irish cooperation.

Following the 50th anniversary of the Easter Rebellion, militant Ulster Protestant harassment of Catholics in Northern Ireland increased from 1967 onward. This prompted nationalist political organizers to form a Northern Ireland Civil Rights Association, which organized marches and protests even in Protestant neighborhoods. The IRA provided escorts for these marches but lacked sufficient arms to fend off arson attacks by militant Protestants against the homes and businesses of Catholics.

Disagreements within the IRA over its increasingly Marxist political character led to its effective reorganization in 1969 under the name of the Provisional Irish Republican Army (PIRA), the "Provos," which maintained that its primary goal was not civil rights for Catholics in a separate Northern Ireland nor some sort of socialist state, but rather unification of Ireland by force even against the wishes of the Protestant majority in the north, and that the primary means to achieve this goal was armed struggle rather than political negotiation. The PIRA is in fact the IRA that continued the armed struggle from 1969 to 1998. The original organization from which the current IRA split

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became known as the Official Irish Republican Army (OIRA). The OIRA and the PIRA competed with each other and sometimes feuded in gun battles with each other when each was not fighting the British army or Protestant paramilitary groups. In 1972, however, the OIRA officially renounced armed struggle and renamed itself the Workers' Party, competing openly in electoral politics in both Northern Ireland and the Republic of Ireland. With the end of the OIRA, the name IRA came to designate the successor PIRA groups.

In reality, the memberships of the OIRA and the post-1972 IRA often overlapped. In an attempt to prevent its members from using OIRA arms in IRA operations, OIRA in effect expelled its more radical nationalist members in 1974. These radicals, who believed in armed struggle, in turn formed the Irish National Liberation Army (INLA), a group at least as violent as the PIRA but also possessing the extreme Marxist-Leninist ideology that had come to characterize the OIRA.

The pre-1972 IRA had maintained a political front known as Sinn Féin (Irish Gaelic: "Ourselves Alone"). With the reactivation of the IRA in 1969, the Sinn Féin party officially disavowed any connection with the IRA, a tactic that allowed the IRA a legal front and the option of resorting to negotiations if expedient. With the emergence of the PIRA, a Provisional Sinn Féin came into existence alongside the Sinn Féin associated with the OIRA. Once the OIRA renounced armed struggle, there was no longer the need for the pretense of a separate political front, and so since 1972 the name Sinn Féin has referred only to the political front of the post-1972 IRA. The INLA also had as its associated political front the Irish Republican Socialist Party. When organizers of this party found that the INLA, which they had viewed as their party's military wing, was unwilling to submit itself to control by the party, they dissociated themselves from the INLA, which then operated without any political front group.

Despite the historical discontinuity between the pre-1969 IRA and the PIRA, most references to the IRA in public discussion and news reports deal mainly with the PIRA, which is therefore the *de facto* IRA; all other republican or nationalist paramilitaries are merely marginal splinter groups or factions.

The IRA is the main Irish nationalist paramilitary and terrorist organization that until April 1998 sought to reunite the six counties of Northern Ireland with the rest of Ireland into an "Irish Socialist Republic" primarily by revolutionary armed struggle rather than

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through political or diplomatic means. As the IRA's approximately 1,500 members were quite outnumbered by the Northern Irish police together with regular British forces and security forces in Northern Ireland, the IRA resorted heavily to terrorism aimed at inflicting maximum casualties and targeted civilians as well as military personnel.

The most active period of IRA terrorism began in 1968 with covert aid, including arms, from the Irish Republic during the Uistis Fall government of Prime Minister Jack Lynch. Later Irish governments decided from covert support and took steps to intercept arms destined for the IRA being shipped through Irish territory. Libya provided arms and financial help intermittently, shipping five tons of arms from Tripoli on the *Claudia* that were seized by the Irish navy on 26 March 1973. This shipment was followed by a shipment of 150 tons of Libyan weapons, including Czech-made Sertox explosives, aboard the *Elmud*, seized by French customs and police on 1 November 1987. The revolutionary governments of Iran and Algeria also aided the IRA. The IRA developed contacts with the Basque Fatherland and Liberty group and the Popular Front for the Liberation of Palestine, as well as the Revolutionary Cells based in Germany. However, most of the IRA's revenues came from within the Irish community, through extortion and protection payments among the Irish Catholic communities in the northern six counties, bank robberies in both Northern Ireland and the Republic, and through appeals for donations from people of Catholic Irish descent living in the United States and elsewhere, often through front organizations such as NORAD (the Irish Northern Aid Committee). On 29 September 1984, the Irish navy seized seven tons of arms on the trawler *Martin Ann* offloaded from a ship that had transported them from the United States.

IRA terrorism had several objectives. It was intended to raise to unacceptable levels the economic and political costs to Great Britain of maintaining troops in Northern Ireland. It sought to provoke British and Northern Irish military and police forces to violate the human and civil rights of IRA suspects or of ordinary Catholics in the hope that such abuses in turn would outrage Great Britain's domestic civil libertarians and excite international condemnation. It was meant also to mobilize forcibly into the struggle the Northern Irish Catholics over whom the IRA asserted its jurisdiction. This entailed summary punishments against Catholics who themselves did not agree with the IRA political program or who were suspected of cooperating with

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Northern Irish and British authorities, by means of kidnappings, summary executions, and threats against family members. In later years the IRA developed the tactic of using exposed informers as suicide bombers driving car bombs into Northern Irish police and British troops. The suicide driver was usually a married man with family who was told that his family would be murdered if he did not cooperate. Such a suicide car bomber killed himself and five soldiers in an attack on a Londonderry checkpoint on 24 October 1990.

The primary targets of the IRA have been British army troops, Northern Irish security forces, judicial officials, prison wardens and guards, and members of Ulster Protestant political parties and militias. Most attacks have been carried out in Northern Ireland, with some attacks against British targets in the Irish Republic and many more attacks in England. From 1969 to 2001, according to Malcolm Sutton's research, direct killings by the IRA had reached a total of 1,707 out of a total of 3,524 people directly killed by the conflict in Northern Ireland. All told, approximately 30,000 people were maimed or received nonfatal injuries in the conflict, of whom about 20,000 were civilians.

A few of the more notable actions of the IRA include the following. On 21 July 1972, "Bloody Friday," the IRA conducted 22 bombings in Belfast, killing 11 and injuring about 100. During September 1973 the IRA bombed the London Stock Exchange, the British House of Commons, the Bank of England, the London subway, and several shopping areas. On 21 November 1974, the IRA bombed two pubs in Birmingham, England, killing 21 and injuring around 120. On 21 July 1976 the IRA assassinated Christopher Ewart-Briggs, British Ambassador in Ireland, by destroying his vehicle with a land mine. On 27 August 1979 the IRA assassinated Louis, Earl Mountbatten by bombing his yacht, killing three others with him. On 20 July 1982 the IRA set off two radio-controlled bombs in London, the first striking a detachment of the Queen's Household Cavalry passing through Hyde Park, killing four soldiers, and the other bomb killing seven members of the Royal Green Jackets, a military band, in Regent's Park. On 17 December 1983 the IRA car-bombed Harrod's department store in London, killing five (including one American) and injuring 80 others. On 12 October 1984 the IRA bombed the hotel holding the British Conservative Party conference in Brighton, England, killing one cabinet member and three other people and injuring 32 others. Prime Minister Margaret Thatcher

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would have been killed had she not moved into a different room just minutes before the bomb detonated. On 8 November 1987 the IRA bombed a Remembrance Day ceremony in Enniskillen, County Fermanagh, killing 11 people and injuring 63 others.

In 1990 the IRA began to carry out more attacks in England, including two shootings and two bombings, one of which killed Conservative Member of Parliament Ian Gow on 30 July 1990. On 7 February 1991 the IRA carried out a mortar attack against the British prime minister's office-residence at No. 10 Downing Street while Prime Minister John Major was consulting there with senior members of his cabinet. During 1991 the IRA also carried out numerous bombings throughout Britain, including a 2,000-pound bomb that was exploded outside a police station in Northern Ireland. In addition, the IRA has conducted five major attacks on British army bases in Europe, including a thwarted attack on 6 March 1988 directed at British military facilities in Gibraltar.

The IRA terror campaign led to unintended results that may have made its goal of unification of Ireland more remote. First, the bitterness of the terrorist war being waged by the IRA and other nationalist or republican groups, by the Ulster Protestant militias, and by the British forces exacerbated the communal and sectarian tensions to the extent that the majority of Ulster Protestants might have preferred to opt for a separate Ulster republic rather than consent to unification with the south had Britain decided to withdraw from Northern Ireland. Second, the terror campaign against British targets in England, and particularly the attacks on the prime minister, members of parliament, and Lord Mountbatten hardened both public and official British attitudes toward the Irish nationalists and republicans and strengthened their resolve not to retreat from Northern Ireland. Third, the terror campaign transformed the nationalist struggle from being a mass movement for civil rights into an insidious war of counterintelligence and covert operations in which ordinary civilians became little more than victims and pawns and which stifled open political participation.

While the original IRA conceived itself to be a true army, and organized itself accordingly with general orders and a hierarchical command structure, the modern IRA was forced to adopt a cellular structure in the 1970s to prevent the penetration and subversion of the organization by British agents. Beginning in 1981 the British resorted to the supergrass tactic of turning a captured terrorist, facing substantial charges,

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into a prosecution witness with immunity from prosecution for his own crimes if he would denounce several of his erstwhile colleagues. This system used trials without juries and the uncorroborated testimony of a single witness to effect scores of convictions. While many of these convictions were overturned on appeal, the tactic sowed much distrust and internal discord within the targeted republican and loyalist terrorist groups and hampered their efficiency.

Although previous IRA terrorist campaigns, such as that which erupted in the Irish civil war of 1922-1923 or the "Border Campaign" of 1956-1962, eventually spent themselves out, there was one important difference between those former campaigns and the 1969-1998 conflict. In the earlier cases the IRA had targeted the government of the Republic of Ireland as well as the government of Northern Ireland, with the result that authorities on both sides of the border cooperated in suppressing IRA terrorism. At the beginning of the civil rights campaign in 1968, a tacit accord appeared to exist between the Irish Republic and the IRA to the effect that the IRA would not target the Irish Republic so long as the Republic did not cooperate with the Northern Irish authorities in their efforts to stem nationalist republican terrorists. General Order No. 8 of the IRA official handbook, the *Green Book*, prohibited IRA members from "any military action against 26 County [sic] forces under any circumstances whatsoever." Although the Irish Republic began in the mid-1970s to intercept arms shipments destined for the IRA and attempted to dissuade the Libyan government from supporting the IRA, successive Irish governments generally avoided vigorous prosecution and internment of IRA activists within the Republic.

The recent peace process in Northern Ireland dates back to the 15 November 1985 Anglo-Irish Accord in which the governments of Great Britain and the Republic of Ireland agreed that no change in the status of Northern Ireland would be imposed that did not regard the wishes of the majority of the people of Northern Ireland. In January 1989 a political dialogue began between the major legal political parties in Northern Ireland, including the Social Democratic Labour Party representing Catholic citizens, and later was expanded to include participation by the governments of Great Britain and the Republic of Ireland, as well as the United States as a mediator in the conflict. By November 1993 Sinn Féin was granted admission to these negotiations conditioned upon the cessation of IRA violence.

and norms of liberal democracy at the same time that they would begin to have their own political demands. However, empirical studies by Lynn Less and Charles Titley and others indicate that those people who are securely members of primary and secondary social groups are more likely to become actively recruited into organized political activism than those who are socially isolated, a view known as the *social network recruitment theory*. The empirical studies of Sydney Verba and Norman Nie also indicate that political participation tends to be correlated more with higher than with lower socioeconomic status, so one would expect that political extremism would be less likely to be found in the social underclasses of "mass society."

Another implication of mass society theory that appears to be empirically false is the notion, best articulated by Samuel P. Huntington, that institutions and organizations having modern attributes of adaptability, complexity, autonomy, and coherence would effectively channel the growing demands of increasingly politically mobilized masses into constructive engagement with civil society rather than violent confrontation. Yet if one considers such organizations as the Irish Republican Army (IRA) or the Palestine Liberation Organization (PLO), they have many of these attributes of modern political organizations but have nonetheless carried out campaigns of political violence and terrorism targeting the civil societies in which their followers live. In these cases it is not an inchoate mass society but rather highly closed, hierarchically organized, and ideologically motivated organizations that have been responsible for civil unrest and violence.

MAU MAU. The Mau Mau were gangs originally deployed by the Kikuyu Central Association of tribesmen in Kenya to drive British settlers off Kikuyu lands but which became part of the overall anti-colonial Kenyan independence movement. The Mau Mau were active from September 1952 to October 1956, attacking and killing British settlers as well as burning their crops, slaughtering their cattle, and destroying the huts of African tenants on British farms. Remnants of the Mau Mau continued sporadic attacks as late as 1962.

Following the first attacks, the British administration declared a state of emergency on 22 October 1952 and imprisoned Jomo Kenyatta (1889-1978) in 1953 as the suspected leader of the Mau Mau. By the end of 1953, more than 1,000 rebels had been killed, and by

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the end of 1956 some 10,527 rebels had been killed, 2,633 captured, and another 26,625 arrested, while 2,714 of the Mau Mau surrendered. Meanwhile the colonial authorities detained about 50,000 passive supporters of the Mau Mau, although some have claimed that the real figure was from 70,000 to more than 100,000 detained. Of the security forces that were killed, about 534 were Africans, 63 were Europeans, and three were Asians. Of the security forces that were wounded, about 615 were Africans, 102 were Europeans, and 12 were Asians. Of the civilians killed, about 1,826 were Africans, 32 were Europeans, and 26 were Asians. Of those civilians who were injured, about 918 were Africans, 26 were Europeans, and 26 were Asians. Although the British security forces effectively crushed the Mau Mau militarily, the backlash of British public opinion due to perceptions of military ineffectiveness or excessive brutality on the part of the colonial administrators undercut popular support among the British public for the continued colonial administration of Kenya. From 1956 onward, British authorities granted many of the demands of the Kikuyu Central Association regarding their titles to agricultural lands and their rights to cultivate coffee, paving the road for Kenyan independence in 1963.

The power of the Mau Mau lay not so much in their material strength, for they seldom had more than 500 firearms, but rather in the psychic hold that the Kikuyu leaders wielded over followers and supporters by means of magical oaths whose violation threatened supernatural terrors against the oath breaker. The Mau Mau obtained weapons by theft from the police, and local Africans were forced to contribute funds to support the group. Most Mau Mau actually used farm tools at hand, such as machetes, rather than firearms when carrying out their attacks.

The Mau Mau suffered a severe blow with the capture on 15 January 1954 of "General" Waruhiu Itote, one of the key Kikuyu leaders, who later cooperated with British authorities. The capture on 21 October 1956 of the other key leader, "Field Marshal" Dedan Kimathi, who was later hanged in 1957, effectively destroyed the organization. Jomo Kenyatta was released from prison in 1961 and became prime minister of Kenya upon its independence in 1963.

In July 1997, following a Kenyan police crackdown on antigovernment protesters, 300 members of a Kikuyu group known as the Kikuyu, Embu and Meru Association (KEMA) met in Thika, 30

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destroyed the new women's prison under construction in Wietersnadi. On 27 June 1993 German police arrested RAF member Brigit Hagedfeld and shot to death Wolfgang Grams, who was resisting arrest. On 16 September 1999 Austrian police shot and killed Horst Ludwig Meyer, who was one of five suspected members of the RAF at large and unaccounted for, near Vienna.

Although this group was estimated to have had only 10 to 20 actual fighters at any given time, it succeeded in creating a support network of hundreds of Germans, many of whom were well-educated professionals. The RAF had also succeeded in perpetuating itself through two generations of leadership, which gave it a longevity that few other anarchistic leftist terrorist groups achieved. However, on 20 April 1998 a final memorandum sent to the Reuters news agency confirmed that the remaining members of the group had dissolved their organization and that they and their cause had now "become history."

RED ARMY FOR THE LIBERATION OF CATALONIA (ERCA).

The Ejército Rojo Catalán de Liberación is believed to have been a Marxist-Leninist offshoot of the Terra Lliure Catalan separatist movement. As such it shared with Terra Lliure the ethnonationalist goal of reconstituting an independent Catalan homeland in Catalonia, which would embrace also the Spanish provinces of Valencia and the Balearic Isles as well as the French province of Roussillon.

During 1987 ERCA bombed several U.S. targets in Barcelona. On 13 May the General Electric office was bombed, causing no injuries. On 14 October the U.S. consulate general was bombed, injuring eight Spaniards. On 26 December a youth lobbed two grenades of Danish manufacture into a United Service Organizations (USO) club, killing one U.S. serviceman and injuring five other servicemen as well as three bystanders. This group is believed to be defunct.

RED BRIGADES (BR). The Brigade Rosse was a group of Italian anarchistic leftist terrorists founded in 1970 and active from 18 April 1974 until 23 April 1988. The BR adopted parallel political and military organizations: The national structure was made up of a Strategic Directorate and Executive Committee, under which there was a Column Command. The "columns" were modeled after the Italian partisans of World War II and each column was responsible for specific areas, usually one per major city, and each was to be self-sufficient and compartmentalized, with a six-member director

ate and four-member "brigades" to conduct political organizing among workers, students, and low-income neighborhoods. To handle specialized problems, each column had "fronts," such as a logistical front to find safe houses, procure fake identification cards, and carry out bank holdups; a counter-revolution front to spy on the police; and a prison front to maintain contacts with imprisoned comrades and help them escape. The organization had permanent militants, which included all who were wanted by the police and had gone underground as well as those militants who were not yet known to the police and who often continued to hold ordinary jobs. The occasional militants were those who lived a normal life but served as a support network for the permanent militants.

The BR operated by campaigns that consisted of concentrated and coordinated actions to achieve goals set by the Strategic Directorate: columns and fronts would decide on appropriate targets and tactics and, after conducting surveillance and careful planning, would carry out these attacks. Highly complex "central actions," such as the kidnapping of former prime minister Aldo Moro, involved recruiting a group of 10 highly experienced militants who ordinarily came from the more specialized fronts but some of whom came from the simple brigades. While the central action was taking place, other columns would distract the police with scores of other tactical actions, including arsons, kidnappings, and even assassinations. While the BR did not appear to have state sponsorship, it had contacts in the mid-1970s with Uruguayan Tupamaros, later collaborated with Direct Action and the Red Army Faction, and also cultivated links with Palestinian terrorist groups, in particular the Lebanese Armed Revolutionary Factions. After the collapse of the BR in Italy, it appeared that some fugitive BR members joined forces with the October First Antifascist Resistance Group.

The BR viewed itself as the vanguard for a proletarian party that would spontaneously appear once the group had paved the way by destroying the "SIM," the Italian acronym for "imperialist state of multinationals," and by raising the revolutionary consciousness of the working classes through acts of armed propaganda. Founded in 1970, the BR struck at the Italian state through assassination and kidnappings of judges, prosecutors, and jurors and also through attacks on the Christian Democratic Party. About 75 percent of the BR's attacks, however, were directed at businesses, with threats of

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arson, kidnapping, kncesapping, or murder if protection money was not paid. The BR seldom made use of bombing, except on 3 May 1979 in attacking the Christian Democratic Party headquarters in Rome, although it used firebombs to initiate acts of arson.

During the period 1974-1988, there were at least 50 noteworthy attacks committed by the BR, as well as 47 assassinations, 19 cases of kncesapping of victims, and 13 kidnappings. Four kidnappings for ransom alone netted the BR around \$6 million. Like the Red Army Faction, the BR undertook many of its kidnappings and attacks on behalf of imprisoned comrades, either to pressure the judicial system to release them or else to take revenge on jurists and police involved in their capture and convictions. The waves of assassinations of jurists eventually caused Italian magistrates to go on strike in July 1980 in protest over their lack of security. During 1978-1980, called by Italians the "years of lead," hardly a day went by without an armed attack, political murder, kidnapping, or other terrorist action due to the Brigades, similar leftist groups, and imitators, as well as by Italian neo-Fascists, such as the Avanguardia Nazionale, Black Order, and the Revolutionary Armed Nuclei.

Three events stand out in the history of the Brigades: Inspired by the Red Army Faction's kidnapping of Hanns-Martin Schleyer, the BR kidnapped the head of the Christian Democratic Party and former prime minister, Aldo Moro, on 16 March 1978, killing five of his bodyguards. Moro was killed 55 days later. While the BR viewed this as a great victory, Italian society at large viewed it with revulsion and the Italian government empowered its security forces to suspend certain civil liberties to crack down on the Brigades and similar groups. On 17 December 1981, in Verona, the BR kidnapped U.S. Army Brigadier General James Dozier, who was rescued by Italian counterterrorist police in Padua on 28 January 1982. The decision to kidnap a senior North Atlantic Treaty Organization (NATO) officer had been inspired partly through a desire to show solidarity with the Palestine Liberation Organization by striking at an "imperialist" target. The BR connection with Palestinian terrorists was more obvious when on 15 February 1984 the group assassinated an American, Leamon Hunt, the director of the multinational observer team stationed in the Sinai Peninsula charged with overseeing the peace accord between Egypt and Israel, apparently with weapons provided by Lebanese Armed Revolutionary Factions agents. Following this murder, the BR carried out another three assassinations of

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prominent individuals as well as an attempted assassination. In the first week of September 1989, Italian police arrested several brigadists, after which BR activity appeared to cease.

By 1989 about 1,300 BR members had been imprisoned. By 1994 about 400 remained in jail, and by 1997 only 181 remained. On 21 November 1997 Greek police in Athens arrested Enrico Bianco, one of the BR members once thought to have been responsible for the kidnapping and killing of Aldo Moro. Although he had been cleared of those charges in January 1981, Italy sought his extradition on other criminal charges. On 7 October 1998 Renato Curcio, the founder of the Red Brigades and the last major BR figure to remain in prison, was freed after serving 24 years of a 30-year sentence.

In April 1984 the imprisoned leaders of the original BR issued a communiqué calling on their comrades to lay down their arms, stating that "the international conditions that made this struggle possible no longer exist." While most analysts believe this marked the end of the original group, there remained two factions that claimed the legacy of the BR: the New Red Brigades-Communist Combatant Party (BR-PCC), and the Red Brigades-Union of Combatant Communists (BR-UCC). On 30 May 1999 unknown assailants in Rome shot and killed Massimo D'Antona, a senior adviser of Italy's prime minister, Massimo D'Alema, and later responsibility for the murder was claimed in the name of the BR-PCC. Many of the former BR members, including Adriana Faranda, who had served 14 years in jail for her role in the Moro assassination, stated that they believed the cycle of armed revolutionary violence in Italy was over and doubted that any original BR members were involved in this attack. On 20 March 2002 the BR-PCC also assassinated Professor Marco Biagi, economic adviser of Prime Minister Silvio Berlusconi. On 23 October 2003, three days after the BR-PCC attacked a business target, the last known action by the group, Italian police were able to arrest six BR-PCC members. On 1 June 2005 four BR-PCC members were sentenced to life imprisonment for the murder of Biagi.

RED GUERRILLA RESISTANCE (RGR). The RGR was a nonstate U.S. anarchist/ leftist group that engaged in bombings during the mid-1980s for the limited purpose of protesting U.S. and Israeli "imperialism," militarism, and South African apartheid. Most of the bombings carried out in the name of this group occurred in New York

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book *Dying to Win: The Strategic Logic of Suicide Terrorism* (New York: Random House, 2006). Bruce Hoffman also outlined the successes and vulnerabilities of the tactic of suicide terrorism in his article "The Logic of Suicide Terrorism" in the *Atlantic Monthly* (June 2003: 40-47), in which he noted the spectacular rise of suicide attacks in Israel following the outbreak of the September 2000 second Intifada in which more than half of the 750 Israeli deaths since 2000 have been caused by suicide bombings. Hoffman noted that effective counterterrorism intelligence by the Israeli Shin Bet (General Security Service) was able to reduce the incidence of suicide attacks by identification of the terrorist infrastructure, including intihari handlers as well as volunteers, so allowing effective preemption of suicide operations before suicide bombers can cross over into Israeli territory. In any case, since 2004 there has been a marked decline in Palestinian suicide operations against Israeli targets. Another research finding has been that Israeli targeting and killing of the leaders of Hamas and Islamic Jihad of Palestine either in retaliation for suicide operations or else preemption of them was much less effective in reducing the recruitment of suicide volunteers than the mere arrest and indefinite preventive detention of leaders of Palestinian groups responsible for suicide operations. See also RATIONAL CHOICE THEORY.

SUPERGRASS SYSTEM. The term "supergrass" evolved from London slang dating to the 1930s to refer to informers who were viewed as being "snakes in the grass." In the 1970s English journalists then coined the term "supergrass" to refer to high-profile mobsters who had turned into informants against London's organized crime syndicates in order to receive reduced sentences. Beginning in 1981, British authorities in Northern Ireland resorted to the general tactic of turning a captured suspected terrorist, facing substantial charges, into a prosecution witness with immunity from prosecution for his own crimes if he would denounce and testify in court against several of his erstwhile colleagues. The arrest of Irish Republican Army (IRA) member Christopher Black in 1981 resulted in his turning into a supergrass informant, leading to the arrests of 38 IRA suspects and the conviction of 22 of them in August 1983. By the end of 1982 another 25 supergrass informants led to the arrests of more than 600 suspected members of the IRA, the Irish National Liberation Army, and the Ulster Volunteer Force. Although both the Irish

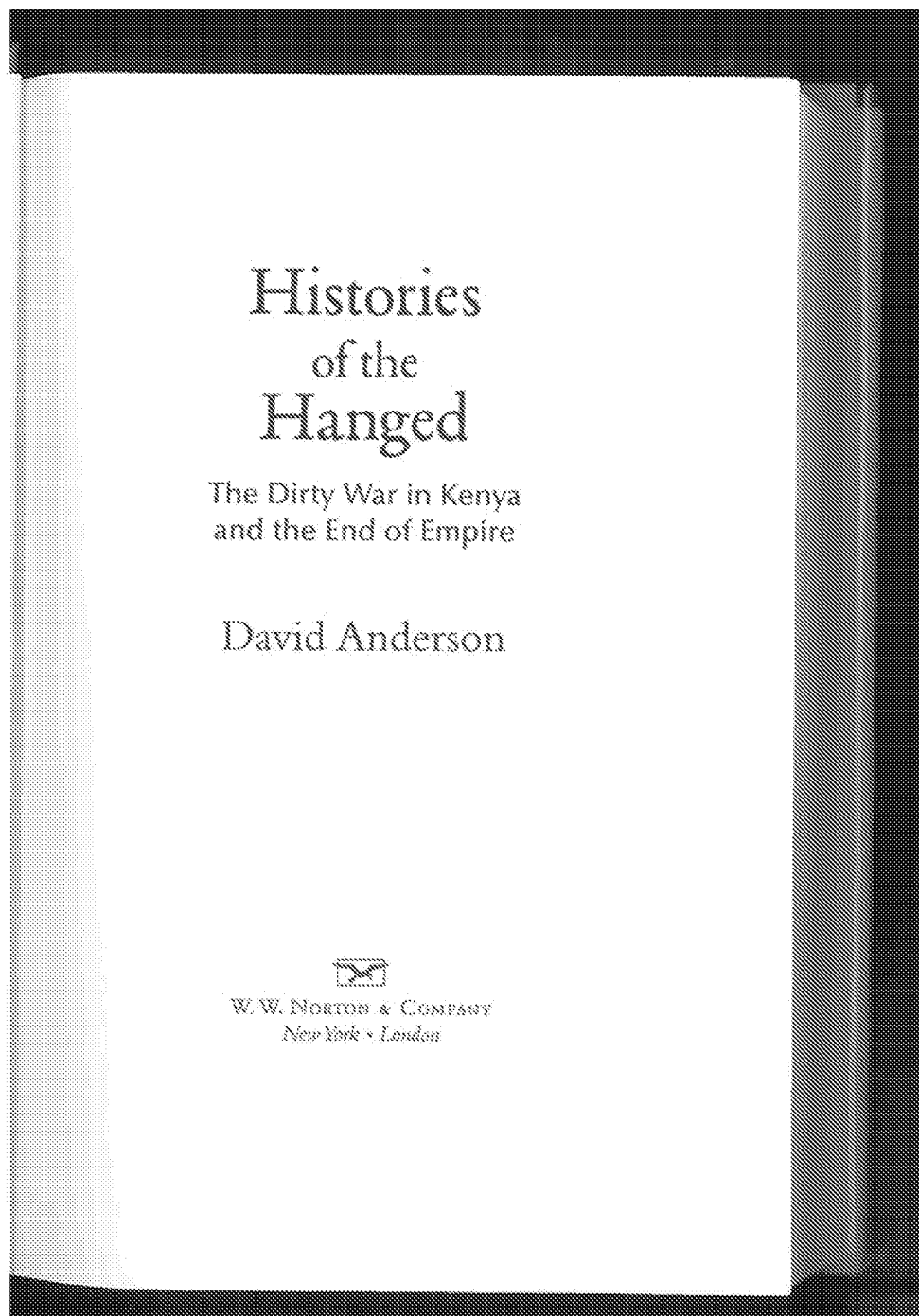
Republican terrorist groups and the Ulster Protestant militia had harsh codes of silence and enacted severe punishments, including executions, against people regarded as willing informers, these terrorist organizations had also begun to attract scores of quasi-criminal recruits motivated more by the gains of extortion from belonging to these groups than by ideology. When arrested, such mercenary recruits could be turned into informers much more easily than was the case with the more ideologically committed terrorists captured in the early years of the renewed Irish troubles.

This system has used trials without juries, known as the Diplock courts, and the uncorroborated testimony of one witness to effect scores of convictions. While many of these convictions have been overturned on appeal, the tactic has sowed much distrust, mutual re-cremations, and internal discord within the affected Republican and Loyalist terrorist groups and so hampered their efficiency. By 1985 authorities in Northern Ireland discontinued the supergrass system when it became evident that most convictions obtained on the basis of supergrass informant testimony were being overturned.

SYMBIONESE LIBERATION ARMY (SLA). The SLA was a revolutionary anarchistic leftist group in California that won notoriety with its kidnapping on 4 February 1974 of Patricia Hearst, daughter of newspaper publisher William R. Hearst Jr. The SLA brainwashed Ms. Hearst, who then, assuming the revolutionary sobriquet of "Tanya," became an active participant in their bank robberies and bombings. A nationwide dragnet for Ms. Hearst and the SLA led police to an SLA safe house in Los Angeles, where six SLA members, including their leader Nancy Ling Perry, perished on 17 May 1974 when police tear-gas canisters caused the safe house to burn to the ground. Patricia Hearst was later arrested in September 1975 and tried and convicted for her role in one of the group's bank robberies.

Prior to Hearst's kidnapping, the SLA had assassinated Dr. Marcus Foster, the superintendent of education of Oakland, California, on 6 November 1973 by shooting both him and his assistant, Robert Blackburn, with cyanide-tipped bullets. Blackburn was seriously injured but not killed; the two SLA members responsible for this attack were arrested on 10 January 1974 and later convicted and sentenced to life imprisonment. The subsequent kidnapping of Perry Hearst was originally conceived as a means of pressuring authorities

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in 1955 had soared to 54,000 by 1956. Paradoxically, this most rapid period of growth in white immigration over the entire history of the colony precisely coincided with the height of the fighting in the emergency. By the end of the emergency, in 1960, there were 61,000 whites in Kenya, including 13,000 European children in Kenya's schools.⁵⁵ These new white immigrants were every bit as determined as Kenya's 'pioneer settlers' to preserve their privileged lifestyle.

When the emergency came, white highlanders had good reason to be fearful. Mau Mau aimed to restore the White Highlands to African ownership. The secret cathing of farm workers and the rumours of a planned rebellion tapped into a deep well of settler anxiety about their vulnerability amid a hostile African majority. White fears were quickly picked up in the coverage given in Kenya's emerging crisis in the British press. In reporting the Declaration of Emergency, the more popular papers inevitably emphasized the plight of Britain's 'rich and kin'. The *Daily Mail* described the arming of settler women, and a few days later the *Daily Mirror* carried a lurid report on the dangers then faced by the European community, under the headline: 'Suburbia in darkest Africa: its fight on dynamite'.⁵⁶ While the British papers never went as far as did the American press in openly suggesting that the Mau Mau rebellion was a 'race war', it was made clear that the white civilians, including women and children, were in the firing line.⁵⁷ This emphasis on the experience of the white minority dominated the press coverage throughout the war, and gave rise to the impression that the violence of Mau Mau was principally directed against Europeans. That may have been the intent of Mau Mau's leaders before the conflict began, but it was not in the event what happened. According to Corfield's *Historical Summary* of the rebellion, only thirty-two European civilians were killed in Kenya as a result of Mau Mau attacks, with another twenty-six being wounded. More European civilians would die in road traffic accidents between 1955 and 1960 than were killed by Mau Mau. These figures should be compared with the 1819 African civilians assassinated by Mau Mau, and another 916 African civilians wounded over the same period.⁵⁸ These latter figures do not include the many hundreds of Africans who 'disappeared', and whose bodies were never found. For Kenya's Africans Mau Mau became a bitter civil war among the Kikuyu themselves, but it was never a race war.

While Mau Mau divided the Kikuyu, it united the white settlers in nothing had before. The threat posed by Mau Mau had begun to worry the settlers by 1951, but only because they feared that government was not taking sufficient steps to quell the unrest. They saw Mau Mau as a 'local difficulty' that required a firm hand. Despite their urgings, Governor Mitchell refused to act and the situation had been allowed to

Nairobi, and another, the United Kenya Protection Association, made sorties into the Kikuyu reserves if a Mau Mau unit was sighted. Though the security forces officially refused to acknowledge such groups, they could in practice do very little about them,⁷⁴ and in the intelligence side of the security operations there is evidence to suggest close links between 'special operations' personnel and the leaders of these settler vigilantes.⁷⁵

Settlers bared their teeth in defiance in the face of Mau Mau, but belligerence and their disregard for African rights would ultimately tarnish their own political ambitions by alienating liberal support 'back home' in Britain. As the war dragged on, there were no political gains that might boost the morale of settlers over their future in Kenya: the fragile self-confidence of the settler community was slowly but surely eroding away. After July 1953, murders of white civilians were less frequent, but the cumulative impact of each event chipped away at morale. The second, and more sporadic phase in Mau Mau's assault upon settler supremacy began towards the end of 1953, when a KPR officer, Lyall Shaw, was shot on his farm.⁷⁶ Then, in March 1954, a white woman was shot in a raid upon a dairy on the outskirts of Nairobi,⁷⁷ and in April a European child was killed while riding his tricycle on the driveway of his home.⁷⁸ In June 1954 a reclusive European spinster, Mrs Conchley, living alone in Nyeri township, was killed when General Rui's gang raided her house looking for supplies.⁷⁹ Then, in April 1955, two European teenage boys, Christopher Twohey and Geoffrey Danby, were killed by a Mau Mau gang in the Nairobi suburb of Ruaraka. Over the next day all the members of the gang were shot or captured. Twelve of them, including the gang leader, General Njeke, eventually hanged.⁸⁰ These random, unconnected and predominantly opportunistic murders indicated the gradually declining powers of the Mau Mau units.

Satisfaction over the convictions and executions of Kikuyu in the first European murder trials between March and July 1953 had been short-lived. By the early months of 1954 frustration with the legal limits imposed upon the response to Mau Mau again drew the settlers into conflict with the judiciary. For the majority of settlers the constraints imposed by the legal system seemed an impediment to the security forces. 'They had firmly fastened one of their hands behind their back with a cord of legal difficulties,' as Major Frank Kinson would later put it. The British would not admit that this was a war; they would not even formally concede that it was a rebellion, fearing that to do so might imply that the Mau Mau fighters had rights under international conventions governing the treatment of prisoners. Mau Mau was therefore treated as a mere disturbance. Rules of evidence, regulations governing the holding of suspects, the need for formal detention orders, and the codes of conduct applying to the questioning of prisoners were all requirements

the church alight. As the occupants struggled to clamber through the windows to escape, they were savagely cut down. Most of those caught in the attack were women and children, but they were shown no mercy by the attackers, who seemed intent on killing every person in the homesteads. Shots rang out as some victims found their own weapons and made an effort to defend themselves and their families. But it was a hopeless cause. As the bodies were cut down and viciously hacked, the attackers threw them back into the blazing huts. The Home Guard patrol reached Lari just as the attack was coming to an end. They gave chase to some of the attackers, but they were too late to save the victims. By 10 p.m. some 120 bodies lay dead or grievously injured in the smouldering ruins of fifteen homesteads. The killers had disappeared into the night. In their wake, there was chaos, terror, shock, anger and indescribable grief.

Kenyans read about the attack in their newspapers two days later. The report provided by the Office of Information appeared in English and Swahili versions, and gave a vivid account of what had happened:

Armed terrorists stole upon the clustered huts of Lari, in the Kenya Highlands, in the dead of night. The sleeping Kikuyu people awoke to find flames roaring above them, as the Mau Mau fired the tinder-dry thatched roofs. Escape was impossible to most, for the doors had been securely fastened outside by the fanatical Mau Mau attackers. Men, women and children, forcing their way out of the windows, were caught and butchered. Some perished terribly in the flames; others were chopped and mutilated by the knives of their enemies—their own fellow tribesmen. Dawn revealed the macabre scene left behind by the besut wave of Mau Mau; the mangled corpses, human remains literally chopped in pieces, all mingled with the smoking ashes of the burnt homesteads. The survivors, terror-stricken and helpless, told their pitiful stories to the police and government officials who rushed to Lari when the alarm was raised. They told of children being cut up with knives in the sight of their mothers; of others cut down as they tried to run to hide in tall maize, by terrorists insatiable for blood.¹

These first press reports spread fear and horror throughout the Kikuyu communities of central Kenya. Where the events in Nyeri on Christmas Eve of 1952 had singled out leading male elders, the attack upon women and children at Lari was on a far larger scale and appeared less discriminate. No other attack during the emergency would have the tremendous impact on public opinion that came in the aftermath of Lari. The first reports stressed the murder of innocent Kikuyu civilians and stated that this was a 'loyalist community', but it was not explained that the

homesteads attacked had in fact been very carefully chosen. The Lari attack may have seemed an indiscriminate slaughter of collaborators but was far from random in its violence. All of the victims were the families of local chiefs, ex-chiefs, headmen, councillors and prominent Home Guard. The male heads of these households were the leading members of Lari's loyalist community, and all were known as outspoken opponents of Mau Mau. Lesser members of the Home Guard, and those who were perceived as clients of wealthier men, were left alone. What shocked other Kikuyu most of all was that the vast majority of those killed were women and children. This was appalling to all, and even shocked many Mau Mau supporters, some of whom would subsequently try to excuse the attack as 'a mistake', or even try to blame it on the British. Assisted to some extent by government propaganda, Lari changed the way ordinary Africans thought about the conflict. If it was not recognized as such before, then at Lari the Mau Mau struggle had become a civil war -- a struggle in which all Kikuyu feared for their survival. And in the hours, days and weeks following the massacre, the war sometimes appeared to be nothing less than a vendetta.

The principal victim in the attack at Lari was the loyalist community's senior statesman, Luka Wakahangare. At more than sixty years of age, Luka had continued to manage the affairs of his *mboni* after retiring from government office. An elder in the Catholic church, his extended family pursued a wide variety of business interests and dominated landholding on some of the most productive farms in Lari. As chief, and as the elder principally responsible for arranging the resettlement of the Tigeni people at Lari, Luka had profited from his association with the government. His murder was Mau Mau's punishment.⁶ More than 200 attackers had descended upon his homestead, killing several of his wives, many of his grandchildren and other relatives. Luka, his younger brother, and one of his sons had fought bravely to defend the family. Armed with his shotgun, Luka had managed to break out of his hut to reach the cover of a lorry, parked in the compound. From there the old man had opened fire on his assailants, but had been quickly overpowered. Surviving members of his family would later describe how the gang, having recognized their victim, hacked repeatedly at his body, severing his head and detaching limbs, to carry them off in triumph. The torso was only identifiable after the attack by the distinctive clothing worn by the old man. Luka's youngest wife was the only adult survivor in the Wakahangare homestead, though she was horrendously slashed across the chest and head. As she fell to the ground with blood streaming down her face, the young woman saw both her children killed, one a toddler the other a baby.⁷

The attack on the homestead of Charles Ikenya's family was hardly

less brutal. Ikenya was one of the four headmen who worked under Makame's command. He had led the Home Guard patrol that had gone to Wamunji's location that evening. His breathless dash back to his homestead had been too late to save his wives and children. All but four members of his entire extended family died in the attack.⁵ A second, younger headman, named Paula, also shared in the tragedy. Paula returned to find the remains of his wife and all their children in the smouldering debris of his homestead. Samson Kariuki, another fellow elder in the Catholic church and a close business associate of ex-Chief Luka, was on Home Guard patrol when the attack began. Of the thirteen members of Samson's family at home that evening, nine perished, including a baby only a fortnight old who died in the flames and five other young children all of whom were hacked to death whilst running from the burning huts. The vivid testimony of one of Samson's wives, Mijiri, dominated the press reports in the days following the massacre: the young woman describing how she had watched one of her children being slashed, and then seen his murderers lick the blood from the blade that had decapitated the child.⁶

Several families of other prominent members of the Home Guard were also targeted. One of Lari's oldest and most respected elders, Kie Elzenbe, was among the dead. Like Luka, he died trying to defend the women and children of his extended family. Four of Kie's sons were members of the Lari Home Guard.⁷ The family of Machane Kirangi, another headman and Home Guard patrol commander, were also slaughtered.⁸ The same fate befell the families of Arthur Waweru,⁹ Nganga Njeha¹⁰ and Mbogwa Munya.¹¹ Aside from these men, who were directly linked to the Home Guard, prominent members of the African District Council were also among the victims. Councillor Isaka Kageru¹² was killed with his family, as were Ndonga Karakui and Kinene Wambui.¹³ All were substantial landowners, and each had business connections with Luka Wakahangao. From the fifteen homesteads attacked, spread over an area of some 50 square miles, the final death toll was seventy-four. Another fifty victims were wounded.¹⁴

There was nothing random about these attacks. The victims had been selected with care, their homesteads identified and singled out. The raid had been well planned, and its perpetrators were well equipped. Neighbours were left unmolested as the gangs went about their business, each attacking group moving systematically between the two or three homesteads for which it had been assigned responsibility. The motive in the choice of victims seemed all too obvious: the male head of each household attacked was a government servant. All were Christian, and all were from Catholic families who had come to Lari from Tigoni in 1939. In one way or another, they had all been clients of either Luka or

process than the retribution and vengeance of vendetta killings.

Some steps had already been taken. Within two weeks of Lari, and before Lyttelton's visit, the range of capital offences had been greatly extended. Kenya's judiciary had stubbornly resisted settler pressures to extend the death penalty, but in the wake of Lari even Wyatt gave way. Enactments issued between April and June 1953 made it a capital offence to administer or freely participate in the taking of a Mau Mau oath; to be known to be a member of a Mau Mau gang likely to carry out acts prejudicial to public order; to be in possession of any item of explosives, arms or ammunition; to consort with those likely to carry out acts prejudicial to public order; or to consort with persons whom it was reasonable to know were carrying arms or ammunition. The provision to convict those 'consorting' had far-reaching implications. Anyone identified as having been with any Mau Mau group might now be hanged. Lyttelton had backed Baring's judgement. However, the new capital offences would hugely increase the number of cases coming before the Supreme Court, at a time when there was already a backlog of several hundred cases waiting to be heard. Officials in London had been very wary of the suggestion that Kenya should set up special courts, and before arriving in Nairobi Lyttelton had warned Baring that he would need to make a strong case if the legal changes were to go through.

Draft proposals for the creation of new Special Emergency Assize Courts had reached London in mid-April. The courts would have authority to hear only cases relating to Emergency Powers, clearing all Mau Mau cases out of the High Court. There would be no preliminary hearing - Mau Mau capital offences would come straight to the Special Assizes, removing them from the magistrates' courts altogether. The special courts would sit in Nairobi, Nakuru, Githunguri (in Kiambu), Thika, Nyeri, Nakuru and (latterly) Meru and Embu, so that cases could be heard in the localities where the offences had been committed. To staff these special assizes, several of Kenya's most experienced magistrates would be declared special acting judges, and given the full powers of a Supreme Court judge. Other judges might also be recruited from outside the colony. (In the event, two retired judges were brought in from London.) Special sittings of the appeal court would also be arranged, to prevent a build-up on death row. These changes were presented in neutral terms, with no suggestion that the accused would be in anyway disadvantaged.

Though Baring brusquely defended the proposals as a necessary 'gesture to public opinion', officials in London thought that any local advantage would be vastly outweighed by adverse response in Britain and internationally. There was a strong and growing lobby in Britain in

Charles Ikenya, part of the infamous Lari massacre.¹⁵⁸ The Gichunguri gallows would be used on fourteen more occasions before the end of the month, and another fourteen Lari convicts would be executed there during November. The final Lari convicts, the twenty-two men convicted of the murders in Luka Wakahangari's compound, would not come to the gallows until June 1954.¹⁵⁹

The hangings brought satisfaction to Blundell and his supporters, but they were not at all pleased with the overall outcome of the Lari trials. Given Baring's original estimates to London of how many persons might be hanged for Lari, the number of acquittals arising from the trials seemed very high indeed. From 309 accused persons, only 116 had been convicted, and of these only seventy-one men were finally executed. In the course of the nineteen trials, 120 men had been acquitted, and a further fifty-six were discharged. Fewer than one in four of those accused of murder at Lari had been hanged.

Baring was embarrassed by these figures, and did his best to avoid publicizing them for fear of renewed criticism in Kenya.¹⁶⁰ He had hoped for more hangings, and seemed disappointed that the legal machinery had not managed to achieve better results. Indeed, Baring seems to have shared Salter's view that the accused persons had escaped conviction owing to legal difficulties, rather than because they were innocent of the charges (see table 4.1, p. 349, for a list of the Lari hanged).

Like those who hanged for the murders of European settlers in their farmhouses, those executed for crimes at Lari did not conform to the received image of the hetic Mau Mau freedom fighters. This was no well-drilled army of young disciplined fighters. Lari's violence had been communal, enveloping a wide variety of people. Those who organized the slaughter had come in to Lari from the Aberdares forest, but they were not among the convicts because no one had recognized them. As on the farms, there were doubtless some willing participants among Lari's residents, including those who had been very active in oath-taking and in collecting funds for Mau Mau. Many others only reluctantly, and with great remorse, joined the mobs that swarmed over the homesteads of the loyalists on the night of 26 March 1953. The proceedings of the Lari trials do not allow us to differentiate easily between these categories of people: The law merely needed to establish to the satisfaction of the judge that the people accused were present at the scene of the crime.

It is difficult to generalize about the social status and background of the seventy-one men that hanged. Only one was a stranger to Lari, though several were men who had returned to the area from the Rift Valley over recent years. The majority were relatively poor, many being Indian labourers and casual workers, and most of these men had but

little education. These poorer men were generally young, mostly in their twenties. They included men who had worked at the bacon factory in Uplands, and others who sometimes worked in Nairobi. These were precisely the kind of people we might expect to have been supporters of the Mau Mau cause, those marginalized and dispossessed by the resentment at Lari and the natural enemies of the acquisitive and self-serving ex-Chief Luka; but one in seven of those executed were much wealthier men, mostly of an older generation. These included land-holding farmers, and businessmen of various kinds, most of whom were better educated than their fellows. They represented Lari's 'respectable classes', but they, too, were people at odds with the heavy-handed and extractive behaviour of the Kikuyu chiefs and headmen who ruled over Lari as agents of the colonial state. It was these wealthier men who most often protested that they had been falsely accused on the basis of past disputes over land or commercial rivalries. All of these men had refused to join the Home Guard or identify themselves with the loyalist side. This alone made them suspects in the eyes of Makimei and his followers.

Were the convicted men guilty? This is a dangerous question to ask, but surely an essential one. The investigation of the Lari crimes was deeply flawed, and the court proceedings stripped down to a simple question of fact: was this person present on the night in question? A nagging doubt was present at the time, and has lingered since, that those outsiders who planned and motivated the attack were not amongst the accused. By the nature of the way in which evidence was collected and suspects identified, those prosecuted were inevitably going to be persons known to the survivors. Again and again in these nineteen trials the Kikuyu assessors asked for the acquittal of men who were known to have been present at the massacre but who did not use weapons against the victims. Among the local community there was certainly a strong sense that many of those present at the killings were not guilty of murder, and there are many indications that even the assessors thought that Makimei, Machune, Samson Kariuki and their kind had manufactured evidence against their known enemies. The trial transcripts by no means reveal everything there was to know. Lari still holds its secrets.

Whether a man was guilty or innocent, all of those accused of the Lari crimes were punished in one form or another. Those released by the court -- the 120 men who were acquitted, the fifty-six who were discharged, and the fifty-eight who had convictions quashed on appeal -- did not go free. On their release from custody all were immediately re-arrested and issued with detention orders. These orders allowed the State to detain them without trial under suspicion of Mau Mau activities. Some would be detained in the Emergency prison camps for only a few months; others would be incarcerated for the next five years. While in

6

General China's War Freedom Fighters in the Forests

Of all the Mau Mau fighters, the British were perhaps most eager to capture Waruhiu Itote. He had been among the first rebels to take to the forests in 1952. Known by his military name of General China, he directed the formation of the fighting units on Mount Kenya, securing supplies and weapons, and bringing recruits into the mountain camps. Like Dedan Kimathi and Stanley Mathenge, the two senior commanders in the Aberdare forest, there was a price on China's head, dead or alive.

Most Mau Mau generals would die fighting, or be captured and go to the gallows. Not General China. He had a good war, and lived to tell the tale. After the war was over and the British retreated from Kenya, the General reverted to a civilian identity and, as Waruhiu Itote, became a political personality of importance. In Jomo Kenyatta's first government he was appointed section commander of the National Youth Service, rising to Deputy Director. Itote was responsible for training programmes and welfare work, and he organized the youth wing of the party, the Kenya African National Union. As a former forest fighter, Waruhiu Itote represented the heritage of the nationalist struggle for land and freedom. In independent Kenya he became a hero.

Born into a prosperous farming family in the South Tetu division of Nyeri, Itote gained only a little education at the local Church of Scotland mission. His father had no faith in the teachings of the white man, and instead encouraged his son in farming. Impatient for a more adventurous lifestyle, the teenage Itote left his rural home for the urban lure of Nairobi. There, at the age of twenty, he enlisted with the King's African Rifles. It was 1942, and Itote would join other Kenyans in the fight against the Japanese. Strongly built and physically fit, he adapted well to military life, enjoying the camaraderie and the discipline, and seizing the opportunities to learn new skills, working his way up to the rank of

were accused of compelling all their own clients to join the Home Guard, regardless of whether they had any known association with Mau Mau. Rather like the servants of British officers in the Crimean War who found themselves sent to the front to fight in place of their masters, the clients of Kikuyu patrons were not allowed to plead neutrality. The Home Guard thus included many a hapless, poor peasant who was there only because of circumstance, and who may very well have taken more than one Mau Mau oath. Such people were not loyalists in any meaningful sense, yet they found themselves as militiamen opposing Mau Mau.

Having created this militia, the government protected and reinforced them. To strengthen their authority, Kikuyu Home Guard units were confined within their own locations. Local knowledge was the key to their success, but it also gave vent to no small degree of private feuding and score-settling. This worsened as the Emergency wore on. After Lari, more firearms were issued to the militiamen; they became proactive and belligerent. Having been left to their own devices until this point, later in 1953 European officers were assigned to act in a supervisory role. By then each Home Guard unit had its own fortified post, with spiked ditches, barbed-wire fencing and a drawbridge to keep Mau Mau at bay. Inside the barricades were barrack rooms and lock-ups, where prisoners could be interrogated and held. Tall watchtowers enabled a constant lookout over the countryside. Proud Kikuyu militiamen were photographed manning the ramparts, their spears at the ready. By day the whole scene inspired confidence in the might of empire. The image made excellent propaganda back home in Britain, showing how Africans were rallying to the flag in the fight against the rebels; but as darkness fell, confidence in the might of empire ebbed away, and apprehensive Home Guards retreated to their fortified stockades, seeking refuge from the Mau Mau attack that all feared.

A kind of order emerged in the forest that oddly mirrored that of the Home Guard. On Mount Kenya, China had made contact with several other groups, establishing a command structure. In the Aberdares, Stanley Mathenge and Dedan Kimathi were the principal leaders, Mathenge carrying the authority of his seniority among the *Muhimu*, and the fitless Kimathi with a fearsome reputation as an oath administrator in south Nyeri. Both men reached the forest by early December. Their command structure in the Aberdares took longer to consolidate, and was always looser, with tensions and animosity between the two leaders. Other gangs, operating on the fringes of Kiambu and Thika, and in the Rift Valley, remained outside these structures, and would continue to operate independently. Though it would take the British over a year to realize it, the bands in each forest area had little contact with one another.

Religion and faith played a large part in forest life. The priest of the Kikuyu god Ngai, always said when facing towards Mount Kenya, Kirinyaga, at Kikuyu men's feet, "I am here to be killed" -- were reinforced by consultation with prophets and seers. These names figures accompanied the fighters to the forest, being consulted on whether a planned attack or proposal was auspicious.²⁶ The extension of these practices of Kikuyu warfare from an earlier age was one of the few parallels that can be drawn between the behaviour of the Mau Mau armies and their Kikuyu war counterparts of a half-century before. In Kikuyu terms, the forest battalions of the Land and Freedom Army were remarkably modern. The activities of the prophets became more important as the war turned against Mau Mau, and the forest leaders increasingly isolated and desperate.

Though the forest fighters came to be known as the Land and Freedom Army, there never was a single Mau Mau army. Each leader did pretty much as the honey took him. Kimathi, Mathenge and China each tried to impose a more rigorous structure of command, but none succeeded in exerting authority over the bands in the forests. China and the other Mount Kenya commanders, Generals Janganyika and Kaleba, managed not to fall out with one another; the Aberdares leadership was deeply divided. Kimathi and Mathenge had collaborated in May 1953 to form a council comprising Mau Mau commanders of fighters from Nyiro, who were dominant among the Aberdares units. The Ituma fighters' Unity Council, as it was called, met several times over the next two weeks. An attempt was made to organise a coordinated attack on numerous targets throughout Central Province at the end of June, but the majority of the units involved failed to act upon the instructions. After this the council held no further meetings.²⁷

On Mount Kenya, China did rather better. He managed to meet his commanders regularly and kept in close touch with the committees in the reserves, frequently using the intelligence they supplied to identify targets. Better organisation and good communications allowed China to retain firmer control, even after Special Branch arrested members of its passive wing committees in the Mount Kenya area during July and August 1953. In the Aberdares the situation had become chaotic around this time after two major military sweeps along the reserve boundary. "Without properly working command structure and each unit acting independently the Mau Mau fighters here were unable to respond to this first blow and fled in disorder." It was a sign of trouble ahead.

During August, David Kimathi tried again to restructure the command of the Aberdares unit, calling a meeting at Mwachia, high in the mountains. As many as 4000 fighters attended, but not even half was represented. Stanley Mathenge was among the most notable absent.

tees, and there were no fighters from the cadres operating in the Rift Valley and the reserves. Kimathi's own supporters were in the majority and he was easily able to get their agreement by acclamation to a command structure that recognized himself as supreme commander, with eight separate armies each under the control of a named general. This sensible proposal recognized the leadership of Mathenge, China, Macharia Kimemia, General Kimbo and General Waruingi, among others, and imposed a structure that could have allowed greater consultation in deciding strategy and selecting targets; but this was never to materialize. Much of it was wishful thinking. Not all of the leaders Kimathi honoured in his command structure recognized his authority, and many would remain ignorant of his intentions for many months to come. Mathenge opposed the proposals when he was told of them, and a deep rift developed between him and Kimathi. The command council formed at Mwathe never again met, although Kimathi increasingly behaved as if he were supreme commander, issuing instructions without consultation.⁴⁰ This failure, with the internal dissent it bred, was to prove fatal to the Mau Mau cause.

The quarrel between Kimathi and Mathenge has become the stuff of Mau Mau legend. Memoirs of the war written by survivors who knew the men and were privy to the dispute have contested different points of view. Karari Njama first provided an account favouring Kimathi. Njama had been an official scribe to Mathenge and Kimathi, writing letters and organizing communications. Njama attended tactical meetings in the forest and makes strong claims to authenticity. Kimathi's obsession for having everything recorded and written down was endorsed by Njama, one of the few in the forest who had a secondary education.⁴¹ On the other hand, the bureaucratic authority of the written word offended illiterate commanders, who found it alienating. Literacy was a pervasive symbol of colonial domination, a device that some fighters wished to reject as threatening and divisive and others wanted to embrace as a weapon of their own.⁴²

Mathenge accepted the importance of good communication but stood up for uneducated forest fighters, those with perhaps less interest in ideology, political structure and negotiation, and with a stronger yearning for complete victory and the re-establishment of their property and their dignity. His champion was Wachanga, whose memoir challenged Njama's account, presenting a critical view of Kimathi as capricious and dangerously volatile, treating his men with authoritarian disdain and enforcing an unnecessarily rigorous discipline. Mathenge, in contrast, is seen sympathetically, as a steady rock in a stormy sea, unmoved by the trailing noise around him and unbending in the struggle.⁴³

Wachanga's romanticism overlooks the superstition and conservatism that sometimes clouded Mathenge's view. The unpredictable and increas-

authority of the other? While Erskine wanted to stamp his energetic authority on the war, Sir Evelyn Baring was already tiring of the whole interminable business. Erskine's robust determination to be a new broom threatened Baring's own diplomat's view of the need for 'a steady hand'. The squabbling between the hawks and doves had worn Baring down, and he must have realized that Erskine's outspoken style would only fan the flames. Erskine's very presence made Baring seem ineffectual and imp. Friends explained that the 'strain of overwork' had begun to tell. Others were less well disposed towards Baring's intellectual, hesitant manner, to his tendency to look always for a middle way before, later, capitulating to one side or the other. These people said that he could not cope, that ill-health was the result, and that he now spent more time deep in contemplation in his private chapel at Government House than he did dealing with matters of state.⁷³

Baring increasingly gave way to his new deputy, Sir Frederick Crawford. The siege mentality of Nairobi came as a shock to Crawford, who had come from the tranquillity of the Seychelles in June 1953. He knew Nairobi well, having served there in the 1940s. Tough and resolute, Crawford was direct and businesslike. Blundell and the white highlanders were not sure if they liked him or not. He was honest and straight, but less biddable than Baring, and unmoved by settler bluster. There was a cold, ruthless streak: Crawford wanted Mau Mau defeated, and quickly. He was another hawk to add to the gathering flock. His arrival weakened Whyatt, the dove whose respect for due process thwarted settler ambition.⁷⁴ Whyatt and Crawford had been contemporaries at Balliol College, Oxford, a connection that middle-class white highlanders viewed with grave suspicion. The empire of the 1950s was still a very small world, but Crawford and Whyatt were men of quite different temperaments. Ironically, the moral lawyer Whyatt found he had much more in common with the principled soldier, Erskine.

Having marked the cards of the political officers, Erskine turned to the military campaign. He was keen to make a fresh beginning, though the intelligence available remained poor. In August 1953 Special Branch reckoned there to be 2500 to 3000 forest fighters, among whom only 600 were 'hard core'.⁷⁵ This was a gross underestimate. On Mount Kenya alone the camps under General China held more than 5000 Kikuyu in sixteen separate units, with another 6000 in the Aberdares, and more men still operating independently in the Rift Valley and along the edges of the reserves.⁷⁶ At this point, the forest units were still growing. The availability of weapons and the security of supplies were all that kept a ceiling on numbers. China reckoned that one in four of his men was armed with a precision weapon, and that he had another 600 men on standby to come to the forest from Nyeri and Murang'a if he needed

Erskine was able to concentrate upon the forest. Reorganization of political decision taking greatly enhanced his authority at this time. Up to the early part of 1954 the Colony Emergency Committee had taken executive authority for the conduct of the conflict. This large and ponderous body met only once a fortnight. Erskine found it impossible to get quick decisions; the committee was unable to properly coordinate the arms of government, and lacked clear reporting lines. From mid-March, at Erskine's urging and with Lyttelton's strong support, a dimmed-down War Council was formed, comprising Baring, Crawford, Blundell and Erskine himself. This group met twice a week, with its own dedicated secretariat to see that decisions were acted upon. The new structure gave Erskine control: military policy could be coordinated with the police and other arms of the security forces on his terms.²⁶ This also marginalized the white highlanders, whose nominated representative, Blundell, could exert little influence on the War Council.²⁷

In the weeks after Anvil, Erskine prepared for the next phase in his push against the forest gangs. From August 1954 his battalions tackled the remaining problems in and around Nairobi, and scoured the Aberdares border with South Nyeri and Nanyuki and the Mount Kenya zone bordering Embu and Meru. The objective was to ensure that the gangs were completely isolated in the sanctuary of the forests.²⁸ Casualty rates inflicted upon the forest units now climbed steadily. By October the rebels were losing more than 600 fighters each month. With recruitment falling sharply, this was unsustainable. The killing and capture of gang leaders had also eaten away at morale. Only thirteen Mau Mau leaders had been captured or killed up to April 1954, but between then and September another fourteen more were accounted for.²⁹ By December 1954 Erskine's best guess was that there were fewer than 4000 Mau Mau fighters left in total.

From mid-December Erskine took the fight into the high forests. Operation Hammer would sweep the Aberdares moorlands, flushing the gangs back down into the bamboo and the lower areas, where they would be engaged by stop lines set along the forest fringe. Patrolling increased over the next few weeks, and by early February 1955 the army was in the high forest in force, keeping the rebel gangs constantly on the move. Though the basic method appeared to work, the results were meagre and expensive – fewer than 200 rebels killed or captured, at a cost of £10,000 each.³⁰ However, Erskine now had a much better idea of how many men were left in the Aberdares (he reckoned around 700).³¹ Operation First Flute adopted similar tactics on Mount Kenya from late February 1955. This netted nearly 300 rebels, but intelligence suggested a further 2800 insurgents remained at large.³² This was slow but steady progress. By May 1955, when Erskine's tour of duty came to

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Table 7.1: Convictions for Mau Mau offences, October 1952 to March 1958

	Executed	Commuted	Appeal allowed	Certified insane	Died in prison	Total
1 Murder	337	27	90	7	5	466
2 Murder + consort	5	-	1	-	-	7
3 Murder + ammo	1	-	-	-	-	1
4 Murder + arms + ammo	1	-	-	-	-	1
5 Murder + arms + consort	1	-	-	-	-	1
6 Arms	258	56	11	-	1	326
7 Ammo/explos	95	56	17	2	1	171
8 Oath admin	54	8	20	-	-	82
9 Further terror	8	-	-	-	-	8
10 Consort	207	58	14	-	-	279
11 Demand supply	2	1	1	-	-	4
12 Arms + ammo	99	18	4	-	-	121
13 Arms + consort	40	2	-	-	-	42
14 Ammo + consort	17	11	-	-	-	28
15 Arms + ammo + consort	9	2	-	-	-	11
16 Consort + further terror	1	-	-	-	-	1
17 Oath + consort	-	2	-	-	-	2
Totals	1099	240	160	2	7	1499

Note: This table is based upon returns in PRO CO 822/1156, covering the period October 1952 to the end of June 1957. Additional figures, reported in correspondence in the same file, have been added covering the period from July 1957 to March 1958, when the last executions of Mau Mau offenders took place. Of the 21 men convicted after June 1957, 8 were executed in 1957, and 8 in 1958. All of these executed men had been convicted of murder. Four men had their murder convictions commuted in 1957, and a further person convicted of murder had his appeal allowed in 1958.

It should also be noted that this table includes convictions from all courts, and includes Supreme Court hearings (mostly before April 1953) and Special Emergency Assize Courts (commencing from April 1953).

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Histories of the Hanged

Table 7.ii: Capital punishment convictions in Kenya, October 1952 to October 1959

Outcome	Mau Mau other offences	Mau Mau murder cases	Mau Mau totals	non-Mau Mau murders
Executed	744	346	1090	100
Committed	213	27	240	106
Appeal allowed	89	51	140	10
Certified insane	1	1	2	1
Died in prison	2	3	7	—
Totals	1049	428	1477	217

Source: 'Capital Punishment', PRO CO 822/1256

Table 7.iii: Monthly returns of Special Emergency Assize Courts, March 1954 to December 1956

Date	Cases	Persons tried	Acquittals	Convictions	Cases pending (persons)
13 Mar '54	198	948	354	401	81 (191)
3 Apr '54	240	1056	464	472	78 (182)
7 May '54	501	1150	461	543	71 (148)
4 June '54	561	1308	523	638	82 (147)
2 July '54	623	1416	596	749	43 (73)
6 Aug '54	709	1622	680	851	42 (87)
3 Sept '54	771	1718	738	916	29 (84)
1 Oct '54	821	1820	782	987	27 (51)
5 Nov '54	861	1885	802	1060	30 (31)
3 Dec '54	911	2027	839	1113	28 (79)
1 Jan '55					
18 Feb '55	977	2140	893	1217	17 (59)
4 Mar '55	988	2163	900	1227	16 (14)
1 Apr '55	1006	2212	918	1280	12 (34)
1 May '55					
24 Jun '55	1062	2310	939	1360	9 (15)
1 July '55	1066	2321	940	1363	9 (18)
3 Aug '55	1091	2378	946	1397	14 (15)
1 Sept '55	1098	2368	959	1429	3 (14)
7 Oct '55	1109	2413	961	1441	6 (11)
2 Nov '55	1121	2443	966	1453	9 (28)
9 Dec '55	1128	2456	974	1470	7 (14)
6 Jan '56	1142	2480	981	1492	6 (7)
3 Feb '56	1153	2497	985	1500	7 (12)
2 Mar '56	1161	2512	986	1505	10 (21)
6 Apr '56	1164	2513	990	1513	4 (7)
4 May '56	1173	2540	1004	1520	5 (7)
1 Jun '56	1184	2556	1013	1533	6 (6)
6 July '56	1189	2571	1023	1548	1 (7)

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Table 7.iii---cont.

Date	Cases	Persons tried	Acquittals	Convictions	Cases pending (persons)
1 Aug '56	1192	2575	1624	1150	1 (1)
7 Sep '56	1202	2599	1628	1157	6 (14)
5 Oct '56	1206	2604	1638	1170	5 (9)
2 Nov '56	1212	2608	1633	1172	3 (3)
29 Dec '56	1211	2609	1633	1172	2 (2)

Sources: 'Emergency Assist Returns', KMA DC/KSM/1/15/122; 'Emergency Assist Returns 1954', KMA DC/KSM/1/15/126; 'Capital cases -- speeding up, 1954-55', KNA CB/1/16/17

Table 7.iv: Selected collective punishments in Kirinyaga, 1952-6

Date of punishment	Area	Reason for punishment	Type of punishment
23 December 1952	Kariki, Kiine, Ndia	Murder	50% of livestock seized in a 2 mile radius; 43 cattle and 250 sheep/goats taken
20 May 1953	Kimathi, Mwerua, Ndia	Murder	50% of livestock seized in a 1 mile radius
20 May 1953	Kimathi, Mwerua, Ndia	Local non-cooperation	50% of livestock seized in the entire sublocation
21 May 1953	Uihakahano, Mwerua Ndia	Murder, non-cooperation	100% of livestock seized in the entire sublocation
29 June 1953	Baragwi, Gichugu	12 murders	146 cattle seized from Mau Mau suspects
7 August 1953	Kariki, Inoi, Ndia	Local non-cooperation	25% of livestock seized in the sublocation
17 August 1953	Kagumop, Mutira, Ndia	Murder, non-cooperation	Market closed for 3 months
15 August 1953	Gimbi, Inoi, Ndia	Local non-cooperation	Market closed for 3 months
10 September 1953	Kagya and Kirinda, Inoi, Ndia	5 murders, local non-cooperation	100% livestock seized in 2 sublocations: 733 cattle, 845 goats, 1127 sheep from 254 owners, 12 bicycles
6 February 1954	Kianjege, Kiine, Ndia	local non-cooperation	Market closed for 3 months
4 October 1954	Kibirigwan, Kiine, Ndia	Murder, non-cooperation	100% livestock seized: 100 cattle, 361 goats
9 March 1956	Catiti, Kiine, Ndia	Assisting Mau Mau	Seized 168 animals from 28 villagers
14 March 1956	Kamirru, Mutira, Ndia	Local non-cooperation	Large number of cattle taken from villagers

Source: Alfonso Peter Castro and Kreg Eitenger, 'Counterinsurgency and socioeconomic change: The Mau Mau war in Kirinyaga, Kenya', *Research in Economic Anthropology* 15 (1994), 29

Table 7.vi: Comparative prison populations, East and Central Africa, 1932

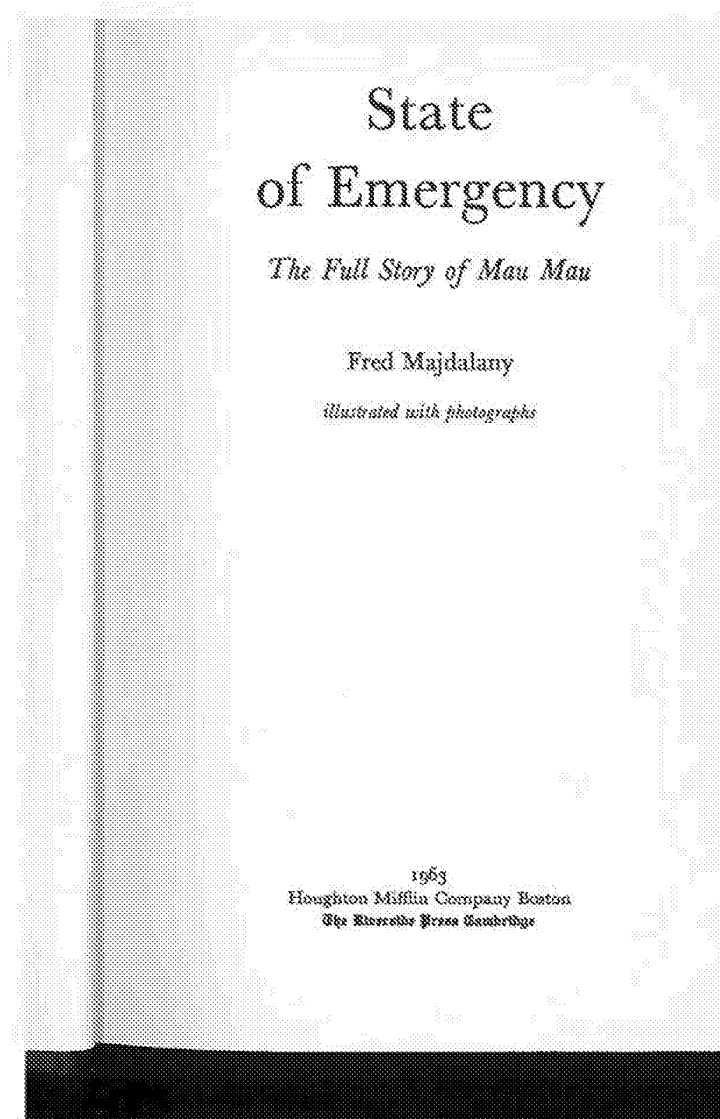
	Population	Daily average in confinement	Daily average per 100,000 pop.
Kenya	5,261,312	4,254	80.7
Uganda	3,515,454	2,225	63.3
Tanganyika	5,782,452	2,818	48.6
Sumatland	144,000	15	10.4
Zanzibar	114,218	150	13.1
Nyasaland	1,019,279	773	75.7
N. Rhodesia	1,076,018	977	90.8

Table 7.vii: Daily average number of Mau Mau detainees and convicts, December 1954 to August 1959

	Convicts	Detainees	Total
1954 December	17,577	13,414	30,991
1955 March	17,354	10,787	28,141
June	15,871	10,796	26,667
September	15,791	10,073	25,864
December	11,496	10,413	21,909
1956 March	11,178	10,011	21,189
June	10,016	11,408	21,424
September	9,184	11,179	20,363
December	8,196	11,411	19,607
1957 March	7,114	11,447	18,561
June	5,609	11,661	17,270
September	4,854	10,061	14,915
December	4,111	11,100	15,211
1958 March	3,811	11,085	14,896
June	3,311	8,114	11,425
September	1,408	6,215	7,623
December	1,211	4,307	5,518
1959 March	1,111	1,111	2,222
June	1,111	1,111	2,222
August	1,111	1,111	2,222

Note: These are total daily strength, by month.
Source: KNA Archives.

D



*Chapter 13***MASSACRE AT LARI**

THE police post at Uplands, a village twenty-five miles northwest of Nairobi renowned for the product of its bacon factory, looks out on a wide undulating landscape of farm and grazing lands: like parts of Salisbury Plain: a panorama of slight depressions and shallow ridges, green and mostly bare, but patterned by scatterings of trees and a few patches of forest. A shallow ridge some seven miles long dominates the skyline, the line of vision and the rustic calm of the view, but a higher viewpoint discloses that other ridges are ranged behind to a depth of three miles. Along this plain of shallow undulations seven miles long and three deep were extended in 1953 many Kikuyu homes: sited traditionally, not in villages, but in small family homesteads of three to five huts, each group in a fenced enclosure and at a distance from the next. This is the administrative location named Lari, high up not far from the edge of the Kikuyu Escarpment.

To the officers in charge of the Uplands police post who stared at the Lari plain for much of every day, and the officials of the Administration who passed this way on their daily rounds, Lari was a focal point of tension for they knew it was going to be attacked. They had known since 18 March when they received a reliable tip. For Lari's population included a large number of Kikuyu loyalists as well as an active Kikuyu Home Guard, and at this time the Mau Mau were noticeably beginning to step up their efforts against both these classes of opposition. A series of attacks on the Guard and the loyalists was to be developed in strength and the Emergency Committee in charge of local operations had good information that an example was to be made of Lari. They had therefore been allotted a company of King's African

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Rifles, a defence plan had been worked out in detail, and battle positions had been thoroughly reconnoitred in various parts of the threatened area so that the company could be deployed immediately an attack was imminent. At Uplands and Tigoni the District Officer and his colleagues on the Emergency Committee were confident that they could deal with anything that Mau Mau might produce. But they had reckoned without that bane of subordinate military strategists, higher authority.

On the morning of 26 March there was an instruction from Nairobi that the King's African Rifles must prepare to leave at once: the company was to report that afternoon to the Athi River prison, fifteen miles south of Nairobi, as trouble was expected there. Protests and pleading were in vain and the company departed. Even as the lorries moved off, many of those who were going to stain that night with deeds unsurpassed in any inventory of butchery were already crouching in their hiding places in the area awaiting their final orders which they would receive just before the attack. Some of these Mau Mau in hiding were from the Lari district itself, but most of them were from Githunguri, where before the Emergency Jomo Kenyatta had had his headquarters.

The order which had brought nearly one thousand together had been issued by the Mau Mau Central Committee in Nairobi five days previously. A typically cryptic blend of directive and incitement, it had first summoned the chosen leaders who had then organized this pre-operational meeting near the scene of the intended attack but only at the last minute would the task itself be disclosed in detail to those who were to carry it out. Much of the Central Committee's directive was Mau Mau's equivalent perhaps of a Special Order of the Day:

Our great leader and loved one Jomo Kenyatta who has been imprisoned by the whites.

Let us take an oath that those who conducted the case of Jomo and those who put handcuffs on him shall be destroyed, and we shall tie up their hands with sinews taken from their ribs. . . .

We must take an oath that those who hinder us and who help the whites must die as they sleep together with their wives and children. When warriors have taken the oath tell them the day we are waiting for is near.

And if any person disobeys what is decided, and he who assists the whites, we must castrate him, take out his eyes, then hold him for seven days, then we will cut his head off and see if the whites can bring him back to life.

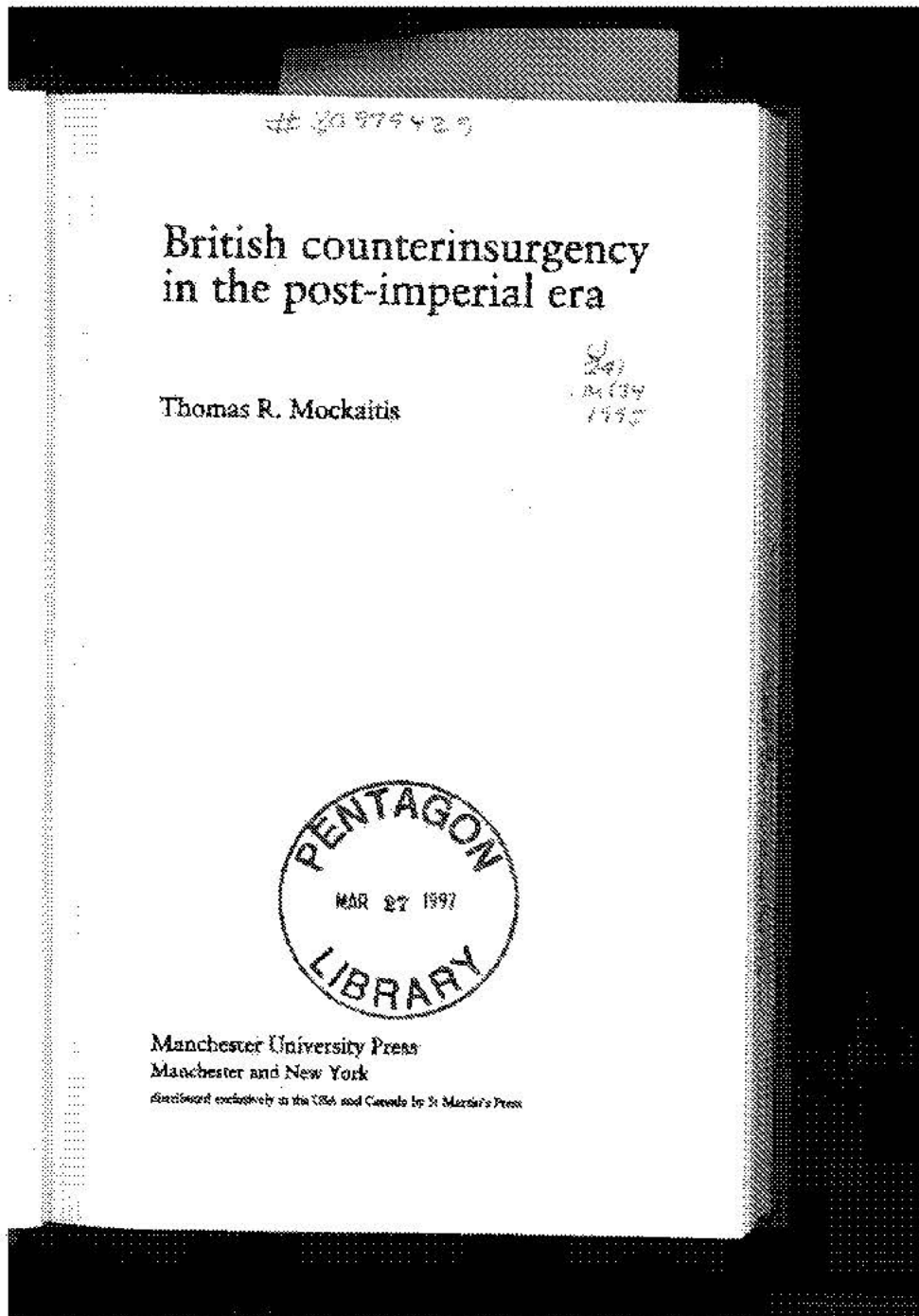
By 9.30 p.m. nearly one thousand Mau Mau from Lari and Githunguri had made their way to prearranged stations in gangs ranging in number from thirty to 100. Their orders were to kill all loyal Kikuyu in Lari. The area to be covered was the area of plain, seven miles by three, that recedes from the eastern skyline as seen from Uplands. The Mau Mau groups had been carefully spaced to cover the full expanse so that each part of it could be attacked at once.

Each group had been made responsible for the disposal of certain named families. The method was one that Mau Mau had perfected through long use though they had never before attempted it on this scale. Each gang was subdivided into a main body and two subsidiary groups. The first subsidiary group had the task of binding the huts swiftly and tightly with cable so that the door could not be opened. The second group, who carried petrol, soaked the hut and its thatched roof and set fire to it. The remainder stood by ready to kill with pangas and simis anyone who managed to escape from the blazing huts. Luck was wholly with Mau Mau that night. Only that morning the King's African Rifles had been called away from the area and now, as they prepared to strike, the 150-strong local detachment of the Kikuyu Home Guard were patrolling the forest some distance away.

Shortly after ten on that night of 26 March 1953, to those watching from Uplands police post the night seemed to burst into flames. A belt of fires in depth broke out so nearly simultaneously that the whole countryside seemed suddenly ablaze, not only the main Lari ridge but the plain beyond.

A great bank of fire greeted the District Officer when he arrived at Uplands a few minutes later with senior police

E



Catholic crowds. The hated B-Specials were to be disbanded and civil rights legislation was in the offing. The new Ulster Defence Regiment showed signs of becoming a truly non-sectarian force.¹⁸

However, a series of major mistakes based partly on past colonial experience and partly on the peculiar situation in Ulster prevented the security forces from ending the conflict. To begin with they failed to establish a strong presence in the Catholic areas. Instructed by the Labour government to "go softly", the troops stayed out of what came to be called "no-go" areas. Behind the barricades and the shield of the British army the phoenix of Irish nationalism was reborn — yet again. One IRA member later asked a soldier quite candidly why the army had not called the insurgents' bluff and moved into the Catholic areas which could not then have been defended.

The nationalists displaced the civil rights movement as leaders of the Catholic community and came to control the "no-go" areas. They convinced people that they alone could protect the community from the Protestants. The traditional insurgents, the official Irish Republican Army, had, however, eschewed violence. Consequently, the "Provos" (the Provisional IRA) split from the Officials in December 1969. J Bowyer Bell, who perhaps knows more about the Provisional IRA than anyone outside the organization, described the Provos' goals:

1. The IRA would immediately assume the role of nationalist defender, replacing the British Army and pre-empting any Dublin effort;
2. the IRA would shift the nationalist focus to the British Army-as-enemy, thus benefiting from their own provocations and the nature of the military to begin retaliatory operations;
3. these would engender a cycle of provocation-and-response that would permit an offensive IRA campaign.¹⁹

The Provisional IRA went from 100 members in January 1970 to 800 in December and now felt confident enough to take the offensive against the army with sniping and bomb attacks.²⁰

Unfortunately the governments in Stormont and Westminster and the security forces played into the hands of the Provos. Civil rights legislation addressing most of the demands of 1968 was too little too late. The decisions to disband the B-Specials and disarm the RUC were steps in the right direction, but in the short term they

the instructions on the yellow card if a judge or jury believes that his actions did not constitute minimum force. A private of the Light Infantry is currently serving a life sentence for a murder he committed while on duty in 1984, and 11 members of the Ulster Defence Regiment have also been convicted of murder.

At the strategic level too the security forces operate under more restrictive emergency legislation than that enacted for any previous emergency. At the start of the "troubles" the 1922 Special Powers Act governed the conduct of the emergency. Passed in the aftermath of the Anglo-Irish War the act allowed internment without trial, flogging of prisoners, capital punishment, seizure of property for security purposes, proscription of organisations by ministerial order, and dispensing with the coroner's inquiry.⁶⁹ The civil rights movement quite naturally included repeal of the hated act in its list of demands. The act was an open invitation to use excessive force, an invitation which the B-Specials accepted.

While its most extreme measures were never invoked, the Special Powers Act was clearly inadequate for addressing a modern insurgency. The first adjustment to the security legislation came in 1973 on the recommendation of the Diplock Commission. The 1973 Emergency Powers Act gave soldiers the right to make arrests and created special "Diplock Courts" in which offences could be tried before a magistrate instead of a jury subject to intimidation.⁷⁰ The Act empowered the army to conduct searches of individuals, vehicles, and premises; detain suspects for up to four hours; establish vehicle checkpoints; and disperse crowds. It also provided for careful documentation of arrests and reasonable safeguards for suspects. The Prevention of Terrorism Act (1984), applicable to the whole of the United Kingdom, allows suspects to be detained initially for forty-eight hours and for an additional five days by order of the Secretary of State. The Northern Ireland (Emergency Provisions) Acts 1978 and 1987 augmented the 1973 measure. Under the Acts soldiers were empowered to arrest suspects and detain them for up to four hours without warrant; to search premises, vehicles and persons. The Northern Ireland (Emergency Provisions) Act 1991 renewed the regulations of the earlier statutes but added a condition of "reasonable suspicion" to security force powers of search, arrest and detention. The Criminal Evidence (Northern Ireland) Order 1988 abridged freedom from self-incrimination by stipulating that refusal to answer questions could be held against

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TERRORISM IN IRELAND

Edited by
YONAH ALEXANDER and ALAN O'DAY

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Essay thirteen

THE PERSISTENCE OF IRA TERRORISM¹

Martha Crenshaw

A physical force movement in Ireland which ends without a fight has a more demoralizing influence on the people than a fight that fails.²

The Irish Republican Army has the distinction of being the longest-lived organization in history, exhibiting a remarkable continuity in both goal and method. The roots of violence in Ireland are tangled and deep; understanding their growth is essential to explaining the extraordinary tenacity of the IRA. The Provisional IRA's persistence since its inception in 1970 lies in the historical development of Irish Republicanism. Terrorism in the formative period of the Provisional IRA (1970-1972) stemmed not only from the events which immediately precipitated violence but also from a set of preconditions that both made terrorism possible and provided motivations for its practitioners and supporters. The IRA's collective perception, definition, and interpretation of events and background conditions were also critical, as was the character of the organization and the relationships among its members. How and why IRA terrorism has continued into the 1980s, despite its obvious lack of success in achieving the goal of a united Ireland, forever free of the British presence, requires another explanation. The consequences of IRA terrorism, which are one reason the IRA persists, also deserve close scrutiny if we are to discover the limits to the effectiveness of terrorism.

THE PRECIPITANTS OF TERRORISM

The events that led to the creation of the Provisional IRA, with its determined dedication to the use of terrorism to expel the British from Northern Ireland and unite the island, include a sequence of steps, beginning with the formation of the Northern Ireland civil rights movement and culminating in

complaints have been lodged against specific British practices. British policies remain those of a democratic liberal state, concerned with protecting the rights of the individual. The IRA profits by the limits democracy imposes; all liberal states combatting terrorism, including most prominently West Germany, Italy and Spain, face similar problems. Governments confront a difficult choice between tolerating a certain level of terrorism or instituting rules and security procedures that jeopardize the political order that is being defended against terrorism.

TERRORIST ORGANIZATION, AIMS AND METHODS

The people who become terrorists or assist terrorists are a very small number of those who collectively experience the events and conditions outlined above. At its highpoint in 1972, the IRA numbered about a thousand activists; it is currently thought to be in the range of three to four hundred, apparently showing some diminution since a 1973 figure of five hundred.¹³ The Irish National Liberation Army, a recent manifestation of Irish nationalism that evolved from the Official wing of the IRA, has only a hundred members.¹⁴ To understand the resort to terrorism, we must look at the terrorists' perceptions of the environment, their reasons for terrorism, their interpretations of the situation, their goals, their strategies and their organization.

Terrorism is a rational choice, deliberately made for reasons that are comprehensible if not justifiable to the outside observer. Furthermore, terrorism is best understood as the collective choice of an organization than as the decision of a single individual. Terrorism is not a form of deviant psychology; examination of personality types is unlikely to provide a satisfactory explanation. In the words of a British military intelligence report, the IRA consists of well trained, skilled militants led by "a strata of intelligent, astute, and experienced terrorists".¹⁵ Most observers agree that there is no unifying personality characteristic among terrorists, much less some pathological drive that would make terrorism a form of expressive rather than instrumental violence.¹⁶ IRA leaders impress observers as being genuinely dedicated to the cause, not as individuals attracted to violence for its own sake.

Psychological motives for terrorism and social and psychological rewards for participation in terrorist activities play some role, although they are not dominant factors. Vengeance against the enemy is a strong emotional motive, one which many terrorist groups share.¹⁷ Also, in the Irish context, the role of an IRA member is one that earns a definite reinforcement. The solidarity and comradeship of belonging to a paramilitary organization, an in-group blessed

... have not been consistently successful. Despite emphasis on intelligence-gathering and analysis and the establishment of a special telephone number for callers who wish to give information anonymously, acquiring accurate information on the IRA remains a key problem. The British government is apparently reconciled to a policy of containment and the tolerance of a low level of violence for an indefinite future.

The British policy response has also involved greater cooperation with the Republic of Ireland than existed before the Troubles. Politically the British government has shown an enthusiastic willingness to associate the Republic in finding a solution, and the Republic has expressed eagerness to be included. The relationship is a delicate one, but both countries share the view that the IRA must be repressed, that unity can come about only through consent, and that for the present direct rule is the only feasible policy. In the area of security, cooperation between police forces on either side of the border has improved. However, the Republic does not extradite terrorist suspects or allow Northern Ireland forces the right of pursuit across the border. The South still provides a convenient sanctuary and base for both IRA and INLA, a source of funds, and a channel for arms. Irish popular enthusiasm for the cause of Catholics of the North died down as internment and official discrimination ended, as IRA bombings and assassinations outraged public opinion, and as the hunger strike ended with little credit for the Republican movement. Nevertheless, the idea of Irish unity remains powerful. The failure of the British and Irish Prime Ministers to agree on common security measures even when confronted with the crisis of finding a response to the assassination of Mountbatten demonstrates the limits of cooperation. The policy of the Irish government is that political resolution of the conflict is an essential precondition for the eradication of terrorism.

Terrorism has little effect on the domestic political structure of Great Britain or Ireland; for example it is not an election issue in either country. However, it has resulted in policy changes oriented toward suppressing the IRA. The IRA only became an outlawed organization in Great Britain in 1974 as a result of bombings in Birmingham. The Prevention of Terrorism Act (which also applies to Northern Ireland) involves restrictions on civil liberties such as government exclusion powers by which suspected terrorists can be expelled from Britain. Persons may also be detained for questioning for up to a week. More stringent measures were taken in the Republic, where a Special Criminal Court was established, the defendant's presumption of innocence abolished in the case of IRA membership, and spokesmen for the IRA prohibited from appearing on radio or television or being quoted in the press.³⁶

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From Conflict to Integration

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7. The following are the results of the regression analysis of the dependent variable on the independent variables:

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Black, Binodhara. *Armed Political Organizations: From Conflict to Integration*. Baltimore, US: Johns Hopkins University Press, 2010. ProQuest online. Web. 29 January 2017.
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After the 1975 cease-fire and in response to the increasing infiltration of the IRA from British intelligence, the IRA chose to downsize its armed wing and shift from a mass-based movement to a more secretive cell system. Under the new system, each cell, at times composed of only two or three members, would maintain a functionally distinct task and would coordinate with the larger movement by reporting through a vertical chain of command, headed by the Army Council.⁵⁵

This seven-man council was elected by an executive body appointed during the General Army Convention, composed of representatives from local units. The Army Council was the highest authority within the IRA; its decisions were considered binding. The council was in charge of the main policy and strategic decisions, as well as with selecting the organization's chief of staff and highest army officers. Along with this organizational restructuring, the IRA enhanced its technical skills, boosting its bomb-making capacities and acquiring a sophisticated arsenal.⁵⁶

These changes were possible due to the rise of a new group of leaders, which first emerged in the mid-1970s following the creation of the IRA Northern Command.⁵⁷ In the following decade, the internal balance of power shifted, moving from the traditional southern elite to a younger generation of northern leaders. The new IRA leaders, born and raised in Northern Ireland, would be responsible for the internal restructuring of the IRA.

In parallel with these changes at the military level, the republican political organization, Sinn Féin, also rose and became more prominent. The growth of the party began in the early 1980s, as the next section will examine in detail, in parallel with the rise of Gerry Adams as its leader. Furthermore, this growth reflected the development of the "Armalite and ballot box" strategy that claimed that the republican movement would be best served by conducting simultaneously a political and a military campaign.⁵⁸ Sinn Féin's structure was diametrically opposite to the IRA's. Sinn Féin favored grassroots participation through local associations (the *cumanns*), entered alliances with trade unions and civil society organizations, and attempted to draw broad mass support from the population in Southern and Northern Ireland, in contrast with the IRA's underground activism.⁵⁹

Although the groups were formally separated, with the Army Council ruling the IRA and the Ard Comhairle (National Executive) overseeing Sinn Féin's activities, still there was an overlap in the membership of the two organizations regarding the bases, leadership, and political candidates chosen by the party to run for office. The council's decisions were reportedly also equally upheld by the IRA and by Sinn Féin.⁶⁰ Since its early days, the relationship between the IRA and Sinn Féin was blurry and complex. Although Sinn Féin publicly denied influencing the IRA and its decisions, it still periodically accepted to be the intermediary between the British

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Prepared for the National Institute of Justice

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CHAPTER FIVE

Provisional Irish Republican Army*Brian A. Jackson***Introduction**

Even a cursory examination of the operational history of the Provisional Irish Republican Army (PIRA) reveals ample evidence of organizational change and evolution. Through its nearly 30-year history, the group has altered its tactics, manufactured new weapons, modified its targeting practices, and significantly changed its own structure to improve its security. PIRA has also devoted significant effort to circumventing or defeating systems and technologies deployed by security forces in their counterterrorism efforts.

PIRA stands out from other terrorist organizations in both the quality and scope of its learning capabilities. Hogan and Taylor note that “the remarkable evolution of this organisation has been characterized by internal learning, an exceptional ability to adapt, reorganize, and restructure, and the impressive development of a highly efficient and multi-dimensional support apparatus” (Hogan and Taylor, 1997, p. 27). Other assessments, however, paint a more complex, if not contradictory, picture. J. Bowyer Bell, a researcher who spent many years studying the group, raised serious questions about PIRA’s ability to learn and its desire to change its modes of operation. Bell saw the group as constrained by past assumptions, and as a result, “[PIRA spent little time] in consideration of strategic options or tactical initiatives. . . . The Army Council or the individual volunteer . . . rarely [contemplated] the appropriate means to achieve the organizational goals” (Bell, 1993, pp. 26–27). Such an assessment seems to suggest a PIRA that barely thought, much less learned.

This chapter examines organizational learning within PIRA in a variety of areas, including

- Operations and tactics
- Training
- Logistics
- Intelligence and operational security

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This analysis is intended to develop a better understanding of the group's learning efforts, including the areas in which it chose to learn, the results of its attempts to do so, and, where possible, the processes through which it carried out its learning efforts. It directly confronts the apparent contradiction noted above. As the discussion will show, PIRA's level of success at learning and innovation varied; though in most areas it was extremely successful, some of its efforts were more mixed. As a result, the two viewpoints should be viewed as complementary, rather than contradictory. And the apparent conflict between them should be seen as a demonstration of the difficulty of making broad statements about an organization's capacity to learn across all areas, subjects, and technologies.

Background

Violent conflict over British involvement in Ireland has a history that reaches back decades. Even as the political landscape shifted—e.g., the British withdrew from the majority of the island in 1921 (the part that became the independent Republic of Ireland in 1948), and the island was geographically partitioned to form Northern Ireland—violent conflict persisted at varied levels of intensity. Conflict in Northern Ireland between Loyalists (supporters of continued English involvement) and Republicans (opponents of English involvement who desire unification of Northern Ireland with the Irish Republic) claimed many lives throughout the years of violence. Complicating the political elements, the conflict is also a religious one. The division between Loyalists and Republicans is also a division between Protestants and Catholics, making much of the violence as much about brutal sectarianism as about the political goals of the opposing sides (Coogan, 1993, pp. 3–28; Drake, 1991, pp. 43–44).

PIRA came into being in 1969, splintering from the rest of the Republican movement due to differences in political and military strategy (Bell, 1998b, pp. 367–368; Drake, 1991, p. 44). It operated as an insurgent terrorist organization until the late 1990s, carrying out operations and support activities in Northern Ireland, in the Irish Republic, on the British mainland, and in other areas, including continental Europe and the United States.¹ Since PIRA agreed to a ceasefire in 1997 as part of the regional peace process (Jane's World Insurgency and Terrorism, 2004), more-limited terrorist operations have been continued by splinter groups such as Real IRA and Continuity IRA.

¹ The vast majority of PIRA terrorist operations were carried out in Northern Ireland and on the British mainland.

Goals and Strategy

PIRA's goals and strategy were defined by the long history and philosophy of the Irish Republican movement. In a 1981 interview, a spokesman related PIRA's goals to events that occurred more than 60 years earlier: "Our aim [is] to force a British withdrawal from Ireland and to establish a Democratic Socialist Republic based on the Easter Proclamation of 1916" ("IRA Interview: Iris Talks to a Member of the IRA's General Headquarters Staff," 1981, p. 42). As it pursued these goals, the group sought to maintain the allegiance of the Catholic population in Northern Ireland and the Republic, its primary support community. PIRA also strove to maintain an image as a potent military force (Crenshaw, 1984; Silke, 2003), drawing on Republican traditions that called for physical force as the means through which the goal of Irish unification should be pursued (Smith, 1997, pp. 14-19).

Understanding that it lacked the capability to directly confront the British militarily, PIRA opted for terrorism and insurgent violence. The group's implementation of this strategy is articulated in *The Green Book*, a PIRA policy and training manual:

1. A war of attrition against enemy personnel which is aimed at causing as many casualties and deaths as possible so as to create a demand from their people at home for their withdrawal.
2. A bombing campaign aimed at making the enemy's financial interest in our country unprofitable while at the same time curbing long term financial investment in our country.
3. To make the Six Counties as at present and for the past several years ungovernable except by colonial military rule.
4. To sustain the war and gain support for its ends by National and International propaganda and publicity campaigns.
5. By defending the war of liberation by punishing criminals, collaborators and informers (quoted in Coogan, 1993, p. 420).

An alleged PIRA leader summarized the group's strategy rather more succinctly as "blatting on until the Brits leave" (Drake, 1991, p. 45).

Organizational Structure

In order to act, a terrorist organization must be able to organize people and resources, gather information about its environment and adversaries, shape a strategic direction for actions of its members, and choose tactics, techniques, and procedures for achieving strategic ends. PIRA addressed these requirements through a multilevel management structure. The highest level of decisionmaking was the General Army

² "The Green Book listed the duties and responsibilities of Volunteers, as well as explaining the history of the movement, the rules of military engagement, and anti-interrogation techniques" (Collins and McGovern, 1998, p. 66).

The decisions of the Army Council and its chief of staff were implemented by the General Headquarters (GHQ) and two operational divisions, the Northern Command and the Southern Command, which controlled operations in Northern Ireland and in the Republic, respectively. The GHQ, based in Dublin in the Republic of Ireland, was divided into ten departments, as shown in Figure 5.1. Over time, the structure of PIRA's operational units changed in response to the group's external security environment. Initially, PIRA was built as a quasi-military organization consisting of battalions and brigades. As long as PIRA controlled areas with sympathetic populations, these components operated openly, but such openness could not be maintained under pressure from security forces and was discarded later in the group's

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graph TD
    GAC[General Army Convention] --> AE[Army Executive]
    AE --> AC[Army Council]
    AC --> GH[General Headquarters]
    GH --> GHStaff[General Headquarters Staff]
    GHStaff --> Q[Quartermaster]
    GHStaff --> O[Operations]
    GHStaff --> F[Finance]
    GHStaff --> E[Engineering]
    GHStaff --> ED[Education]
    GHStaff --> S[Security]
    GHStaff --> FOD[Foreign Operations/England Department]
    GHStaff --> T[Training]
    GHStaff --> I[Intelligence]
    GHStaff --> P[Publicity]
    GH --> NC[Northern Command]
    GH --> SC[Southern Command]
    NC --> ASU1[Active Service Units]
    SC --> ASU2[Active Service Units]
  
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The organizational chart of the British Army is structured as follows:

- General Army Convention**
 - Army Executive**
 - Army Council**
 - General Headquarters**
 - General Headquarters Staff**
 - Quartermaster
 - Operations
 - Finance
 - Engineering
 - Education
 - Security
 - Foreign Operations/England Department
 - Training
 - Intelligence
 - Publicity
 - Northern Command**
 - Active Service Units
 - Southern Command**
 - Active Service Units

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career. In this structural transition, which will be discussed in more detail below, the quasi-military organization was replaced by a compartmented, cellular structure.

Operations and Tactics

Although PIRA split off from the already operational Irish Republican Army (which continued to exist alongside PIRA as the "Official IRA"), the group's initial capabilities were quite limited: "Initially, the principal military activity of the [PIRA] was stone-throwing and sometimes petrol bombing" (Coogan, 1993, p. 281). But as weapons became more available and the group evolved, PIRA's repertoire expanded; within months, it included firearms (Coogan, 1993, p. 282), and it progressed toward what would eventually become significant explosives expertise. In time, PIRA branched well beyond guns and bombs to become known for the variety of tactics and weapons it used effectively. Building operational and tactical capabilities required that the group make advances in weapons technology and usage as well as in the planning and execution of operations.

Weapons Technologies and Usage

At different points in its history, PIRA faced different constraints on its ability to acquire and use weapons technologies. When it began terrorist operations, its arms were limited: "It is literally true, for instance, that in August 1969, the only weapons known to be available to [PIRA] were ten guns" (Coogan, 1993, pp. 278–279). This void was gradually filled through infusions of funds from abroad, notably from the United States; interactions with sources in the Middle East, particularly Libya; and the international arms market (Bell, 1987, pp. 56, 256). The organization's access to arms was, however, limited by a lack of expertise in a decidedly nonmilitary area: the knowledge required to execute deals in the international arms market and to successfully get the weapons through the international shipping system. As noted by Bell, "The GHQ lacked foreign contacts and foreign allies, had little knowledge of the nature and problems of illegal arms traffic nor the diplomatic resources to purchase 'legally' what was needed. As a result, a string of failures and abortive plots occurred—and in some cases received wide publicity" (Bell, 1998b, p. 373).³

Counterterrorism officials interviewed for this study indicated that by the later stages of its operational career, PIRA had more than 30 varieties of weapons—including mortars and rockets—as well as numerous methods to lay and detonate explosives, advanced sniper tactics, etc., that it could draw on to mount opera-

³ In some of these failures, the group's lack of expertise may have been exacerbated by direct intervention of the security forces: "It would appear in several cases the [supposed] arms source was, in fact, British Intelligence or agents thereof" (Bell, 1998b, p. 392).

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tions.⁴ This was partially the result of improvements in the group's ability to obtain weapons through procurement, including stocks of sophisticated weapons such as the Armalite rifles that the group made a *de facto* trademark of its military activities, advanced explosive devices, and powerful military-grade machine guns. When the group could not gain access to desired weapons, it turned to manufacturing them internally, producing its own explosives when stocks ran short, engineering and constructing its own mortars, and even seeking to manufacture its own antiaircraft missiles (Bell, 1998b, p. 438).

Although PIRA has used a wide variety of innovative attack forms, three types of weapons illustrate the group's learning activities particularly clearly:

- Explosives
- Grenade launchers
- Surface-to-air missiles

These are discussed in turn below. The discussion examines the circumstances that drove PIRA innovation in each type of weapon, the group's organizational learning efforts, and, to the extent possible, measures of the group's success.

Explosives: Continuous Improvement to Improve Device Safety and Competitive Learning to Maintain Group Capabilities

PIRA developed a reputation for its capabilities with explosives and the application of advanced technologies in the construction and use of bombs, mines, and other devices. These capabilities developed over time as a result of an intense learning process within the group.

Drivers of Innovation. In the early 1970s, PIRA bombs were basic, unstable, and almost as dangerous to the group itself as they were to its targets. One account of a member active at the time emphasized how the fatality rate from the devices affected group members' willingness to use them: "People who volunteered to work with explosives were regarded either as 'nutty professors' or as stark, raving mad because explosives, commercial and home-made, were dangerous and unpredictable and had cost [PIRA] persons their lives. Result—not many people wanted to work with explosives" (O'Doherty, 1993, p. 69).

The losses went beyond simply reducing the willingness of volunteers to plant bombs. Occasionally, the accidents claimed the lives of experienced veterans, such as Jack McCabe, who "was mixing ingredients for a home-made bomb in December 1971, using a metal shovel on a concrete garage floor. The predictable result was

⁴ Personal interview with law enforcement officials, England, March 2004.

Explosives Innovation. As its operations expanded, PIRA had to learn what was required to meet its need for basic explosives materials. In some areas, the group could steal what it needed from construction, mining, or other industrial sites

⁶ "It was commonplace to work at bombs with bare hands instead of wearing rubber gloves and a lot of the young married Volunteers wore gold wedding rings; we later discovered that these sometimes made a contact where the two wires crossed the ring, completing the circuit and detonating the bomb" (O'Callaghan, 1999, pp. 82-83).

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(O'Callaghan, 1999, p. 58). However, those sources could not sustain the group indefinitely, so by 1972, PIRA had extensive explosives manufacturing operations in place (Foreign and Commonwealth Office: Republic of Ireland Department, 1972a).

Some PIRA units specialized in explosives manufacture, supplying larger portions of the organization. One bomb factory, staffed by three people, was tasked to produce "two tons of fertilizer-based explosives every week . . . [to supply] the Mid-Ulster Brigade of the [PIRA]: South Derry, East Tyrone, South Fermanagh, North Antrim, North Armagh and West Fermanagh" (O'Callaghan, 1999, p. 89). Such an industrial approach allowed the group to adopt large, vehicle-based explosive devices as a central tactic. When PIRA received significant quantities of the plastic explosive Semtex from Libya in the mid-1980s, the materiel constraints on its operations shifted again. With less need to work on its ability to make explosives, the group could increase the range of devices it constructed (Harnden, 2000, pp. 242–243).⁷⁸

PIRA is more broadly known for innovation in the design of explosive devices, rather than explosives materials themselves. Initially, the group used comparatively unsophisticated gasoline and nail bombs to attack security forces. Although it continued to use such hand-thrown devices—"coffee jar" bombs combining a small amount of explosives and shrapnel were a constant component of its arsenal⁷⁹—these devices had disadvantages. In particular, thrown explosives require the thrower to be close to the target and expose him to considerable risk.

To protect volunteers and increase the chances of operational success, PIRA adopted two technologies that could separate the terrorist from the detonation of the explosive device in distance, time, or both:

1. **Remote manual detonation.** The bomb is set off by an individual, but technology moves the bomber away from the bomb.
2. **Automatic detonation.** The bomb does not require intervention to be detonated.

Remote Manual Detonation. One of the earliest detonation mechanisms adopted by PIRA was the use of long command wires, usually buried to avoid detection, which allowed a bomber to set off a bomb from some distance away. Frequently used for mines planted under roads to attack security force vehicles, long command wires sometimes took advantage of the border between Northern Ireland and the Republic to prevent security-force pursuit.

⁷⁸ It should be noted that PIRA made a number of innovations in the formulation of explosives materials themselves, both to match the materials they had available and to improve the properties of explosives for their operations. In the interests of space and to avoid the inclusion of certain types of restricted information in this report, innovation in that area will not be discussed here.

⁷⁹ Personal interview with a former security forces member, England, March 2004.

⁸⁰ Personal interview with law enforcement officials, Northern Ireland, March 2004.

Although command wires separate a bomber from the bomb, they still provide a tangible link between the two and limit their separation distance. The buried wire could also be detected, potentially compromising an operation. This drove PIRA to explore remote detonation, beginning with remote-controlled or radio systems.¹⁰ Its first detonation of a remote-controlled bomb reportedly occurred in 1972 (Geraghty, 2000, p. 208; Urban, 1992). PIRA's first transmitters were based on a commercial unit designed for model airplanes or boats. To counter this new tactic, security forces began transmitting jamming signals on the transmitter frequencies, preventing detonation or prematurely detonating PIRA bombs (Harnden, 2000, p. 363; Urban, 1992, p. 112). PIRA answered this innovation by adopting more-sophisticated electronic switches (Geraghty, 2000, p. 208).

The back-and-forth innovation/countermeasure developments led to a "chase" across the radio spectrum. Once the security forces jammed a frequency, PIRA had to seek out a new area of the spectrum to reconstitute its capabilities.¹¹ First-person narratives describe how PIRA tested new technologies to ensure that their signals could penetrate the security forces' protective countermeasures (Collins and McGovern, 1998, pp. 155–156). For these innovation efforts, PIRA drew on expertise within the commercial sector (Bell, 1998a, p. 198) and on experts from abroad and within the military (McKinley, 1984). An American engineer, Richard Johnson, developed "the ingenious idea of using the Weather Alert Radio frequency to trigger [PIRA] bombs. The [system] ... was unique to North America. Its frequency of 162.55 MHz was not in use in Europe and was therefore a clear channel for the [PIRA]" (Geraghty, 2000, p. 208; Harnden, 2000, p. 356).

However, as PIRA's devices became more sophisticated and used increasingly specialized components, they also provided ways for the authorities to track down the group's activities and link its outside consultants to terrorism (Harnden, 2000, p. 356; Neuffer, 1990).¹² The increasing specificity and sophistication of the devices also increased the risk to the group's capabilities, since the security forces could study PIRA bombs that failed to detonate. Intricate firing sequences and transmission technologies might make it possible to circumvent countermeasures, but if PIRA's technology was compromised, the countermeasures could be quickly updated: "Once a [PIRA] radio-bomb had failed to detonate, the army could retrieve the weapon and identify the radio code on the receiver, thus neutralizing all bombs using the same

¹⁰ Triggering remotely controlled devices involves some expertise in timing when the target is positioned near the explosive. PIRA reportedly adopted some other auxiliary technologies, such as baby-monitor transmitters, to assist in detonating bombs even when they lacked a line of sight to the target (Geraghty, 2000, p. 208).

¹¹ Personal interview with a former security forces member, England, March 2004. The interviewee pointed out that this sequential "chase" from frequency to frequency was bounded by the availability of electronics components at the time.

¹² Personal interviews with law enforcement officials, England, March 2004.

signal. When this occurred the [PIRA] could spend more than a year trying to find a new signal which would break through the shield" (Collins and McGovern, 1998, pp. 155–156, 169). To protect its capabilities, PIRA had to learn how to prevent this from happening. To prevent security forces from gathering such evidence, therefore, some bombs were outfitted with self-destruct mechanisms to insure against their failing to detonate (Harnden, 2000, p. 20).

Paradoxically, as the bombs got more and more advanced, PIRA's overall capability became less robust—a single device failure could result in security forces hobbling the group's capabilities for an extended period. Because of these potential vulnerabilities, PIRA sought to broaden its repertoire of remote detonation technologies, exploring alternative options such as the use of radar detectors and police radar guns, photographic units triggered by flashes of light, infrared transmitters from garage-door openers, and even "projectile detonation," i.e., shooting two metal plates together to complete a firing circuit and set off a bomb (Geraghty, 2000, pp. 209–210).¹³

Even as detonation technologies became more and more advanced, PIRA retained older technologies for use when needed. As a result, while different transmitter methods were being used, command wires were being used as well. This allowed the group to cycle through both old and new as its latest-generation methods were penetrated and rendered ineffective (Urban, 1992, p. 113).¹⁴

Automatic Detonation. To enable bombers to escape, PIRA also used timing devices to delay detonation. Beginning with clocks and watches (O'Callaghan, 1999, pp. 82–83) and simple chemical delay mechanisms (Geraghty, 2000, p. 207), PIRA shifted to much more accurate timers taken from other devices or developed from scratch. The group built timers that could delay detonation for weeks or months, technology used in an attempt on Queen Elizabeth in 1977 (Glover, 1978) and a 1984 attack on Prime Minister Margaret Thatcher at a Party conference in Brighton.

¹³ PIRA also explored alternative ways of separating the volunteer delivering the bomb from the attack itself. Letter bombs, although effective, produced a significantly negative response from the group's constituencies and were therefore seldom used (Crenshaw, 1984; Foreign and Commonwealth Office: Republic of Ireland Department, 1973a). The group also modified vehicles to deliver bombs in ways that did not require PIRA members' direct involvement. In one instance, a van was modified to travel on its own along rail lines (Harnden, 2000, p. 262, 264). In others, PIRA used guidance mechanisms that relied on human intervention. The group also used "proxy bombs"—stolen civilian vehicles that PIRA filled with explosives and forced their owners to drive them to their targets (Coogan, 1993, p. 285; Drake, 1991, p. 50). The group made an effort to use "human bombs," unwilling suicide bombers, but it rapidly gave up the practice (Bell, 1998b, p. 615). There are also reports of PIRA experimenting with building vehicles either guided by remote control (Harnden, 2000, p. 208) or using the global positioning satellite (GPS) navigation system, "somewhat like a pilotless cruise missile" (Geraghty, 2000, p. 212). This technology was cited as an example of convergence between PIRA and other groups, such as Basque Fatherland and Liberty (ETA) and the Revolutionary Armed Forces of Colombia (FARC), which reportedly have also experimented with and used such devices (personal interview with a former security forces member, England, March 2004).

¹⁴ Personal interview with a former security forces member, England, March 2004.

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PIRA also adopted movement-triggered devices to detonate bombs placed under cars, targeting the individuals who owned the vehicles. These devices were reportedly improved with assistance from other Irish terrorist groups, which may have obtained the technology from groups outside the region (Drake, 1991, p. 48; O'Ballance, 1981, p. 237).

A key development in PIRA timer technology was the adoption of the Memopark timer, a small pocket timer marketed to help people track the time remaining on their meter when they parked their car. The timers were very accurate, and the group acquired a large number of them.¹⁵ Because of the suitability and availability of the Memopark timers, PIRA relied on them for an extended period and was not forced to innovate as dramatically in timer technology.¹⁶

Just as PIRA had specific cells producing explosives materials, it also institutionalized production of the bombs' electronic components. It developed nearly standardized timing and power units that the military cells could use as off-the-shelf components in their operations. This level of stability allowed the group to incorporate standard safety devices into its bombs, such as indicator lights to assure that the bomb was properly set before arming, and to use secondary timers that would arm the bomb after a set amount of time had passed.¹⁷ The stability of device construction also enabled continuous improvement in the devices over time, since the same individuals were building many generations of explosive devices.¹⁸

Although security forces indicated that there were few barriers to expanding production of the units within the group—"only comparatively simple skills are needed [to manufacture the devices], . . . we would not expect PIRA to have great difficulty in expanding production and we expect this to happen" (Glover, 1978)—such expansion was not observed. Discussions with law enforcement and former security forces members indicated that signatures of individual bomb-makers could be tracked through much of the conflict. This suggests that PIRA decided it was more effective to diffuse these specialists' knowledge through the organization in the form of the devices they built, rather than broadly teaching many group members to make bombs for themselves.

Although the use of timers and delays before detonation improved the safety of volunteers, it also provided security forces with the ability to locate and defuse the

¹⁵ Ibid.

¹⁶ Personal interviews with a former security forces member and a law enforcement official, England, March 2004.

¹⁷ These safety-to-arm devices were incorporated into manually detonated bombs as well to help ensure the safety of the volunteers planting them (personal interview with a law enforcement official, England, March 2004).

¹⁸ Centralized manufacturing of the devices allowed the security forces to build up information on individual bomb-makers based on the characteristics of their devices. Glover states: "The devices used so far bear the stamp of being made by one man or under the supervision of one man" (Glover, 1978). Comments by interviewees suggested that this continued throughout the group's career.

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devices (Jenkins and Gersten, 2001, p. 19). This required additional learning by PIRA and led to another area of technological competition between it and the security forces, i.e., building in tamper-resistance or "booby trapping" devices to prevent bombs from being defused. The innovations reportedly included the use of light-sensitive devices in detonators (O'Ballance, 1981, p. 169) and electromagnetic traps that would set off the bomb if a metal detector was used to try to locate its hiding place (Geraghty, 2000, p. 208).

Building Expertise. PIRA's long operational history and the ability of its bomb-makers to maintain their freedom and increase their expertise were critical to the organization's learning capability. "The mature terrorists, including for instance the leading bomb-makers, are usually sufficiently cunning to avoid arrest. They are continually learning from mistakes and developing their expertise. We can therefore expect to see increased professionalism and the greater exploitation of modern technology for terrorist purposes" (Glover, 1978). The ability of these individuals to operate in the comparative safety of the Republic of Ireland for a significant portion of the group's career was also important. Interviewees indicated that the group used test-firing ranges in the Republic and that there were frequent reports to local authorities of unexplained explosions in the middle of the night. It would only be much later that the crater that resulted from an experiment would be discovered in a remote forest or beach.¹⁹ Tests were also reportedly carried out in the border counties where security forces' control was weaker—"South Armagh's strategic position on the border and the formidable strength of armed republicanism there have meant that it has long been the place where new weapons and prototype bombs have been tested after being produced by the [PIRA]'s Dublin based engineering department" (Harnden, 2000, p. 19).

The organization also instituted processes to investigate failures, which enabled it to learn from its mistakes. Though not all such investigations produced results (O'Doherty, 1993, pp. 151–152), the learning processes were a route for the group to understand and adapt to security forces' changes and innovations (Collins and McGovern, 1998, pp. 162–163).

Measures of Learning in the Use of Explosives. A number of measures could be used to gauge group learning in explosives. PIRA successfully carried out several significant technological changes, adopting new detonation mechanisms and techniques. Smaller modifications in the construction of devices, such as the incorporation of safety devices into timing and power units over time, are also an indicator of

¹⁹ Personal interviews with former security forces members, England, March 2004.