

Law and Terrorism

By Tom Wicker

Kurt Groenewold is a small, cheerful, somewhat ruffled young man who does not look as if he would want to have anything to do with the terrorists who have thrown West Germany into a seizure of fear and security measures. On a recent visit to New York he insisted that he did not agree with the strategy of bombings, kidnappings and murders that the terrorists have adopted, and he said he was not entirely clear about their political rationale and ultimate goals.

Nevertheless, Kurt Groenewold is a lawyer with a long background of defending anti-Vietnam demonstrators, Iranian protesters and Arabs deported from West Germany after the Olympic Games massacre at Munich. Now he has been suspended from the practice of law and is awaiting trial in Hamburg early next year on charges of supporting and helping to insure the survival of the terrorist Red Army Faction, more notorious as the Baader-Meinhof gang.

If convicted, Mr. Groenewold could be sent to prison for five years. He is not, however, charged with anything that usually would be considered a crime—unlike, for example, another West German lawyer, Siegfried Haag, who was charged with having procured arms for a terrorist attack on a Stockholm embassy.

Instead, as Mr. Groenewold describes his case, he is being charged with defending his clients to a degree that the West German Government considers to have abetted their crimes. Specifically, when several of the Baader-Meinhof prisoners went on a hunger strike three years ago, he is charged with having supported it and with having put together an "information system" for the prisoners.

Mr. Groenewold says that what he actually did was to carry information among the prisoners, all of whom were being held in isolation, in a lawyer's effort to help them prepare their defense and develop public statements about their case and about prison conditions.

The indictment charges that, as a result, "the politics and the group identity of the defendants as urban guerrillas, their fighting spirit, their orientation toward the aims of the groups, and their feeling of solidarity, remained unbroken." Thus, the indictment concludes, "the accused has decisively assisted this 'criminal association' during the imprisonment . . ."

If Mr. Groenewold's description of what he actually did is accurate, it would be farfetched in the United States or most other Western societies to charge him with a crime—in effect, with assisting a conspiracy by attempting to provide legal defense for the conspirators.

But Mr. Groenewold is not alone. By

his count, perhaps 20 other German lawyers are facing charges somewhat similar to those against him; about 60 more, he estimates, are charged with such crimes as "slander of the state" or "disrespect for the court." Virtually all are connected with political or terrorist cases, but not all the lawyers have radical backgrounds. Hans Heidman, once an uninvolved specialist in international law, is facing disciplinary charges for saying that some of the Baader-Meinhof proceedings were unconstitutional.

As a result, Kurt Groenewold argues, in West Germany terrorists are not being accorded the same rights to a legal defense as other accused persons. And in terrorist cases the Government seems to be trying to make lawyers act as servants of the state rather than as defenders of the individual.

But there are other, broader implications. A set of 1975 laws passed in response to terrorism provide numerous restrictions on the rights of defendants and their lawyers, including power for the Government to bar certain lawyers from defending certain clients. Nor may any lawyer in any criminal proceeding involving several defendants represent more than one defendant; a collective defense is therefore impossible.

Yet, as Mr. Groenewold points out, there is a growing antinuclear movement in West Germany, which is in no way terrorist; if a thousand antinu-

IN THE NATION

If a thousand
were arrested,
a thousand lawyers
would be needed.

clear demonstrators were arrested and charged, a thousand lawyers would be needed to defend them.

It may be even more alarming that no strong objection to these responses to terrorism has been heard from the bar, the press or political leaders in West Germany. And though it might seem unfair for anyone not thoroughly familiar with the situation in that country—and not subject to the climate of terrorism—to make strong judgments, the strained charges against Kurt Groenewold, the emergency legislation, the restraints on defendants' rights, are unsettling. Extraordinary actions taken to cope with crisis too easily become available for everyday application.

The New York Times

Published: December 30, 1977
Copyright © The New York Times