

## Chapter 26

### Reflections on Terrorist Havens\*

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*Terrorism does not depend on the existence of havens for terrorists but would not have been as prevalent nor extensive a phenomenon as it has been, absent those havens. This and the terrorist threat to world public order are generally agreed. Little else, not proscriptive measures nor even definitions, is agreed.*

Any group of extremists, however justifiable some of their grievances may be, can thus, through hijacking of aircraft or kidnapping of foreign diplomats, receive international attention, remain unpunished, involve innocent people, and sow the seeds of international anarchy.

#### Secretary-General U Thant<sup>1</sup>

“This has been a terrifying year.”<sup>2</sup> Although intended to apply only to the domestic political scene, the observation of Italian Communist Party First Secretary, Enrico Berlinguer, can just as appropriately refer to the current state of international terrorism. On the one hand, the numerical trend of known terrorist activities appears to have taken a downturn.<sup>3</sup> On the other hand, the level and intensity of terror violence have continued to escalate, notwithstanding an apparent reduction in the number of overall incidents. Terrorism in a sense has become commonplace throughout the world, so that an ordinary hijacking or bombing no longer has any really significant effect upon the audience at which terrorist acts are invariably directed. Consequently, there has been an escalation in the severity of terror violence in order to make it more dramatic and thereby to recapture the attention of the media and to be reimpressed upon the public imagination.

Four bloody events stand out during 1978: the kidnap-murder of former Italian Premier Aldo Moro;<sup>4</sup> the P.L.O. massacre of 34 tour bus passengers near Tel Aviv;<sup>5</sup> the Sandinista forcible seizure of the Nicaraguan National Palace;<sup>6</sup> and the murderous attack by Rhodesian guerrillas upon a defenseless civilian airliner.<sup>7</sup> The latter two episodes must be considered “successful” in that the perpetrators made good their escape to havens. The Zimbabwean terrorist

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guerrillas seem merely to have returned to their home bases in Zambia, whereas the Sandinistas, as a result of negotiated concessions, were put on an airplane by the Nicaraguan Government and flown to asylum in Panama. In both instances, the element of haven was essential to the total success of the operation.

It is, admittedly, too strong to say that without havens there would be no terrorist acts. But it would be equally misleading to say that terrorism in either its past or present form would have been as extensive and as prevalent if havens did not exist. According to recent Central Intelligence Agency estimates, "62.8 percent of terrorist missions had elaborate escape plans built into them."<sup>8</sup> Many terrorists expect to survive, and the record shows that a large majority have achieved their goal.<sup>9</sup>

There are those who will argue that the Rhodesian and Nicaraguan incidents are not relevant and thus the assumptions above are erroneous as a legal distinction should be made between terrorists and guerrillas.<sup>10</sup> Others take a *contra* view, maintaining that terrorism is intrinsically criminal, and that international terrorism must by definition be an extraditable crime.<sup>11</sup> The quarrel is essentially definitional but one cannot hope to get at the problem if its essence is not understood. As with any legal analysis, there must first be some agreement over what is actually at issue.

Despite the global effect of terror violence during the past decade, and the innumerable studies, analyses, reports, and resolutions by social scientists, legalists, and even governments, there still is no generally accepted definition of terrorism and a legal definition, likewise, has yet to be formulated. But there is enough agreement among analysts to derive a manageable formula. Individual or group terrorism—as opposed to government or State terrorism—may be described as the use of force or the threat of force directed against innocent third parties for primarily ideological, financial, or psychological purposes. Terror violence, either international or transnational,<sup>12</sup> must include at least one of the following elements: (1) the act or series of acts must take place in more than one State; (2) the act or series of acts must involve citizens of more than one State; (3) the act or series of acts must be directed at internationally protected persons; (4) the act or series of acts must occur outside of an exclusively national jurisdiction; (5) the act or series of acts must be directed against internationally protected property. If one or more of these elements is satisfied, then the act or acts in question are no longer merely common criminality but rather international crimes affecting world public order.<sup>13</sup>

For every legal rule there is almost always an exception, and it is no different with restrictions upon terror violence. Aerial hijacking, or interference with commercial air transport, have been legally construed as internationally prohibited terrorist acts. The three major antihijacking conventions—Tokyo (1963), the Hague (1970), and Montreal (1971)—have criminalized attacks upon aircraft, passengers, and airport facilities, although many loopholes still exist and

sanctions against both principals and accomplices are not yet compulsory.<sup>14</sup> Seizure of aircraft has invariably involved both the taking of hostages and the demand for haven, and escape for the perpetrators inevitably depends upon political asylum granted by a sympathetic receiving state. Small wonder then that “[t]he emphasis in anti-terrorism conventions is on extradition, with prosecution presumably the objective.”<sup>15</sup>

A complicating factor is the controversial issue of political crimes. Here, too, a uniformly acceptable definition is lacking.<sup>16</sup> Traditionally, the juridical standard relating to political crimes has developed out of *stare decisis* rather than being determined by statute, especially in common law countries.<sup>17</sup> The real significance of political criminality under customary international law lies in its exculpatory features *vis-à-vis* the extradition process. Among Western European and other civil law countries there has long been a tradition of granting asylum to political offenders. Beginning with the Belgian law of 1833, followed by the Franco-Belgian Treaty of the very next year, nonextradition of actors accused of political crimes became part of customary international law.<sup>18</sup> Anglo-American law, however, has been very restrictive in its protections. With minor deviations, Great Britain has offered haven only when the act in question has been an integral part of the revolutionary process. Canada has been far more rigorous, while the United States has relied solely upon treaties and conventions to define its role in extradition practice.<sup>19</sup> As far as political terrorism is concerned, the words of Secretary of State William P. Rogers before the U.N. General Assembly on 25 September 1972, clearly depoliticized terrorist acts:

Political passion, however deeply held, cannot be a justification for criminal violence against innocent persons . . . [and] must be universally condemned, whether we consider the cause the terrorists invoke noble or ignoble, legitimate or illegitimate.<sup>20</sup>

Despite the general legal tradition that political criminality can constitute an excusing condition, one type of act *has* been widely accepted as an international crime. The so-called *attentat* clause, criminalizing murderous attacks upon heads of State or members of their immediate family, was incorporated into customary international law during the middle of the 19th century.<sup>21</sup> This exception to the exculpatory nature of political crimes received a statutory formalization 100 years later in Article 3 of the 1957 European Convention on Extradition.<sup>22</sup> The protections granted to heads of State were broadened to include diplomats and other internationally protected persons first on a regional basis by the Organization of American States in 1971,<sup>23</sup> and then globalized by the 1973 U.N. Convention on Crimes Against Internationally Protected Persons, Including Diplomatic Agents, which at present is two ratifications shy of entering into force.<sup>24</sup> On 8 October 1976 the U.S. Congress enacted legislation implementing the U.N. Convention, proscribing violent attacks, murder, or imprisonment of

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foreign officials, official guests, or internationally protected persons within the territorial jurisdiction of the United States.<sup>25</sup> Thus, certain politically motivated offenders are now denied the claim of right to haven by international agreement, even though the proscribed offenses may be of a limited classification.

The politics of atrocity engulfing Western Europe in the early and mid-1970s<sup>26</sup> galvanized the European Economic Community into taking some form of remedial action. Beginning in June 1976, the member states of the E.E.C. undertook a program of cooperation and collaboration<sup>27</sup> that ultimately resulted in the adoption by the Council of Europe of a convention on the suppression of terrorism that negated the political offense exception for specifically enumerated acts of terror violence.<sup>28</sup> Although the convention was not tightly drafted and has yet to be ratified, and although the republics of Ireland and Malta refused to sign,<sup>29</sup> the fact that 17 European Governments had resolved to place limitations on haven for political criminals engaged in acts of terror violence has great significance for the future. The threat posed to world public order by political terrorism, especially to pluralistic democracy, had at last been perceived and a line of proscription, however tenuous, was finally drawn.

Similarly, the world community was forced to adopt a more rigorous position on international criminality as a result of increased aerial hijackings and hostage seizures. With some reluctance, under strong pressure from the International Federation of Airline Pilots Association (IFALPA), the U.N. General Assembly on 3 November 1977 agreed by consensus to condemn the unlawful interference with air transport and urged member States to take any and all means to combat such offenses. But the Assembly also criticized any unilateral actions directed against sheltering States.<sup>30</sup> On 22 July 1977 the Federal Republic of Germany submitted to the U.N. General Assembly a draft convention against the taking of hostages that stressed the long-established but rarely adhered to international legal norm of *aut dedere aut punire* (extradite or prosecute).<sup>31</sup> The West German proposal, as it came to be called, has languished in the General Assembly despite the celebrated Mogadishu incident. West Germany had originally come forward with its stringent suggestions in its capacity as member of the *Ad Hoc* Committee on Hostages created by the Assembly on 15 December 1976.<sup>32</sup> In February 1978 the two working groups of the *Ad Hoc* Committee reported belatedly that they could not agree on a draft convention, foundering on the rock of national liberation movements.<sup>33</sup>

The U.S. position has been erratic at best, and often evasive, with executive and legislative branches assuming contradictory positions. "Terrorism, like piracy, must be seen as outside the law."<sup>34</sup> This statement by Secretary of State Henry A. Kissinger made before the American Bar Association Annual Convention in Montreal on 11 August 1975 sums up official U.S. policy during the Nixon-Ford administrations. Beginning with the U.S. Draft Definition on International Terrorism submitted to the U.N. General Assembly in 1973,<sup>35</sup> the

U.S. Government attempted a mildly activist role to constrict air hijacking and to seek sanctions against those States that had either aided and abetted terrorist acts or provided haven to terrorist offenders. The Memorandum of Understanding on Hijacking of Aircraft and Vessels and Other Offenses, signed by the United States and Cuba on 15 February 1973, eliminated the Cuban haven for hijackers of American aircraft.<sup>36</sup> Despite Prime Minister Castro's denunciation of that agreement on 15 October 1976, he has continued to enforce its provisions.<sup>37</sup> Also during that same year the American and Canadian Governments jointly proposed to the International Civil Aviation Organization (ICAO) that commercial air service for countries providing terrorist havens be suspended. In 1974 the U.S. Congress passed an Anti-Hijacking Act that had authorized the President to do the same, and a similar resolution was voted by the Senate in 1976.<sup>38</sup>

Recently, however, the United States has seemed uncertain in its direction. On the one hand, the Omnibus Anti-Terrorism Act, sponsored by Senator Abraham A. Ribicoff, as originally proposed was a stringent, even somewhat repressive document that provided for stiff penalties to be directed against sheltering States.<sup>39</sup> Conversely, the current version of the Senate Bill is a much watered-down, mild-toned statute that emphasizes reportage and official statements rather than punitive, self-executing measures.<sup>40</sup> The State Department now opposes automatic sanctions, and the Senate apparently has acceded to those views.<sup>41</sup> Even though the Bonn summit has raised doubts to the contrary, it would seem that the United States has not accepted the strong stance of Secretary Kissinger at the American Bar Association 1975 Annual Meeting:

If all nations deny terrorists a safe haven, terrorist practices will be substantially reduced—just as the incidence of skyjacking has declined sharply as a result of multilateral and bilateral agreements. All governments have a duty to defend civilized life by supporting such measures.<sup>42</sup>

Given the cautious tentative approach of the Western democracies, the decisions taken in Bonn during July 1978 must be termed a major surprise. Seven heads of government representing Canada, the United States, Great Britain, France, West Germany, Italy, and Japan not only agreed to deny political haven to skyjackers, but also pledged themselves to cut off commercial air service with any harboring State.<sup>43</sup> At the same time they appealed to the world at large to do likewise, but so far that request has met with no apparent response. A followup session was to be held in the German capital by the seven signatory governments the next week,<sup>44</sup> but no further results have been announced. President Carter was especially enthusiastic, declaring their skyjacking pronouncement to be worth the entire trip.<sup>45</sup> Thus, the Bonn summit declaration presently remains a mere statement of principles, and unless implementing legislation is forthcoming, the antihijacking agreement is liable to be a symbol not of cooperation and

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coordination, but of bureaucratic obfuscation, enabling the Western nations and Japan to substitute a mirror image for harsher reality.

Serving as the chief catalyst at the Bonn summit was Canadian Prime Minister Pierre Trudeau.<sup>46</sup> Canada has manifested an increasingly hard line on the perpetration of terror violence. The passage of the Temporary Immigration Security Act in February 1976 gave to the Ministry of Immigration the power to deny entry into the country to any visitor that an immigration official believed might engage in terroristic activities. No reasons have to be given for that decision and no appeal will be granted.<sup>47</sup> The proposed revision of the Fugitive Offenders Act points toward mandatory extradition of terrorist actors.<sup>48</sup> Because of provisions of the Hague (1970) and Montreal (1971) anti-hijacking Conventions, as well as the still unratified Optional Protocol to the Single Convention on Narcotics (1972), the principle of extradite or prosecute has been incorporated into the Canadian Criminal Code. Moreover, if a particular crime has been proscribed by treaty, then the political offense exception cannot be invoked on behalf of the alleged offender.<sup>49</sup> Immediately following the Bonn summit the Canadian External Affairs Minister announced the creation of a new subcabinet position—Deputy Under Secretary of State for Security and Intelligence Affairs—whose duties would include developing programs and procedures aimed at combating the threat of international terrorism.<sup>50</sup>

The Canadian approach reflects a harder attitude toward terror violence and its advocates than the position taken by the great majority of the world community. Indeed, numerous commentators have claimed that the United Nations, and by implication international law, cannot effectively meet the challenge.<sup>51</sup> That the record of the United Nations is something less than distinguished cannot be gainsaid, but some things have been accomplished, however minimal, and the dangers of terrorism have at least been perceived.<sup>52</sup> Assertions such as international law “isn’t set up to deal with terrorist activities”<sup>53</sup> are counterproductive at best, and often lead to diffidence and even despair. Therefore, the words of former Secretary of State, William P. Rogers, represent an effective antidote to the disease of inaction, for the alternatives, in reality, do violence to the rule of law: “*We will continue* our efforts to translate into law the fundamental principle that terrorist behavior and victimization of innocent people are unacceptable means of solving problems.”<sup>54</sup>

Exemptions granted by the United Nations to national liberation movements have compounded the difficulties and have literally given U.N. condonation to sheltering activities of haven States.<sup>55</sup> Both the Third World States and the Marxist world have broadly supported the principle that the end justifies the means. One contemporary observer of the Algerian scene has clearly, if not cogently, presented the anti-western perspective:

Is violence itself, whether political or not, a necessary catharsis to balance the scales between colonizer and colonized, between black and white, or is violence just as necessary in certain situations in which racial or colonial inequality will continue unless the worm has courage to turn.<sup>56</sup>

It is true that there are fewer States willing to provide haven today than at any other time within the last two decades. And those governments that have been the most prominent providers of refuge for perpetrators of terrorist acts have sometimes been forced to deny the authenticity of their actions.<sup>57</sup> The Permanent Representative to the United Nations of the Libyan Arab Republic even addressed a letter to the Secretary General on 21 August 1976 wherein he averred that the Libyan Government "does not approve of highjacking," and that the law of the Libyan Republic "stipulates that the perpetrators of such crimes shall be subject to the most extreme penalties."<sup>58</sup> The historical record, unhappily, speaks for itself.

Although the Sixth (Legal) Committee of the U.N. General Assembly has been debating the issue of State responsibility throughout this decade, and although there is sufficient legal precedent and international legislation already in existence to permit some sort of sanctions system,<sup>59</sup> a will to enforce has been conspicuously lacking. Little attention and no consideration were given to the proposal of former U.N. Secretary General U Thant for an international hijacking tribunal.<sup>60</sup> Despite the lessons of the past and the portents of the future, the world community appears to prefer Doublethink and Newspeak to safeguarding the innocent and maintaining a global rule of law. When the Republic of Panama offered haven to the Sandinista guerrillas, "[t]errorism, for the moment had won"; no matter how sincere the purpose or how noble the motivation of the terrorist actors.<sup>61</sup>

The last quarter of the 20th century is not only an age of great technological achievement, it is also a time of terror.<sup>62</sup> Eric Hoffer, the moral conscience of a brutal age, recently observed that "history is made not by the hidden hand of circumstances but by men."<sup>63</sup> To deny the lessons of human experience in the era of doomsday technology is to yield before adversity, succumbing to the frustrations of the passing moment. But the primordial issue is the survival of the innocent. Malfesance and nonfesance equally ignore Dante's warning from the depths of hell about the fatal consequences that must occur when "those, who sowing discord, harvest guilt."<sup>64</sup>

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### Notes

1. CORDIER & HARRELSON, PUBLIC PAPERS OF THE SECRETARIES-GENERAL OF THE UNITED NATIONS: VOL. VIII, U THANT, 1968-1971 at 471 (1977).

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2. Lord, *Rome*, European Community 40:3 (September–October 1978).
3. See United States, Central Intelligence Agency, *International Terrorism in 1977* (Washington: 1978), and the comments of John Dillin, *Terrorist Activity Ebbs-for Now*, *The Christian Science Monitor* 1:1 (15 September 1978), who notes that “international terrorism seems to move in cycles, and the current period appears to be a ‘down’ cycle.”
4. See *Newsweek*, 27 March 1978, at 65–66; *id.*, 24 April 1978 at 54; *id.*, 1 May 1978, at 34–35; *id.*, 8 May 1978, at 44; and *id.*, 29 May 1978, at 62.
5. *Id.*, 29 March 1978, at 24; *id.*, 27 March 1978, at 32.
6. *Id.*, 4 September 1978, at 30–31.
7. *Id.*, 18 September 1978, at 45–47.
8. Miller, *Negotiations for Hostages: Implications from the Police Experience*, 1 *Terrorism* 125, 132 (1978).
9. United States, Central Intelligence Agency, *International and Transnational Terrorism: Diagnosis and Prognosis* (Washington: 1976); U.S. News & World Report, 17 March 1975, p. 26.
10. See, for example, Mallison and Mallison, *The Concept of Public Purpose Terror in International Law: Doctrines and Sanctions to Reduce the Destruction of Human and Material Values*, 18 *Howard Law Journal*, 12 (1973); BELL, ON REVOLT: THE STRATEGIES OF NATIONAL LIBERATION 3–18, 179–191 (1976); SINGH & KO-WANG MEI, THEORY AND PRACTICE OF MODERN GUERRILLA WARFARE 42–44 (1971).
11. SCHWARZENBERGER, INTERNATIONAL LAW AND ORDER 219–234 (1971); BASSIOUNI & NANDA, A TREATISE ON INTERNATIONAL CRIMINAL LAW 490–500 (1973); Friedlander, *Terrorism and Political Violence: Do the Ends Justify the Means?* 24 *Chitty's Law Journal* 240 (1976); WALZER, JUST AND UNJUST WARS: A MORAL ARGUMENT WITH HISTORICAL ILLUSTRATIONS 176–206 (1977), centers on moral issues. These, he claims, are questions “which the law gets at only imperfectly.” *Id.* at 183.
12. WILKINSON, TERRORISM AND THE LIBERAL STATE 173–174 (1977), takes issue with those writers who distinguish between transnational and international terrorism. His concern is well taken, but for purposes of this study, transnational will refer to nonpolitical, nonstate actors. Cf. BELL, TRANSNATIONAL TERROR 4, 6–8 (1975).
13. The variety of definitions is almost as great as the variety of terrorist acts themselves. Cf. the following: *National Advisory Committee on Criminal Justice Standards and Goals, Report of the Task Force on Disorders and Terrorism 3* (1976), hereinafter cited as *Terrorism Task Force* [1975]; Lord Gardiner, et. al., *Report of a Committee to Consider, in the Context of Civil Liberties and Human Rights, Measures to Deal with Terrorism in Northern Ireland 25* (Cmd. 5847); CARLTON & SCHAERF, INTERNATIONAL TERRORISM AND WORLD SECURITY 50–58 (1975); ALEXANDER, TERRORISM: INTERDISCIPLINARY PERSPECTIVES 18–29 (1977); LIVINGSTON, INTERNATIONAL TERRORISM IN THE CONTEMPORARY WORLD 1–3 (1978). It is questionable as to whether the Guiana massacre was legally an act of terrorism, but the assassination of Congressman Leo Ryan certainly falls into the category of internationally prohibited acts. For a descriptive analysis of the events in Guiana, see especially *The Times* (London), 26 November 1978, p. 17:1; *The Observer* (London), 26 November 1978, p. 5:1, *Newsweek*, 4 December 1978, pp. 38–60.
14. Friedlander, *Banishing Fear from the Skies: A Statutory Proposal*, 16 *Duq. L. Rev.* 283 (1978); MCWHINNEY, THE ILLEGAL DIVERSION OF AIRCRAFT AND INTERNATIONAL LAW (1975); EMANUELLI, LES MOYENS DE PREVENTION ET DE SANCTION EN CAS D’ACTION ILLICITE CONTRE L’AVIATION CIVILE INTERNATIONALE (1974).
15. ALEXANDER, *supra* n. 13 at 131–132.
16. ADLER & MUELLER, POLITICS, CRIME AND THE INTERNATIONAL SCENE: AN INTER-AMERICAN FOCUS 91–95 (1972); SCHAFER, THE POLITICAL CRIMINAL: THE PROBLEM OF MORALITY AND CRIME 1–55 (1974); BASSIOUNI, INTERNATIONAL EXTRADITION AND WORLD PUBLIC ORDER 375–385 (1974); SINHA, ASYLUM AND INTERNATIONAL LAW 173–188 (1971).
17. BASSIOUNI & NANDA, *supra* n. 11 at 314–316; Friedlander, *The Origins of International Terrorism: A Micro Legal-Historical Perspective*, 6 *Israel Year Book on Human Rights* 49, 54–55 (1976); LA FOREST, EXTRADITION TO AND FROM CANADA 61–65 (2nd ed. 1977).
18. Deere, *Political Offenses in the Law and Practice of Extradition*, 27 *Am. J. Int'l L.* 247–250–251 (1933); SINHA, *supra* n. 16 at 20.
19. Friedlander, *supra* n. 17 at 55–56.
20. Rogers, *A World Free of Violence*, 425–429. Department of State Bulletin (16 October 1972).
21. Deere, *supra* n. 18 at 252–254; BASSIOUNI & NANDA, *supra* n. 11 at 316.
22. Reprinted in BASSIOUNI & NANDA, *supra* n. 11 at 409–416.
23. Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, O.A.S. Doc. AC/Doc. 88, rev. 1 corr. 1 of 2 February 1971; OAS/Ser. A/17; U.N. Doc. A/C.6/418, Annex V (2 November 1972).
24. A.G. Res 3166 (XXVIII), 28 U.N. GAOR, U.N. Doc. A/RES/3166 (1973), reprinted in 68 *Am. J. Int'l L.* 383 (1974). See especially, BLOOMFIELD & FITZGERALD, CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS: PREVENTION AND PUNISHMENT (1975).

25. 18 U.S.C. Sections 1111-1116, vol. 18, at 878 (1976).
26. See WILKINSON, *POLITICAL TERRORISM* (1974); BELL, *A TIME OF TERROR: HOW DEMOCRATIC SOCIETIES RESPOND TO POLITICAL VIOLENCE* (1978); LAQUEUR, *TERRORISM* (1977).
27. *The Times* (London), 30 June 1976.
28. Council of Europe, *European Convention on the Suppression of Terrorism*, November 1976, reprinted in *I.L.M.* at 1272 (November 1976).
29. BELL, *supra* n. 26 at 158.
30. Safety of International Civil Aviation, G.A. Res. 32/8, 32 U.N. GAOR, U.N. Doc. A/RES/32/8, 1977. Cf. U.N., Report of the Security Council, 16 June 1976-15 June 1977, U.N. GAOR, Supp. No. 2, U.N. Doc. A/32/2, 1977, pp. 34-37. See also Friedlander, *supra* n. 14 at 283, 287-288.
31. Draft Convention against the Taking of Hostages, U.N. Doc. A/AC.188/L.3, July 1977.
32. G.A. Res. 31/103, 31 U.N. GAOR, U.N. Doc. A/31/430, 1976.
33. U.N., Report of the *Ad Hoc* Committee on the Drafting of an International Convention against the Taking of Hostages, U.N. GAOR 33, Supp. No. 39, U.N. Doc. A/33/39, 1978, pp. 5-16; also cited in U.N. Chronicle, March 1978, p. 32. France, surprisingly, offered the strongest condemnation, while Algeria—a frequent haven for hijackers—insisted upon excusing conditions for anticolonial and antiracist liberationists.
34. KISSINGER, *AMERICAN FOREIGN POLICY* 232 (3rd ed. 1977).
35. See Franck and Lockwood, *Preliminary Thoughts Towards an International Convention on Terrorism*, 68 *Am. J. Int'l L.* 69 (1974).
36. U.S.T. 737, T.I.A.S. No. 7579 (1973). Canada signed an identical pact with Cuba on the same day.
37. *Chicago Tribune*, 26 March 1978, sec. 1, p. 42:1.
38. Friedlander, *supra* n. 14 at 287.
39. S. Res. 2236, 95th Cong., 1st Sess., 123 *Congressional Records*, S17706, 25 October 1977.
40. S. 2236, 95th Cong., 2nd Sess. [Committee Print], 19 May 1978. I am indebted to Mr. Louis G. Fields, Jr., Assistant Legal Adviser, Department of State, for a copy of the current bill.
41. Information provided by Mr. Fields. See also Richard Bradee, "Congress Battles terrorists with Bills," *Milwaukee Sentinel*, 16 August 1978, p. 12:2.
42. *Supra* n. 34 at 232.
43. *The Globe and Mail* (Toronto), 26 July 1978 p. 7:1; *The World Jurist*, July-August 1978, p. 8. For a contra view, see the biting fictional rejoinder of Boll, *Confession of a Hijacker*, *The New Yorker* 42-43, 9 October 1978.
44. *Chicago Tribune*, 30 July 1978, p. 6:3. Further explanatory talks took place in Ottawa, Canada, during November 1978, but serious divisions arose among the seven participating countries over how the Bonn agreement was to be implemented. (Private information)
45. *The Globe and Mail* (Toronto), 19 July 1978, p. 6:1. "Now," editorialized the *Globe and Mail*, the seven summit nations "must tell the world's airlines that they mean it."
46. *The Toronto Star*, 17 July 1978, p. 1:6.
47. *The Globe and Mail* (Toronto), 26 February 1976, p. 11:5.
48. See editorial comment in the *Globe and Mail* (Toronto), 23 May 1978, p. 6:2. The Senate version, however, would grant authority to the Minister of Justice to refuse extradition where the offender would be subject to capital punishment in the requesting State.
49. LA FOREST, *supra* n. 17 at 32-33.
50. *The Globe and Mail* (Toronto) 4 August 1978, p. 34:5.
51. Cf. Kittrie, *Reconciling the Irreconcilable: The Quest for International Agreement over Political Crime and Terrorism*, 32 *YEAR BOOK OF WORLD AFFAIRS* 208 (1978); LIVINGSTON, *supra* n. 13 at 68-71; BELL, *supra* n. 26 at 152-157, 165-166; HACKER, *CRUSADERS, CRIMINALS, CRAZIES: TERROR AND TERRORISM IN OUR TIME* 303-305, 340 (1977).
52. Friedlander, *Terrorism and International Law: What is Being Done?* 8 *Rutgers Camden L.J.* 383 (1977); Franck, *International Legal Action Concerning Terrorism*, 1 *Terrorism* 187 (1978).
53. Letter from David Martin, Editor of *Student Lawyer* to author, 3 March 1977.
54. ROGERS, *UNITED STATES FOREIGN POLICY, 1972: A REPORT OF THE SECRETARY OF STATE* 95 (1973).
55. See, for example, G.A. Res. 3034 (XXVII), 27 U.N. GAOR, Supp. No. 30, U.N. Doc. A/C.6/418, 1972, and the qualifying words attached to a later resolution of the same title on Measures to Prevent International Terrorism which Endangers or Takes Innocent Human Lives or Jeopardizes Fundamental Freedoms, and Study of the Underlying Causes of Those Forms of Terrorism and Acts of Violence which Lie in Misery, Frustration, Grievance and Despair, and which Cause Some People to Sacrifice Human Lives, Including Their Own, in an Attempt to Effect Radical Changes, G.A. Res. 31/102 (XXXI), 31 U.N. GAOR, Supp. No. 37, U.N. Doc. A/31/42, 1976.

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56. Joan Brace, Book Review, 11 Int'l J. Afr. Stud. 288, 289 (1978). See also Smith, *International Terrorism: A Political Analysis*, 31 YEAR BOOK OF WORLD AFFAIRS 138, 155-157 (1977). The American legal view is definitely *contra*. See Comment, *Criminal Responsibility and the Political Offender*, 24 Am. U.L. Rev. 797 (1975).
57. See the instructive commentary of E. McWhinney, pp. 93-101.
58. 1 U.N. Doc.S/12191, 1976.
59. Cf. Lillich and Paxman, *State Responsibility for Injury to Aliens Occasioned by Terrorist Activities*, 26 Am. U.L. Rev. 217 (1977); Friedlander, *supra* n. 52.
60. U.N. Press Release, SG/SM 1333, September 1970.
61. "Those Cheers in Managua," Chicago Tribune, 26 August 1978, p. 8:1.
62. The phrase is that of BELL in A TIME OF TERROR: HOW DEMOCRATIC SOCIETIES RESPOND TO POLITICAL VIOLENCE. The international linkage of terrorist groups is clearly, if not convincingly, identified by Claire Sterling, *The Terrorist Network*, The Atlantic 37-47 (November 1978). See also DEMARIS, BROTHERS IN BLOOD: THE INTERNATIONAL TERRORIST NETWORK (1977). Although terrorist linkage is an international reality, the existence of a widespread, centrally coordinated terrorist network has yet to be proven in fact.
63. Hoffer, *Works and Days*, Harper's 78 (October 1978).
64. MILANO, THE PORTABLE DANTE 148 (1962).