

INTERNATIONAL TERRORISM AND HOSTAGE-TAKING: AN OVERVIEW

SHAEL H. WILDER*

In these times, it is nearly impossible for a day to pass in which there is absent from the news media a report of terrorist activity from one part of the world or another. Indeed, it is a significant comment on the frequency of such incidents that the casual observer now takes notice of them with little more than passing interest. Nevertheless, the number and diversity of modern terrorist organizations and their activities pose a continuing threat to our lives and liberty. There is no corner of our world which is safe any longer as each execrable incident caused by the awakening of this sleeping giant poses a further challenge to the order of our civilization. If history records the 70's as a "decade of terror", it is difficult to imagine what appellation will attach to this decade the first year of which was plagued with hijackings, bombings, other violent attacks and, of course, what is probably the most infamous hostage taking in modern history.

While, in recent years, discussion and analysis of "terrorism" themes has become popular among international legal scholars and interested others, disagreements in principle on such fundamental matters as definition, preventative strategy and the law as it is, and ought to be, are common. It is therefore proposed herein to identify and canvass some of the more rudimentary aspects of what may be fairly referred to as a complex and multi-faceted phenomenon. Particular emphasis will be given to that mode of terrorism which many believe has reached its peak of popularity and will begin to decline: hostage-taking.

I. It would seem axiomatic that the examination of a subject such as "terrorism" generally ought to begin with some notion of a definition; it is, however, only upon attempting to identify its constituent elements that the true complexity of its character becomes evident. While, as with many such concepts, there are available definitions equal to the number of commentators on the subject, certain attributes represent an area of common agreement.

In writing of the inescapable difficulties with which one is confronted in the search for a generally acceptable definition, Professor H.H.A. Cooper writes as follows:

. . . one man's terrorist is another man's hero, or freedom fighter, or whatever. This is no more than saying that different people perceive the same reality differently. The term "terrorism" is a judgmental one in that it not only encompasses some event produced by human behaviour but seeks to assign or ascribe a value or quality to that behaviour; by implication, it is "good" or "bad" according to one's respective view point. This has enormous, and frequently overlooked, consequences for those seeking to produce workable definitions of terrorism. In passing, it may be usefully observed that much of the difficulty stems from trying to treat a highly complex set of factors as a simple, unitary theme which might be susceptible of simple representation by a universally acceptable symbol . . . The potential for error, and subsequent conflict, is great, for what might have seemed important to one might not seem so, being passed over inadvertently or deliberately given lesser weight, by another. All these difficulties are thrown into heightened relief where the

term in question is not merely a necessary ingredient in some program of action but is intended to have some normative or prescriptive effect.¹

In another article, Professor Cooper concludes that "there is almost universal agreement on certain elements, while others remain the subject of intractable debate".² He states further as follows:

Terrorism is a hard concept to pin down; it means different things to different people. Definition is, accordingly, an exercise in futility as it is simply impossible to satisfy all of the people all of the time. While strict definition may be hopelessly elusive, certain ingredients are impressively stable. Three of these are material for the present purposes. The notion of terrorism, on anybody's definition, must involve the generation of a high level of fear; its direction or application for coercive purposes; and a human audience. Terrorism is something done, calculatedly, by human beings to impress other human beings. Terrorism has its expressive as well its instrumental side. But it is its symbolic side that looms especially large and gives it a characteristically potent quality.³

Another definition of terrorism has been offered by Professor L.C. Green who writes:

It is probable that the simplest definition of terrorism is purely linguistic — one who resorts to terror — and such a definition is readily understood by the man in the street, even if it may not satisfy the demands of the lawyers. According to the *Oxford English Dictionary*, terrorism is government by intimidation — on the lines of the French revolutionary regime; a policy intended to strike with terror those against whom it is adopted; the employment of means of intimidation; and a terrorist is anyone who attempts to further his views by a system of coercive intimidation, one who entertains, professes, or tries to awaken or spread a feeling of alarm or terror.⁴

In common with Professor Cooper, Professor Abraham H. Miller emphasizes the diverse political orientations of those who seek to define the term as an impediment to arriving at a generally acceptable definition. He writes as follows:

Clearly, the Soviet response to terrorism — like that of many other nations — is a case of whose ox has been or is about to be gored. For this reason, the concept of "terrorism" when discussed in the international policy domain escapes definition. It is not that "terrorism" is intrinsically more difficult to define than any other political concept, but "terrorism" escapes definition when it becomes embellished with value-laden, political meaning.

From my perspective, terrorism is first and foremost an act of political violence. It is not a tactic but a strategic mode of political violence. It is generally, but not exclusively, directed at targets which have symbolic value in addition to or independent of any tactical or strategic value. It is the symbolic value which usually transcends the direct significance of any specific target, and is aimed at influencing potential decision making through fear and intimidation. One of the primary ingredients of political terrorism is random violence. Where all people are targets and no one is safe, fear is heightened because it is difficult to escape into safety wrought by non involvement in the ongoing political struggle.⁵

* Of the Manitoba Bar.

1. H.H.A. Cooper, "Terrorism: The Problem of the Problem of Definition" (1978), 26 Ch. L. J. 105 at 106-107.

2. H.H.A. Cooper, "Terroristic Fads and Fashions: The Year of the Assassin" (1979), 27 Ch. L. J. 92 at 96.

3. *Id.*, at 92.

4. L. C. Green, *The Nature and Control of International Terrorism*, 1974 (Dept. of Political Science, Univ. of Alberta, Occasional Papers).

5. A. H. Miller, *Terrorism and Hostage Negotiations* (1980) at 10-11.

While the problem of definition is evidently a perplexing one, the debate is of more than academic interest. Various forms of national and international legislation are already in place, the objects of which are to prevent and punish acts of terrorism. Others are being given consideration. The effective implementation of the purposes of such laws requires some acceptable degree of certainty as to the activities at which they are directed. Certain international conventions have seemingly addressed the problem by specifically enumerating the events to which they relate.⁶ The danger which inheres in such an approach, it is submitted, arises from the application of the legal rule of interpretation which finds its expression in the Latin Maxim, *Expression Unius Est Exclusio Alterius* (expression of one thing is the exclusion of another). It would, of course, be objectionable for any otherwise relevant provision of national or international legislation to be inapplicable to a particular act, or category of acts, of terrorism which its framers had inadvertently neglected to include. Other statutes and treaties have sought to define, in generic terms, the classes of acts at which they are directed. The comparative merits of general, as opposed to specific, definitions of "terrorism" for various purposes have been debated elsewhere. What may be constructively inferred from the disagreement to which the problem of definition is subject, is that precision of definition should neither impede nor obstruct the practical process of prevention and punishment. As Professor Cooper quite aptly quotes from Morton Hunt:

"Physicists no longer strive to say what matter is; it has proven much more productive to say how matter behaves at various energy levels."

Accordingly, it becomes useful "to discuss terrorism in terms of its general attributes: "[I]ts need to create spectacular drama and influence the media; its use of violence to intimidate society beyond the impact on individual victims; and the policy-oriented response of . . . [governments] to the spectre of violence created by political terrorists".⁸

State Support of Terrorism

The first year of this decade saw 278 attacks on United States Embassies and Consulates throughout the world, as well as 10 deaths and 94 injuries of United States Foreign Service personnel.⁹ Such incidents have not relented in the first few months of this year. Among other attacks, U.S. Ambassador John Gunther Dean escaped injury on March 10, 1981, when bullets struck the car in which he was driving in Beirut, while three U.S. marines were injured in one of two separate attacks on U.S. embassies on March 18, 1981, in San Jose and San Salvador. These chilling facts, coupled with a litany of other recent worldwide terrorist attacks, have prompted the Reagan administration to make the fight against international terrorism a cornerstone of its foreign policy. The motive for the staunch policy which the new U.S. administration has adopted is said to be its perturbation with the support which foreign governments are giving to terrorist groups. In his

6. e.g., The European Convention on the Suppression of Terrorism, Jan. 27, 1977, Europ. T.S. No. 90.

7. *Supra* n. 1, at 105 quoting Morton Hunt, *The Affair 3* (1969).

8. *Supra* n. 5, at 12.

9. ABC News, *Special Report on Terrorism*, March 12, 1981

first press conference, (January 29, 1981) Secretary of State Alexander Haig 1981, announced the new administration's obdurate policy and attacked the Soviet Union for "training, funding and equipping international terrorism."¹⁰ Shortly thereafter, United States Delegate to the United Nations Human Rights Commission Conference in Geneva, Michael Novak, is quoted as saying that:

Nations must not give in to blackmail and must take firm steps to sanction those who violate the basic norms of international behaviour . . . Unfortunately many states, while criticizing the use of violence, themselves provide arms, training, funding and logistical support to terrorist groups . . . The Human Rights Commission has a particular obligation to speak out against . . . terrorist violence and against those who support and condone it. All nations have a common interest in condemning and outlawing this violent phenomenon.¹¹

Most recently, in an address to the U.S. Senate Foreign Relations Committee on March 19, 1981, Secretary of State Haig explicitly accused the Soviet Union of maintaining, within its territory and that of its allies, training camps for the furtherance of international terrorism.

It is alarming indeed to consider that the modern day terrorist group is no longer merely an untrained, ill-equipped and disorganized band of criminals, but more often a well funded and outfitted company which not infrequently receives military training, financial support and territory for preparation and refuge from various national governments.

Professors Evans and Murphy, in discussing Brian Crozier's March 25, 1976 address to the Department of State Conference on International Terrorism, referred to the presence of "subversive centres" in various parts of the world.¹² In his address, Mr. Crozier identified numerous countries as actively promoting or supporting international terrorism. At least one such country is said by the authors to have "helped to establish a broad terrorist network, stretching from the Middle East to Africa and Europe."¹³ In discussing national and international measures which might be taken against countries which support terrorism, the authors cite one basis for authority as being the Declaration On Principles of International Law Concerning Friendly Relations Among States In Accordance With The Charter of the United Nations¹⁴, which provides:

Every state has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another state.

Every state has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another state or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph invite a threat or use of force.

10. Charles Williams Maynes (former Asst. Sec. of State for Int'l. Affairs), *Los Angeles Times* reprinted in *The Winnipeg Free Press*, February 10, 1981 at p.7.

11. John Myers, *London Daily Telegraph*, reprinted in *The Winnipeg Free Press*, Feb. 10, 1981 at p. 33, col. 5 & 6.

12. J. F. Murphy, "State Self-Help and Problems of Public International Law" in *Legal Aspects of International Terrorism* (A.E. Evans and J.F. Murphy ed. 1978) at 563.

13. *Ibid.*

14. *Id.*, at 564.

In canvassing the means by which state support of terrorist activities might be sanctioned, Evans and Murphy conclude that, on the basis of the U.N. Charter, reprisals involving the use or threat of force are illegal, and such coercive yet non-military options as economic sanctions or formal international claims should be avoided in favour of quiet diplomacy. In their view, the principle reason for avoiding such coercive measures would be the "strong united and heated response from Communist and Third World countries" which it is said would otherwise result. Certainly, the pacific and non-coercive means are to be favoured. Yet the inescapable conclusion to which one is led by the facts is that quiet diplomacy, for all its merit, has often failed. The frequency, sophistication and heinousness of modern terrorist activities offend the bounds of even the most active imagination and create a spectre which the world can no longer afford to abide. If such coercive means as economic sanctions and international claims will indirectly result in a diminution of terrorist attacks by providing a disincentive to states supporting terrorists to fund, equip and provide refuge for them, then the civilized countries of the world will have made a good bargain at almost any price.

The Ultimate Threat

It is perhaps only by divine providence that no terrorist group has yet employed the technologies of mass destruction. Certainly, the range of attacks including hijackings, kidnappings, bombings and hostage/barricade situations represent a grave and continuing threat to the safety of the world's population, yet all of these potentially pale in comparison to the wholesale destruction which would likely result from a single incident of nuclear terrorism. The prospect is abhorrent; but is it remote?

According to Augustus Norton and Tali Ben-Gal, "[W]hether nuclear terrorism is indeed a viable 'mega-threat' turns on technical feasibility plus the likelihood that it will be attempted".¹⁵ The authors conclude, in substance, that "terror by fission" is, practically speaking, more likely to be the subject of intellectual debate than reality. This conclusion, it is submitted, seriously understates the plausibility of such an occurrence. A more realistic treatment of the danger is offered by Professor Louis Rene Beres whose presentation of the relevant facts and possible scenarios is convincing enough to alarm even the most skeptical of readers.¹⁶ In his article, Professor Beres reports on terrorist access to nuclear weapons, in part, as follows:

Today, it is widely recognized that determined, organized, and adequately funded terrorist groups might acquire nuclear weapons via the theft of assembled systems from military stockpiles or by self-development from pilfered weapons-grade nuclear material. Moreover, it is also widely understood that terrorists might attempt to exploit the unique destructive potential of nuclear technology by sabotaging nuclear reactors.¹⁷

15. Norton and Ben-Gal, "Terror By Fission: An Analysis and Critique" (1979), 27 Ch.L.J. 268 at 270.

16. Louis Rene Beres, "Terrorism and International Security: The Nuclear Threat" (1978), 26 Ch. L.J. 73.

17. *Id.*, at 77.

Professor Beres supports his implicit conclusion that "access" is a vulnerable point in the claim of improbability by directing our attention to a number of factors which might be summarized as follows: (1) there are thousands of nuclear weapons presented deployed in the national arsenals of at least a half dozen countries, (2) There has been an increase in new national members of the "Nuclear Club", (3) There is a likelihood that rigid and expensive safeguards will deteriorate as weapons and material proliferate among new countries, (4) There is documented evidence of huge unaccounted for quantities of nuclear material, (5) The fact that heightened U.S. safeguards are futile while other countries are more careless, (6) The fact that declassification and public dissemination of design information has greatly increased the probability of a terrorist group acquiring the necessary expertise, as have the growing numbers of qualified personnel employed in government and private sector positions, (7) The relative ease with which a radiation dispersal as opposed to an explosive device might be created, and (8) The potential for sabotage of existing nuclear facilities and the number of documented cases of terrorist infiltration of nuclear plants.

Professor Beres opines that we cannot simply rely on international cooperation to guard against the theft of nuclear weapons and material (including more stringent IAEA regulation) and to discourage supplier states from exporting to high risk purchasers. He favours a more concerted and pragmatic international effort as follows:

To counter the threat of nuclear terrorism, governments of like 'mind' must create special patterns of international cooperation.

The only patterns of international cooperation that appear to offer any promise involve variations of classical collective defence arrangements between particular states: e.g., exchange of intelligence data concerning terrorist groups; bilateral agreements on extradition of terrorists; mutual judicial assistance concerning acts of terrorism; multilateral infiltration of terrorist organizations; improved border checks; expanded use of the media to publicize terrorist inclinations and inter-group ties; separate negotiations with selected terrorist groups to obstruct their operations; and the application of sanctions (positive and negative) to states which sponsor or support terrorist groups.¹⁸

While it is thought that the primary utility of nuclear weapons by a terrorist group would be as an instrument of coercion to achieve some political objective other than mass destruction, the risks of the latter occurring are so great as to require a much more sober confrontation and resolution of the issues than has heretofore been undertaken by most governments.

In speaking of the great coercive and destructive power which might be concentrated in the hands of a few, perhaps some mention should also be made of a terrorist threat which, although in practical terms is more likely to be realized, has been given even less serious credence than nuclear terrorism. Chemical and biological weapons are far more dangerous than those of the nuclear class in the sense that the materials and expertise required for their construction are, respectively, more readily accessible and common. Indeed, it has been said that a highschool chemistry student with

18. *Id.*, at 76-77.

materials obtained from sources to which members of the public have ready access, could create a chemical or biological weapon of mass destructive capability. Detailed discussions on the availability of materials, the variety of possible chemical and biological weapons and their uses, and the plausibility of an attack have been published elsewhere.¹⁹ The point here, again, is to underscore the technical feasibility of such an attack and the grave dangers associated therewith.

Having considered how practicable such occurrences would be, one is prompted to inquire as to what has prevented terrorist groups thus far from effectively employing the technologies of mass destruction which it is said are available to them. This is a bewildering inquiry indeed, for it is difficult to impose a rational construction on frequently irrational behaviour. Yet the fact that terrorist organizations have historically refrained from operating to the full extent of their technological capabilities might be explained in terms of their psychological profile. While the value-ordering systems of terrorist groups is a subject which warrants more careful examination at some later point in this discussion, it may be said here, in brief, that the employment of a policy of coercion by means of threats to use nuclear, chemical or biological weaponry, or the actual use of such weapons to bring about mass destruction, may be perceived by the terrorists themselves as self-defeating. Since the use of mustard and chlorine gasses in World War I and the subsequent development and testing of bacterial agents, the world has developed a revulsion against these forms as legitimate weapons of warfare. To the extent that terrorist attacks are predicated, in part, on the hope and expectation of drawing attention to the cause and evoking sympathy and support for it, the employment of means which are widely regarded as entirely perverse may be perceived by the terrorists as destructive of their purposes. This hypothesis, of course, is not by any means the sole premise on which we should rely to assure the improbability of such a cataclysm occurring, nor is it of any comfort when speaking of terrorist groups from whom higher order acts of destruction are intrinsically valuable.

Hostage-Taking

A modality of terrorism which has gained particularly perverse popularity in very recent years is the taking of diplomatic and other hostages. It is thought that the ubiquity of the hostage-taking phenomenon is the terrorist response to the preparedness of governments and law enforcement agencies to analyze and cope with the previously employed means. Moreover, as each new form has become familiar and uninteresting to the public whose attention is sought, the terrorist has been challenged to resort to more spectacular methods. The typical hostage drama in which human life hangs in the balance while the world holds its breath, offers, for the terrorist, a natural means of attracting and maintaining widespread attention. The greatest challenge to the terrorist's ingenuity has been to achieve this objective without precipitating results so offensive as to

19. B.M. Jenkins and A.P. Rubin, "New Vulnerabilities and the Acquisition of New Weapons by Nongovernment Groups" in *Legal Aspects of International Terrorism* (A.E. Evans and J.F. Murphy ed. 1978) at 222 et seq.

sacrifice the sympathy for their cause which it is hoped will be evoked in the public. As with employing the technologies of mass destruction, it is likely considered by many terrorist groups to be impolitic to seriously harm their hostages when this would, in all probability, inspire nothing more than antipathy and disdain in their audience. Accordingly, as Professor Cooper has offered, "the enhancement of terror has thus been qualitative rather than quantitative."²⁰

So commonplace have such incidents become, that Solicitor-General Kaplan on March 16, 1981, announced the staging of a "mock terrorist takeover" of the U.S. Embassy in Ottawa to "help us evaluate our preparedness for such an incident in Canada". Canada, of course, is no stranger to terrorist kidnapping, having had the 1970 FLQ abductions of James R. Cross and Pierre Laporte take place on its territory.

Throughout the world, the number of kidnapping and hostage/baricade situations long ago surpassed the crisis level. The latter years of the 70's saw scores of such attacks, including; the widely publicized seizure of a Dutch commuter train and its passengers and a school full of Dutch children in 1977 by a group of South Moluccans; the taking of 134 hostages by Hanafi Muslims at three separate sites in Washington, D.C. several months earlier; the taking of 80 hostages on board a Lufthansa airlines jet liner by terrorists, an incident which ended with violence at Mogadishu, Somalia; the holding of 94 passengers and 12 Air France crew members at Entebbe Airport, Uganda; the hijacking of two busloads of tourists north of Tel Aviv, Israel in 1978; and more recently, the notorious seizure of the U.S. Embassy and its staff in Tehran, the holding of hostages at the Ecuadoran Embassy in Havana (February, 1981) and the seizure of a Pakistani jetliner and more than 100 hostages in Damascus (March, 1981). The foregoing list is an abbreviation of what has become an innumerable catalogue of similar incidents. It continues to grow. The victims are as varied in their backgrounds as are their captors. Diplomats, international business personalities, members of the judiciary, airline employees and passengers, and people generally who are in the proverbial "wrong place at the wrong time" are abducted by countless terrorist groups, often, but not exclusively centred in Western Europe, the Middle East and Central and South America.

The scenario is not an unfamiliar one; hostages are taken, threats are made, negotiations commenced, and concessions or disaster ensues. In some cases, victims are selected for the notoriety, vulnerabilities and the particular leverage in negotiations from their assailants to which they, as individuals, may give rise. In others, the victims are not "selected" in random or any other fashion, but are ordinary individuals (often travellers) whose misfortune it is to unsuspectingly blunder into what surely is a nightmare.

Accordingly, in discussing the hostage-taking phenomenon generally, it is necessary to distinguish between those relatively rare incidents which are associated with some motive relating to the hostage himself (e.g. revenge, extracting information, punishment, etc.) and those which are aimed at

20. H.H.A. Cooper, "Hostage Rescue Operations: Denouement at Algeria and Mogadishu Compared" (1978), 26 Ch.L.J. 91.

creating a bargaining situation. It is the latter variety with which we are concerned here. In such cases, the hostage rarely has anything beyond symbolic value and is, in essence, a means to an end. As mentioned, while a particular hostage may be selected because of the potential to create negotiating leverage (e.g. diplomats, international business executives, famous personalities, etc.) he is, nevertheless, once abducted, subject to the basic rules of the bargaining game.

A further distinction is instructive. "Kidnappings" are normally characterized by their clandestine nature (the identity of the assailants and the location of the victim is unknown to the authorities) while what are often referred to as "hostage/barricade" incidents are those in which the victim and captor are "holed up" and usually surrounded by the authorities. In such situations, it has been aptly said that "the hostage is a shield in the most literal of senses."²¹ A corollary of this distinction is that unlike kidnap situations, the hostage taker is, in a sense, a hostage himself, for he, like those negotiating for the hostage's freedom, must manipulate the circumstances to gain his own safe passage. Furthermore, because of the unique nature of a hostage/barricade setting, there are considerations peculiar to it. (E.G. duration of the incident, level of anxiety, the degree of transference, the likelihood of drastic action on either side, the chances of the hostage taker extricating himself successfully, and so on).

Assuming that the hostage taker has successfully managed to capture one or more victims, the ordeal begins. Professor Cooper concludes that there are but a few possible outcomes. In the following passage from one of his excellent articles on the subject, he writes:

Hostage-taking incidents are susceptible of resolution in one of three ways: by attrition, by force or by agreement. In the first case, the hostage-taker, sooner or later comes to realize the error in his ways and just gives up. This may be promoted, encouraged or accelerated by the efforts of the responding authorities, or it may be a spontaneous conclusion arrived at by the hostage-taker himself. This is a frequent termination in cases involving quasi-terrorists, or occasional or opportunistic hostage-takers. Attrition, or the wearing down of the resolve of the hostage-taker is the real cause of resolution even though this may be obscured by what are called, or miscalled, "negotiations". It has been pertinently suggested in this regard: 'Time is the crucial factor in dissolving determination in a hopeless situation'.

For obvious reasons, such a felicitous outcome cannot simply be passively anticipated. Thus, in some way or another it is the second or third alternatives that tend to predominate in the thoughts and actions of those concerned with the management of hostage-taking incidents.

For the most part, there is a clear opposition in these two courses of action. While, sometimes, the use of force to rescue hostages is contingent upon the outcome of attempts to resolve the matter by other means, once a forceful solution is embarked upon, it does preclude settlement of the affair in another fashion. Force is not always common nor even most commonly, the course of action of last resort. The forceful rescue of hostages is prompted by a wide variety of motives; some, but not all of them, compatible with each other. It must be acknowledged that the forceful resolution of a hostage-taking episode, especially where it is wholly successful, has a primitive appeal that is hard to resist. It represents a satisfying revindication of the social order that the hostage-taker had ruptured by his own violent act. There is

something exceedingly painful, if not intolerable, presented by the act of hostage-taking and the bargaining posture it is designed to establish. It is an affront to authority, and a forceful reaction that topples the presumptuous one from his self assumed perch of bargaining parity to the one of marked inferiority where he more properly belongs and is a course that receives almost universal applause. It would be seen by a majority as a just and fitting outcome. There is something particularly aggravating about a hostagetaker cocking a snook at authority and holding society to ransom. All other considerations favouring the forceful solution, such as the possibility, economy, and even the better protection of human life, tend to be subordinate to the basic motivation. There remains a sneaking feeling, however disguised or guardedly expressed, that the perpetrator has somehow "gotten away with it" unless he is forcibly deprived of his prize. That the forceful solution is not the preferred solution represents an extraordinary triumph of reason over emotion.²²

The third possibility of resolution is, of course, the bargaining process which results in an "agreement" between the parties. It is generally agreed that there is something inherently offensive about "dealing" with a group which has acquired its very status as a party to negotiations by virtue of an illegal act resulting in its wielding the weapon of death to innocent third parties. Yet, as Professor Cooper has written, "The plain fact is that where resolution by force is impossible, 'negotiation' is the only viable alternative. For this reason alone we have seen, in recent years, Presidents, Chancellors, Prime Ministers, Ambassadors and Governors involved in 'negotiations' with a variety of miscreants whose only common characteristic is the power derived from holding a hostage."²³

The dynamics of hostage negotiations are complex, yet there is some consensus as to those elements which are invariably present. As in virtually any bargaining setting, the respective parties have objectives which are indispensable, and those in respect of which they may be prepared to make concessions. It is, of course, for this reason that assessing one's opponent has always been so critical in the negotiating process. In this regard, many governments are actively engaged in accumulating intelligence data on terrorist groups with a view to developing a psychological profile to which resort may be had if needed. Of particular significance is the preference ordering of the group involved.²⁴ Professor Beres comments on this aspect of the negotiating process in the context of the nuclear threat, though his remarks are equally germane to a general consideration of the dynamics of hostage negotiations. In bargaining with a terrorist group for the release of a hostage, it would, for example, be of no use to threaten physical punishment to a group which manifested a self-sacrificing value system in which attainment of political objectives was the priority. In such cases, convincing the captors that they are damaging their political cause or, indeed, threatening to obstruct the cause, may be far more effective. Conversely, in negotiating with terrorist groups whose objectives are largely motivated by material gain, (albeit under the cloak of some political cause) it would be equally ineffective to threaten political failure or obstruction of the political cause.

21. *Id.*, at 92.

22. *Id.*, at 95.

23. *Id.*, at 96.

24. *Supra* n. 16, at 82.

The merit in threatening or actually using force in hostage/barricade situations has been hotly debated. Some argue that the threat of physical force and a policy of "non-negotiation" may prove counterproductive²⁵ while others point to the apparent success of such countries as Israel who adopt a hard line retaliation policy. Indeed, it has been said that terrorist groups have difficulty recruiting for raids into Israel because of heavy casualties sustained on earlier raids.²⁶

It was formerly thought that "time" was on the side of the authorities in hostage negotiations. This conclusion was predicated, at least in part, on the notion that the captor (in hostage/barricade incidents) was himself a hostage. The number of recent occurrences have given analysts an opportunity to reevaluate the merits of "waiting out" the terrorists. This reevaluation has been prompted by the perceived operation of certain psychological phenomena. First, it is said that there often occurs a process of mutual identification between hostage and captor, which has been referred to as "transference".²⁷ By operation of this doctrine, the hostage taker is, at least in theory, less likely to eliminate his victim as the time spent together progresses. The effect of time, however, is said to be modified by such other factors as the nature of interaction, the existence of radical or ethnic hostilities, and the predisposition on the part of some hostages to initiate relationships with their captors.²⁸ The problem here, is that terrorists too have perceived the operation of the process of transference and have begun to manipulate it in favour of their own ends (e.g. the South Moluccan who misinformed his captives that he could not kill Dutch people since his wife was Dutch). Secondly, there is now evidence to suggest that the long term effects of the ordeal of captivity on hostages is far more deleterious than earlier suspected. Accordingly, it becomes all the more important to bring about their release as expeditiously as possible.

From the hostage-taker's perspective, it has been said that he can only realize his objectives if: " (1) He can remain for the whole time, outside the power of his opponent; (2) What is put in jeopardy is assigned a sufficiently high value by those with whom he must bargain; (3) If the opponent is unwilling to sacrifice what has been put in jeopardy; and, (4) If no other alternative is seen to that posed by the hostage-taker."²⁹ This, of course, contemplates objectives beyond the very hostage taking itself and the associated media attention (e.g. demands such as publishing a manifesto, release of political prisoners, money for the cause, obstruction of inter-governmental negotiations, etc.).

It is difficult to overstate the importance which the media assumes in a hostage taking event and the ensuing negotiating process. Indeed, it is gaining otherwise denied access to the media through spectacular histrionics which is often the proximate object of a terrorist attack; for to artfully

25. *Id.*, at 80 and see also *Supra* n. 5, at 115.

26. *Supra* n. 5, at 115.

27. *Id.*, at 37 et seq.

28. *Id.*, at 116.

29. *Supra* n. 20, at 96.

manipulate the media is to control a pipeline to the mass international public, and, in effect, to have a captive audience to which the "message" may be imparted. Seen in its cold reality, the fact remains that a terrorist has no more efficient means of disseminating information worldwide than live prime time television coverage. This truism is by no means peculiar to "terrorism", for it has long been recognized in the strategy of military revolution and coup d'etat that the broadcast facilities rank high on the list of targets. Terrorists, of course, rarely seize physical control of media facilities since they can rely on the unwitting cooperation of news reporters in search of sensational stories. Yet in this, there is dilemma, for as Professor Miller writes:

One might hesitatingly say it (terrorism) is the media's step-child. This is not to lapse into the ancient custom of condemning the messenger for bringing distressing news nor is it to blame the media for terrorism . . . Would we have terrorism if there were no media? Certainly, but probably less and of a different variety. We cannot, however, ignore reality. The media does exist, and its job is to report the news. Terrorist attacks are news. In a competitive news industry, what one source fails to report others will seize. It would be impractical for the media to ignore terrorist events. And even if it were not, the withholding of this kind of information from the public would ultimately have some negative and unanticipated consequences. Ultimately, the terrorists would increase the scope of their activities or select such prominent targets that the media could no longer afford to ignore them.³⁰

And so, particularly in the hostage setting, the delicate balance between the democratic virtue of freedom of the press and the safety of human lives becomes evident. Compromised safety of lives by the media is more than a theoretical concern. While it is true that reporters must have access to the news in order to report it, some have been known to actually jeopardize lives by telephoning captors for an interview and inadvertently inciting them, broadcasting information intended by the police to be secreted from the terrorists, etc.³¹ The question thus arises as to how these apparently often mutually antagonistic interests may be reconciled. Professor Miller concludes that censorship in this context should be avoided for the traditional reasons, and since it would likely, in any event, be counter-productive, inasmuch as terrorists would strive for new heights of sensationalism which the media ultimately could not ignore.

What does emerge from a consideration of the special role of the media in hostage dramas, is that it has an exceptional responsibility which arises from the very fact that it is sought to be manipulated as an agent of the terrorists. This responsibility calls for the exercise of particular discretion and self-restraint in what is reported and how, and has not, it is submitted, always assumed its proper significance in the coverage of such incidents. The warning is clear:

"If a capricious, callous, and unthinking media becomes so wrapped up in its pursuit of sensational copy that it will violate the public trust, it will become vulnerable to public clamor for censorship".³²

30. *Supra* n. 5, at 83-84.

31. *Id.*, at 87 where several documented cases of media intrusion are discussed.

32. *Id.*, at 119.

International Law — A Summary

As can readily be ascertained from the statistics pertaining to hostage taking incidents, the victims are by no means confined to a particular social caste or occupational category. At the same time, however, there has been a distressing increase in the number of instances involving diplomatic and consular personnel as well as other international officials. These "diplonnappings"³³, as they have been called, have given rise to complex problems relating to diplomatic asylum, extradition, the protection generally which international law should accord to such individuals, the specific obligation which states should assume for the safety of foreign emissaries, and a host of others. In addition to the thorny legal issues, practical concerns relating to strengthened security of diplomatic missions and officials both at home and abroad, and strategies for the prevention of attacks have become pre-eminent in the minds of national governments. The wave of diplomatic kidnappings which afflicted the late 60's and early 70's prompted Professor Baumann to write:

The diplomatic kidnappings strike at the very foundation of international diplomacy and intercourse and as such they have burgeoned into a serious and complex problem of international concern. With the increase of revolutionary aspirations and activities within domestic as well as international life, the roots of violence have found a fertile ground, and assassinations and kidnappings have been spawned as their offspring.³⁴

The rise in number of these types of attacks might be explained, again, with reference to the profile and objectives of the political terrorist. The diplomatic or consular official is, foremost, a representative of his country; a symbol abroad of its government. As a result, to the extent that political terrorism is aimed at influencing the policy of, punishing or coercing that government, its official agents throughout the world often provide more easily accessible targets. This is particularly so in diplomatic hostage situations where the captors symbolically hold the government at bay through its token. The terrorists may also consider that a government might be inclined to bargain less harshly for one of its officials than for say an ordinary national. Yet in this, there is probably a fallacy, for the attitude of a government, while anxious to secure their release, may well be that its diplomatic officials, by the very nature of their position, have assumed a certain implicit risk which its "innocent" nationals have not. This was the surprising reaction of family members of certain of the American hostages being held in the United States Embassy in Tehran.

In any case, it remains clear that the aura of inviolability which has traditionally surrounded diplomatic and consular officials is being increasingly penetrated. In an effort to strengthen measures to prevent and punish acts (and particularly in some cases the act of hostage-taking) directed at internationally protected persons and others, a number of international conventions have been concluded. Some of these merely codify pre-existing customary rules of public international law while others embody an element

33. Carol Elder Baumann, *The Diplomatic Kidnappings*, Martinus Nijhoff, The Hague, 1973.

34. *Id.*, at 31.

35. 500 U.N.T.S. 95.

of progressive development. It is proposed to consider some of the more significant of these agreements.

There are few principles of Public International Law more deeply rooted in history than those relating to diplomatic immunity. Indeed, immunity for international envoys dates as far back as early Greek times. It was then, and continues in modern times, to be perceived as a mutually beneficial and necessary incident of international relations and communication. In addition to the functional necessity, the principles are predicated on the notion of reciprocity, inasmuch as states are willing to confer on foreign emissaries certain rights, privileges and immunities, provided that the same rights, privileges and immunities are conferred upon their own representatives in the states of such foreign emissaries.

While the rules of customary public international law governing diplomatic immunity have been developed and refined over centuries, they have recently been codified in the 1961 Vienna Convention on Diplomatic Relations³⁵ which came into force in 1964. The Convention was adopted at the 1961 United Nations Conference on Diplomatic Intercourse and Immunities and was based on the Draft Articles prepared by the International Law Commission. There are presently well in excess of 100 Contracting Parties to the Convention which is a substantial number for any multilateral convention.³⁶ While a comprehensive review of the provisions of the Convention is beyond the scope of this article, a brief examination of the provisions relevant to the consideration of diplomatic hostage incidents would be useful.

Since the license which a state grants to another for the representatives of the latter to be present on its territory is given for the purpose of enabling such representatives to fulfill the functions of the diplomatic mission, it can only be effective to the extent that they are also enabled to conduct themselves freely, unhindered and protected from any form of interference. Beyond the immunities from criminal and civil jurisdiction conferred on diplomatic agents,³⁷ these objectives are fulfilled through the doctrine of inviolability which the Convention incorporates in respect of, inter alia, the person of the diplomatic agent,³⁸ his private residence, and the premises of the mission. In relation to diplomatic agents, the protection of inviolability transcends the right to freedom of movement and travel accorded members of the mission,³⁹ and beyond conferring rights, imposes a positive obligation to protect on the receiving state. Article 29 of the Convention provides as follows:

"Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving state shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom, or dignity."

36. Canada implemented the 1961 Convention by virtue of the *Diplomatic and Consular Privileges and Immunities Act*, S.C. 1976-77 c.31.

37. Article 31.

38. "Diplomatic Agent" is defined in Article 1(e) to mean "the head of the mission or a member of its staff."

39. Article 26.

As mentioned, the protection of inviolability is also accorded to the premises of the mission pursuant to Article 22 of the Convention which provides:

"Article 22

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution."

A treaty similar to the 1961 Convention was adopted in 1963 in respect of consular relations,⁴⁰ although it is generally agreed to be more than simply declaratory of customary international law. Having come into force in 1967, the 1963 Vienna Convention on Consular Relations provides a somewhat qualified right of inviolability to consular officers when compared with the personal inviolability accorded to diplomatic agents under the 1961 Convention. Article 41 of the Vienna Convention on Consular Relations provides:

"Article 41

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.
2. Except in the case specified in paragraph 1 of this article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.
3. If criminal proceedings are instituted against the consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum delay."

Consular premises are also given some degree of inviolability pursuant to Article 31.

The principles of law governing the inviolability of the person and premises in the diplomatic and consular contexts were, of course, considered in detail and applied in the two judgments of the International Court of Justice in the Case Concerning the United States Diplomatic and Consular Staff in Tehran.⁴¹

Beyond the Vienna Conventions on Diplomatic and Consular Relations, there are a number of specialized treaties which relate to various

40. The Vienna Convention on Consular Relations, 596, U.N.T.S. 261.

41. *Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)* (1979), 19 Int'l. Leg. Materials 139 (I.C.J.) order on the request for provisional measures; final judgment appears at (1980), 19 Int'l. Leg. Materials 553 (I.C.J.).

aspects of the suppression and punishment of terrorism.⁴² Several are worth noting in the context of hostage-taking.

In response to a spate of terrorist incidents directed against diplomats and public officials, the General Assembly of the United Nations on December 14, 1973, adopted Resolution 3166 to which was annexed the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents.⁴³

As in the case of The Hague and Montreal Anti-Hijacking Conventions, this Convention is predicated on the principle of *aut dedere aut judicare*, whereby there is imposed upon the Contracting Parties the alternative obligations of either extraditing the offender or submitting the matter to their own competent authorities for prosecution. Article 7 provides as follows:

Article 7. The State Party in whose territory the alleged offender is present, is obliged, if it does not extradite him, to submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution.

Article 2 of the Convention obliges the contracting parties to make punishable by "appropriate penalties which take into account their grave nature" the offences of murder, kidnapping, or other attack upon the person or liberty of an internationally protected person; a violent attack upon the official premises, the private accommodation, or the means of transport of an internationally protected person; a threat to commit any such attack; an attempt to commit any such attack; and an act constituting participation as an accomplice in any such act. In furtherance of the international cooperation which is often required to bring offenders to justice, Contracting Parties must "afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect to the crimes set forth in the Convention, including the supply of all evidence at their disposal necessary for the proceedings".⁴⁴

Although the coming into force of the Convention was regarded as a progressive step in the quest to suppress and punish the brand of terrorism to which it relates (especially inasmuch as it arguably extends to cover persons whose status in the context of the protection afforded by international law had been uncertain), its potency is somewhat diluted by the fact that its provisions are without prejudice to the exercise of the legitimate right of self determination and independence.⁴⁵

In the Western Hemisphere, the Organization of the American States (OAS), on February 2, 1971, adopted the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons

42. See e.g. *Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague Convention)*, adopted December 16, 1970 [1972] Can. T.S. No. 23; *Convention on Offences and Certain Other Acts Committed on Board Aircraft (The Tokyo Convention)*, adopted September 14, 1963 [1970] Can. T.S. No. 5; *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (the Montreal Convention)*, adopted September 23, 1971 [1973] Can. T.S. No. 6; *The Universal Postal Convention*, (1969).

43. Printed in (1973), 13 Int'l. Leg. Materials 41, in force February 20, 1977.

44. *Id.*, Article 10 at 47.

45. For a detail analysis of the International Law Commission initial Draft Articles, See Christos L. Rozakis, "Terrorism and the Internationally Protected Persons In Light of the ILC's Draft Articles" (1974), 23 Int'l. & Comp. L.Q. 32-72.

and Related Extortion That Are of International Significance.⁴⁶ This Convention is also based on the principle of *aut dedere aut judicare* and is aimed at such terrorist acts as murder, kidnapping, violent attacks and associated extortion. While there are only six parties to the Convention, it provides, within the group, an added means of dealing with offenders.

Across the Atlantic, the European Convention on the Suppression of Terrorism⁴⁷ adopted by the Committee of Ministers of the Council of Europe on November 10, 1976, was opened for signature on January 27, 1977. Again, the Convention is directed at the punishment of such offences as hijacking, kidnapping, hostage taking, bombing, etc., the parties having opted for a list of offences rather than a general definition of "terrorism" against which any appropriate acts might otherwise be measured.

A major criticism which has been levelled at the European Convention on the Suppression of Terrorism stems from its attempts to obviate the difficulties which have been experienced with similar conventions, and resulted from the ability of parties to deny a request for extradition on the grounds that the offence was one of a political character.⁴⁸ As is not infrequently provided in bilateral extradition treaties, Article 5 of the European Convention entitles a requested state to deny extradition if it "has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on grounds of his . . . political opinion . . . or that that person's position may be prejudiced for (that reason)". This provision has been argued by Professors Alexander and Kilmarx to be abjuratory of Articles 1 and 2 of the Convention which purport, respectively, to eliminate and restrict the ability of a contracting party to deny extradition on the basis that the offence is one of a political character.⁴⁹

This problem is one which has persisted, as mentioned, not only in the context of international agreements aimed at the prosecution and punishment of terrorist activities but in extradition treaties relating to crime in its ordinary incident.⁵⁰ The presence of "political offence" exemption provisions in international agreements represents a political concession without which the parties insisting on the inclusion of such provisions may well not have ratified the agreements. The problems implied by the political offence exemption have been addressed elsewhere.⁵¹ One wonders, however, how appropriate such provisions are in the context of a convention the espoused purpose of which is to "take effective measures to ensure that the perpetrators of acts of terrorism [which would often be expected to be politically motivated] do not escape prosecution and punishment."⁵²

46. Printed in (1971), 10 Int'l. Leg. Materials 255.

47. Printed in (1976), 15 Int'l. Leg. Materials 1272.

48. Louis G. Fields, Jr., "Terrorism: Summary of Applicable U.S. and International Law" in *Political Terrorism and Business* (Y. Alexander and R.A. Kilmarx eds. 1979) 172-173.

49. *Id.*, at 172.

50. See e.g. *Canada/United States Extradition Treaty* [1976] Can. T.S. No. 3. Art. 4(1)(iii) which prohibits extradition where the offence is one of a political character or it is sought to punish the accused for an offence of a political character. However, pursuant to Art. 4(2)(j), the prohibition does not apply to a kidnapping, murder or other assault against the life or physical integrity of a person to whom a Contracting Party has the duty according to international law to give special protection, or an attempt to commit such an offence.

51. See G.V. La Forest Q.C. *Extradition to and From Canada* (2d ed. 1977).

52. *Supra* n. 47, preamble.

Undoubtedly the most significant recent development in international law relating to the suppression and punishment of terrorist acts of hostage taking is the International Convention Against the Taking of Hostages⁵³ (hereinafter "ICATH") adopted by the 34th Session of the General Assembly of the United Nations on December 17, 1979, as an annex to Resolution 34/146. The Convention was opened for signature on December 18, 1979. In common with several of the other anti-terrorist conventions hereinbefore referred to, the ICATH is premised on the principle of *aut dedere aut judicare* as reflected in its preamble as follows:

Considering that the taking of hostages is an offence of grave concern to the international community and that, in accordance with the provisions of this Convention, any person committing an act of hostage taking shall either be prosecuted or extradited.⁵⁴

The effective introduction of the principle into the Convention itself as alternative obligations of the state parties is achieved by Article 8 which also guarantees an accused the fair treatment and the due process of law of the state in which proceedings are being conducted.

The preamble also recites, *inter alia*, that:

Being convinced, that it is urgently necessary to develop international cooperation between States in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking of hostages as manifestations of international terrorism.⁵⁵

It is interesting to note that the definition of "hostage-taking" provided by the Convention requires an element of coercion of some third party as a prerequisite to qualification as an offence thereunder. Article 1 provides:

Article 1(1)

Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages ("hostage-taking") within the meaning of this Convention.

Pursuant to Article 1(2), attempts to commit an act of hostage-taking or complicity in such acts or attempts are made offences for purposes of the Convention. The State on whose territory the hostage is being held has a particular obligation to secure his release⁵⁶ and all parties to the Convention are obliged to take "all practicable measures to prevent preparations in their respective territories for the commission of (the offences set forth in Article 1) within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts of taking of hostages".⁵⁷

53. Printed in (1979), 18 Int'l. Leg. Materials 1456.

54. *Id.*, paragraph 4, preamble at 1457.

55. *Id.*, paragraph 5, preamble at 1457.

56. *Id.*, Article 3(1) at 1458.

57. *Id.*, Article 4(a) at 1458.

What has been perceived as the weak point in the effective implementation of the European Convention on the Suppression of Terrorism is replicated in Article 9 of the ICATH, which stipulates, in like terms, that a "request for the extradition of an alleged offender, pursuant to (the) Convention, shall not be granted if the requested State Party has substantial grounds for believing . . . that the request for extradition for an offence as set forth in Article 1 has been made for the purpose of prosecuting or punishing a person on account of his . . . political opinion . . . or that the person's position may be prejudiced . . . (for that reason)". One can only hope that the potential for abuse which the words appear to create will never be realized.

Also worthy of note is Article 12 of the Convention included at the insistence of several of the non-aligned States. It addresses the correlation between the provisions of the Geneva Conventions of 1949 and Additional Protocols thereto, and the ICATH. Under the former, National Liberation Movements "in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination" are included in the definition of "armed conflicts". In the result, hostage-takings occurring in the context of such National Liberation Movements are subject to the "prosecute or extradite" provisions of the Geneva Conventions and Additional Protocols. Article 12 of the ICATH creates a paramouncy of the Geneva Convention provisions where both Conventions might otherwise apply.

Finally, the Convention preserves the territorial integrity and political independence of States as set forth in the Charter of the United Nations. A Department of External Affairs Bulletin reports that an "earlier formulation (of the territorial integrity provision) as proposed by a number of non-aligned delegations, would have prohibited any kind of assistance to hostages which involved violations of territorial integrity."⁵⁸ The Bulletin concludes, however, that in its final form, "the provision simply served to reaffirm the principle of territorial integrity to the effect that (the) Convention could not be used to justify the violation of that principle.

Conclusions

The historical evidence suggests that the forms which terrorist attacks take follow cyclical patterns. The simple reason for this is that what is perceived by terrorist groups as a "successful method" is quickly replicated. Conversely, when a particular mode begins to sour, and this may occur for any number of reasons (public familiarity lessens the sensationalism, enforcement authorities are more experienced in managing that type of crisis thereby heightening the risk or cost of success, governments undertake specific international obligations in relation to certain types of terrorism such as hijacking, hostage-taking, etc.), the terrorists turn to new means. Yet even these basic notions of the terrorist modus operandi have been shattered by recent occurrences. With the conclusion of a number of

58. Dept. of External Affairs, *Dept. of Legal Affairs Bulletin*, October, 1980.

international anti-hijacking conventions, increased airport and airline security and the number of aborted attempts, it was believed that the "hijacking" cycle had ended. However, moments after the announcement that Pakistan's President Mohammed Zia had capitulated to the demands of three members of the Al Zulfikar and ordered the release of 54 Pakistani prisoners, (March, 1981) the expert presages of a new cycle of hi-jackings began. Within days, five men seized an Indonesian airliner and 44 hostages at Bangkok Airport (March 28, 1981) and self-proclaimed leftists seized a Honduran jetliner and 50 hostages (March 28, 1981). The central demands of both terrorist groups called for the release of political prisoners. Concessions were made by the authorities in both instances. These facts betray the most fundamental precept of terrorist strategy — success is the yardstick. As long as these groups continue to be reinforced in their belief that their attacks will bear fruit, they shall proceed to dominate the headlines, abandoned methods will be revived, innocent lives will be lost and our civilization will continue to suffer an affront to its dignity. It is the frustration born of this constant onslaught which has prompted some to advocate nothing other than violent response to violent aggression. Professors Alexander and Levine have written:

"The dilemma of terrorism is that although most governments and people recognize the dangers of terrorism, they are unwilling or unable to take the necessary steps to control it. That is why nations which are serious about ending terrorism must prepare to act unilaterally in Operation Entebbe-type strikes rather than rely on the goodwill of the world community."⁵⁹

Perhaps the most curious irony in all of this is that the causes which many terrorists claim to be championing are those which we ourselves would be prepared to fight for, and the ultimate ends which they seek to achieve are those which we might consider noble, yet whatever sympathy we might otherwise have for them is necessarily tainted by their means. Professor Green cites the following apt passage from the address of then Canadian Secretary of State for External Affairs Mitchell Sharp:

"Terrorism takes many forms. It is called forth by a wide range of complex situations. The rights and wrongs of these situations are bitterly contested . . . But . . . there must be no truce with terror. Some acts of terror are the work of deluded and demented criminals; others, of frustrated and desperate men willing to sacrifice their own lives and the lives of innocent people in what they regard as a noble cause. When we agree that the cause is noble, we are tempted to condone the terror. But are we wise to do so? The act we condone today may be the one we regret tomorrow, when it is turned against us. For terrorism in the end affects everyone; it is an attack on civilization at large. Violence breeds violence, murder answers murder, and order dissolves in chaos."⁶⁰

59. Y. Alexander and H.M. Levine, "Prepare for the Next Entebbe" (1977), 25 Ch. L.J. 240.

60. *Supra* n. 4, at 50.

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