Legislative Responses to International Terrorism: International and National Efforts to Deter and Punish Terrorists

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Legislative Responses to International Terrorism: International and National Efforts to Deter and Punish Terrorists

I. INTRODUCTION

International terrorism is a world-wide problem, afflicting democratic and totalitarian states alike. As a result, the issue of deterrence necessarily raises unique problems in international law as well as in national law. A legal response to terrorism, therefore, must exist on both the international and national level in order to have any deterring effect.

Difficulties in defining terrorism lead in turn to difficulties in combating terrorism. Accordingly, the definitional and jurisdictional obstacles inherent in any attempt to deter terrorism through legislation require close analysis. Attempts by the United States to deter terrorist attacks through legislation thus far have been virtually untested. Recent incidents of terrorism, however, may provide a potential testing ground both for U.S. legislation and for international cooperation in the battle against often unknown or undefined enemies. For example, the seizure of a TWA aircraft on June 14, 1985 by terrorists falls within the scope of U.S. anti-hijacking laws as well as the recently amended U.S. kidnapping statute. Similarly, the taking of the Italian cruise ship Achille Lauro in October, 1985 is covered by the hostage-taking provisions contained in the federal kidnapping laws.

In order to effect the prevention of terrorism and the punishment of terrorists, the international community must agree upon a definition for the acts they seek to prevent. Unfortunately, terrorism does not easily lend itself to a single

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The geographic distribution of international terrorist incidents in 1985 is as follows: Middle East, 46.6; Western Europe, 25.6; Latin America, 16.3; Asia, 5.7; Africa, 5.1; North America, 0.5; Eastern Europe, 0.2. Public Report of the Vice President's Task Force on Combating Terrorism 3 (1986) [hereinafter cited as Vice President's Task Force].

2 The Federal Bureau of Investigation reports, however, that it has secured arrests or convictions in cases involving the United Freedom Front, the Armed Resistance Unit, the Red Guerrilla Resistance, the Revolutionary Fighting Group, the Aryan Nations, and E.P.B. Macheters. N.Y. Times, Mar. 1, 1986, at 12, col. 6.


concept for definitional or legal purposes. There seem to be some sets of acts (such as hijacking and kidnapping) which, when performed, render a group "terrorist." While there appear to be certain universally recognized acts of terrorism, the world community has yet to agree upon a general definition.

With the increase in terrorist acts around the world, and the corresponding increase in media coverage paid to such acts, terrorism has become truly international in scope. The distinction between national terrorism and international terrorism, however, can be made on the basis of the motive underlying the acts, the position or status of the victim, or the jurisdictional issues involved. Definitions of terrorism commonly focus on the terrorist's attempt to affect governmental policy through violent action. For the purposes of this Comment,

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6 Mallison & Mallison, The Concept of Public Purpose Terror in International Law: Doctrines and Sanctions to Reduce the Destruction of Human and Material Values, in INTERNATIONAL TERRORISM AND POLITICAL CRIMES, 67 (M. Bassiouni ed. 1974). According to one U.S. official:

A terrorist group does not need a defined territory or a specific organization. Its goals need not necessarily relate to any one country. It does not require a popular base of support. Its operations or its organization and its movements are secret. Its activities do not conform to the rules of law or warfare. Its targets are civilians, noncombatants, bystanders, or symbolic persons and places. Its victims generally have no role in either causing or correcting the grievance of the terrorists. Its methods are hostage taking, aircraft piracy, sabotage, assassination, threats, hoaxes, indiscriminate bombings, or shootings. This set of phenomena is international terrorism when the victim, the actor, or the location of the terrorist incident involves more than one country.


"Americans readily recognize the bombing of an embassy, political hostage-taking and most hijackings of an aircraft as terrorist acts." Vice President's Task Force, supra note 1, at 1.

8 Hijacking, kidnapping and violence against protected persons have been singled out by the international community as acts commonly performed by terrorists. See infra notes 25-29 and accompanying text for discussion of the multilateral conventions proscribing the above-mentioned acts of violence.

9 Paust, supra note 5, at 432-33.

10 According to the Federal Bureau of Investigation, there were 800 terrorist incidents in 1985, with 23 Americans dead and 139 injured. N.Y. Times, supra note 2. The number of terrorist acts has increased, with fatalities rising from 20 in 1968 to 926 in 1985. Vice President's Task Force, supra note 1, at 4. See also McClure, Operational Aspects of Terrorism, 17 WILLAMETTE L. REV. 165, 171 (1980).

11 The media instantly bring terrorist incidents to the attention of the world. One writer has observed:

Political terrorism used to be a national event that seldom had ramifications beyond national borders. Now any attack against any prominent figure or against a commercial aircraft or against an embassy is an international media event .... Terrorism is international, and, as many say, it is theater.


13 The difficulty in defining terrorism is reflected in the multitude of definitions proposed by scholars. For comparison, here are several attempts:
international terrorism is defined as intentional acts of violence committed for the purpose of coercing or intimidating policy makers in order to effect a policy change. Any definition must be broad due to the diversity of terrorists and the states in which they act.\textsuperscript{14} Although their acts may be characterized by common elements, terrorist motivations and targets vary widely.\textsuperscript{15}

This Comment examines the ability of the United States to apprehend and punish terrorists under current international and national legislation. The present and future effectiveness of U.S. efforts to control terrorist attacks primarily will depend upon the willingness of the United States to employ existing legislation and to supplement further national and international laws.

Part II will focus on the international community's responses to international terrorism. Five multinational conventions are currently in force in response to terrorist acts.\textsuperscript{16} The weaknesses in the enforcement of multilateral conventions will be examined in Part III. Noncompliance of both non-signatory parties and of state parties contributes to a weakened international response to international terrorism. Part IV will discuss the responses of the United Kingdom and the United States to international terrorism and focus in particular on 1984 U.S. national anti-terrorism legislative initiatives. In Part V, the limitations of the international conventions as anti-terrorist tools will be examined using the United States as an example. Finally, this Comment will conclude that further anti-terrorist legislation is needed, as is reform of U.S. national legislation, in order to effect a comprehensive legislative approach to international terrorism.

Terrorism is a phenomenon that is easier to describe than define. It is the unlawful use or threat of violence against persons or property to further political or social objectives. It is generally intended to intimidate or coerce a government, individuals or groups to modify their behavior or policies.

Vice President's Task Force, supra note 1, at 1.

'International terrorism' is defined here as comprehending acts of violence undertaken by private persons, factions, or groups with the intent of intimidating or harming internationally protected persons, endangering public safety, interfering with the activities of international organizations, damaging or destroying internationally protected property, or disrupting international transportation or communications systems for the purpose of undermining friendly relations among states or among the nationals of different states.

Evans, supra note 1, at 152.

Terrorism involves the intentional use of violence or the threat of violence by the precipitator(s) against an instrumental target in order to communicate to a primary target a threat of future violence. The object is to use intense fear or anxiety to coerce the primary target into behavior or to mold its attitudes in connection with a demanded power (political) outcome.

Paust, supra note 5, at 434.

Kidnap [sic], bombing, shooting, airplane hijacking — besides death, destruction, and the associated terror, what do these acts have in common? Most notably they are acts perpetrated by groups, or by individuals as representatives of groups, who seek not to hide their responsibility but to advertise it.


\textsuperscript{14} Terrorists may act for various reasons. For example, some are motivated by politics or ideology, while others are merely random actors or "hired guns" of a regime. Evans, supra note 1, at 152.

\textsuperscript{15} Id. at 158–55.

\textsuperscript{16} See infra, notes 25–29.
II. INTERNATIONAL TERRORISM: THE RESPONSE OF THE INTERNATIONAL COMMUNITY THROUGH MULTILATERAL CONVENTIONS

In 1937, the International Conference on the Repression of Terrorism, as established under the League of Nations, drafted a Convention for the Prevention and Punishment of Terrorism. The final draft of the Convention was a weak document, resulting from compromises made among participating states; it required neither extradition nor prosecution of offenders of the provisions. Although Poland supported the inclusion of a mandatory "extradite or prosecute" amendment, this suggestion was soundly defeated by nations wishing to retain complete discretion over extradition. The Convention was ratified by only one party, India, and accordingly never entered into force.

After almost forty years of inaction regarding terrorism, the General Assembly of the United Nations established an Ad Hoc Committee on Terrorism in 1972 in order to study the causes of terrorism as a means of developing legislation to prevent terrorism. The Committee failed to reach an agreement. In its 1979 Report, the Committee reiterated the by then familiar obstacle facing the world community; the desire to distinguish national liberation movements from acts of international terrorism presented insurmountable conflicts. The group recommended instead that the United Nations try to eliminate the causes of terrorism, including "colonialism, racism and situations involving alien occupation."

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18 The assassination of King Alexander of Yugoslavia in 1934 led the Council of the League of Nations to establish a committee to study terrorist activity. Franck & Lockwood, supra note 12, at 69.

19 F. WALTERS, 1 A HISTORY OF THE LEAGUE OF NATIONS 20 (1952). At the conclusion of World War I, the Paris Peace Conference resolved to establish a League of Nations to maintain peace and promote international cooperation. Id. at 32. The Covenant of the League of Nations was adopted April 28, 1919 and was signed by 42 states. Id. at 43, 64–65.

20 Id.

21 Id. at 54.


24 Id. at 578. The United States objected to the differentiation between terrorist acts, asserting that all terrorist acts should be condemned. See 33 U.N.Y.B. 1148 (1979).
The failure of the international community to accept a comprehensive definition of terrorism has led to the adoption of piecemeal legal controls in an attempt to deter terrorist acts. Five multilateral conventions have thus far been adopted by the international community, each addressing a narrowly defined offense and each avoiding a comprehensive definition of terrorism. These conventions are the Tokyo Convention,\(^{25}\) the Hague Convention,\(^{26}\) the Montreal Convention,\(^{27}\) the Protection of Diplomats Convention,\(^{28}\) and the Hostage-Taking Convention.\(^{29}\)

The three conventions resulting from the International Civil Aviation Organization (I.C.A.O.)\(^{30}\) conferences encompass most incidents of unlawful interference with international civil aviation. Avoiding definitions of “terrorism,” the legislation applies to any person attempting to hijack an aircraft for any reason. The evolution of the conventions reflects a developing concern on the part of all states over the increased occurrence of hijackings.\(^{31}\)

A. *Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft*

The Tokyo Convention of 1963 was the first multilateral convention containing provisions concerning unlawful seizure of and interference with civil air-

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Article 11 of the Convention addresses only the issues of restoring control over the airplane, resuming the flight and returning the airplane to the proper authorities. Article 11 does not address the extradition or punishment of alleged offenders.

Notwithstanding the broad language of the Convention, it took more than six years to obtain ratification of the agreement. The reluctance of the global community to ratify the Tokyo Convention may be attributed to two factors. First, while the United States had already experienced hijackings in substantial numbers, the I.C.A.O. Conference drafted the Convention prior to the escalation of such incidents throughout the world at large. Second, the reluctance of several states to condemn politically motivated hijackers led to further delay in ratification. When the Convention entered into force on December 4, 1969, it contained no provisions for the extradition or punishment of alleged hijackers.

The Tokyo Convention went into effect during a period of increased hijackings throughout the world. Between 1960 and 1967, an average of five hijackings took place each year. For 1968, the average was 35, and by 1969, hijackings numbered 89. Several previously unaffected nations expressed concern...
over these increased hijackings and their inability to deter such incidents. The international community responded with two conventions that specifically address hijacking.

B. The Hague Convention for the Suppression of Unlawful Seizure of Aircraft

The marked increase in hijackings in the late 1960s led the I.C.A.O. Assembly to request a study of possible solutions to the problem. In 1970, the Hague Convention was adopted in order to deter acts of unlawful seizure of aircraft.

Under the Convention, an offense is committed when three requirements are met. First, the offense must take place on board an aircraft. Second, the aircraft must be "in flight." Third, the seizure must be the result of unlawful or attempted use of force, threat or intimidation. In addition, it is also an offense to act as an accomplice to a person who commits or attempts to commit an offense.

The Convention compels contracting parties to establish jurisdiction over alleged offenders in several circumstances. Under Article 4, up to three states potentially have concurrent jurisdiction over alleged offenders: (1) the state of registry of the aircraft; (2) the state of landing, if the alleged offender is still on board; (3) any state party to the Convention where an alleged offender is...

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40 Abramovsky, supra note 31, at 391.
For example, the U.S.S.R. joined the I.C.A.O. in 1970 and participated in the promulgation of the Hague Convention.
The number of hijackings occurring outside of the United States increased from one in 1963 to 45 by 1970. Evans, supra note 37, at 643. The increase in hijackings led to the prompt conclusion of the Hague and Montreal Conventions. Id. at 652.
42 Hague Convention, supra note 26, preamble.
43 Article 1 of the Convention establishes the elements of an offense: Any person who on board an aircraft in flight:
(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seize, or exercises control of, that aircraft, or attempts to perform any such act, or
(b) is an accomplice of a person who performs or attempts to perform any such act commits an offence.
Id. at art. 1.
44 Id.
45 Note that "in flight" here is defined as "any time from the moment when all external doors are closed following embarkation until the moment when any such door is opened for disembarkation." Id. at art. 3(1). Cf. Tokyo Convention, supra note 25, at art. 1(3): "The moment when power is applied for purpose of takeoff until the moment when the landing run ends."
46 Hague Convention, supra note 26, at art. 1(a).
47 Id. at art. 1(b).
48 Id. at art. 4(1)(a).
49 Id. at art. 4(1)(b).
found and that state does not extradite to the other two states having concurrent jurisdiction.\textsuperscript{50} Jurisdiction based on passive nationality\textsuperscript{51} is also permitted where that state's domestic law so provides.\textsuperscript{52}

The Convention provides in Article 7 that a state party, if it refuses to extradite to another state party, must submit the alleged offender to competent authorities for prosecution.\textsuperscript{53} Such authorities, in turn, are required to regard the case as an ordinary offense of a serious nature under the law of that state.\textsuperscript{54} Further, each state is obligated "to make the offense punishable by severe penalties."\textsuperscript{55}

Although the Convention does not obligate parties to extradite alleged offenders, Article 8 facilitates the extradition process.\textsuperscript{56} Unlawful seizure of an aircraft must be included as an extraditable offense in any existing or future extradition treaty contracted between state parties.\textsuperscript{57} Further, the Convention provides that state parties that do not make extradition dependent upon the existence of a treaty shall recognize the offense as extraditable between themselves.\textsuperscript{58} Extradition of an alleged offender, however, remains optional and subject to the domestic laws of the requested state.\textsuperscript{59} Again, according to Article 7, if a requested state refuses to extradite an alleged hijacker, it must submit the offender to competent prosecuting authorities.\textsuperscript{60}

Extradition is not required by international law.\textsuperscript{61} Even where extradition treaties exist between two states, most countries recognize a political offense exception.\textsuperscript{62} Drafters of the Hague Convention confronted the problem of

\textsuperscript{50} Id. at art. 4(2).

\textsuperscript{51} There are five theories of jurisdiction in international law. A state has territorial jurisdiction over offenses committed within its borders. Active personality or nationality allows jurisdiction over a state's citizens. Passive personality enables jurisdiction by the state of the victim of the offense. Universality entitles any state to exercise jurisdiction over the offender. The protective principle allows a state jurisdiction in circumstances where its national security is in jeopardy. \textit{Harvard Research in International Law, Jurisdiction With Respect to Crime}, 29 Am. J. Int'l L. 435 (Supp. 1935).

\textsuperscript{52} Hague Convention, supra note 26, at art. 4(3).

\textsuperscript{53} Id. at art. 7.

\textsuperscript{54} Id.

\textsuperscript{55} Id. at art. 2. One commentator has suggested that the Convention remains silent on the issue of a minimum period of imprisonment in order to attract the maximum number of states to ratify the Convention and to avoid interference with the sovereign's right to punish offenders as it sees fit. Abramovsky, supra note 31, at 399.

\textsuperscript{56} Hague Convention, supra note 26, at art. 8(3) states:

1) The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States.

\textsuperscript{57} Id.

\textsuperscript{58} Id. at art. 8(3).

\textsuperscript{59} Id. at art. 8(2).

\textsuperscript{60} Id. at art. 7.


\textsuperscript{62} Id. at VIII § 2-3, 2-4; \textit{see, e.g., In Re Castioni} [1891] 1 Q.B. 149 (English court refused to extradite to Switzerland a Swiss national accused of murdering a Swiss official during a political uprising).
extradition of offenders who acted for “political” reasons.63 The countries in attendance at the Conference were divided on the issue of extradition. One group proposed the mandatory extradition of alleged offenders to the state of registry of the aircraft.64 A second group opposed such a provision, on the basis that it would prevent a state from granting asylum to political refugees.65 In an effort to obtain a maximum number of signatories, the drafters chose not to interfere with the sovereignty of nations party to the Convention.66 Article 8 of the Convention adopted the latter proposal leaving unaffected existing discretionary national extradition law.

In sum, the Hague Convention was drafted and adopted specifically to remedy existing technical omissions in the domestic laws of contracting states.67 Prior to the drafting of the Convention, the I.C.A.O.'s Legal Committee studied the problem of hijacking and found that hijacking was not itself an offense in a majority of states.68 Further, the state of registration of the hijacked aircraft, usually the state having the greatest incentive to prosecute an offender, often could not obtain extradition from the state where the offender sought refuge.69 In addition, the state in which the offender was found often was unable to prosecute because the offense had been committed outside that state's jurisdiction.70 The Hague Convention removed these obstacles to the exercise of jurisdiction over alleged hijackers and facilitated extradition.

C. Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation

Although the Hague Convention does cover acts of unlawful seizure or control of aircraft, these acts often overlap with acts of destruction or interference with the aircraft and harm to those on board. Since the Tokyo Convention

63 Abramovsky, supra note 31, at 401.
65 Id.
66 Id. at 38–39.
67 Id. at 38.
68 Id. at 39.
69 Id.
addressed acts of unlawful interference with aircraft insufficiently, the I.C.A.O. Assembly chose to draft a convention which would specifically address the problem of interference with aircraft. The Montreal Convention therefore covers any act of unlawful interference likely to endanger the safety of the aircraft in flight.

The Montreal Convention mirrors the Hague Convention in several respects. Article 5 provides for concurrent jurisdiction for up to four states. It appears, however, that in practice, the state which first apprehends the offender receives primary jurisdiction. Article 7 provides for discretionary prosecution. Under the *aut dedere aut judicare* principle, a state must submit an alleged offender to competent prosecuting authorities if it chooses not to extradite. As in Article 2 of the Hague Convention, the Montreal Convention requires contracting states to inflict severe penalties upon offenders and does not suggest any minimum period of imprisonment.

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71 The Tokyo Convention applies only to offenses committed on board an aircraft in flight. The Tokyo Convention did not address the issues of extradition or prosecution of alleged offenders. Tokyo Convention, supra note 25, at art. 1(2). See text accompanying notes 33–34.
73 Montreal Convention, supra note 27, at art. 1.
74 In addition to the exercise of jurisdiction by states in the three situations outlined in the Hague Convention, the Montreal Convention provides for jurisdiction by the state where the offense is committed. Id. at art. 5(1)(a). See Hague Convention, supra note 26, at art. 4.
75 See Abramovsky, supra note 72, at 293.
76 Montreal Convention, supra note 27, at art. 7. Participants at the Montreal Convention defeated by a vote of 35 to two, with six abstentions, a proposal requiring mandatory prosecution. As noted previously, many states refused to relinquish the right to distinguish between alleged offenders according to varying circumstances.
78 Montreal Convention, supra note 27, at art. 7.
79 Id. at art. 3.
Finally, the issue of extradition is addressed by the Montreal Convention in the same manner as the Hague Convention. Article 8 of both Conventions increases the likelihood that an offender will be prosecuted. By including the offenses specified in the Conventions in all existing and future extradition treaties among members, the drafters of the Conventions facilitate the ability of a nation to obtain jurisdiction over an offender. The fact remains, however, that extradition is not mandatory under international law or the Hague or Montreal Conventions. Contracting states remain free to exclude particular types of offenses from their extradition treaties, the political offense exception being the most common.

Both the Hague Convention and the Montreal Convention provide a legal framework for international cooperation in the apprehension and prosecution of persons who attempt to interfere unlawfully with civil aircraft. Like the Hague Convention before it, the Montreal Convention enables nations previously unable to prosecute offenders to exercise jurisdiction or obtain extradition in an effort to deter such acts of unlawful interference with aircraft.

D. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents

The Protection of Diplomats Convention, adopted by the General Assembly of the United Nations on December 14, 1973, closely follows the structure of both the Hague and Montreal Conventions. Prior to the adoption of the Protection of Diplomats Convention, the term "internationally protected person" had no meaning in international law. As stated in the preamble to the Protection of Diplomats Convention, violence aimed against internationally protected persons "create[s] a serious threat to the maintenance of normal international relations which are necessary for co-operation among States . . . ."

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80 Hague Convention, supra note 26, at art. 8.
81 Id. at art. 7.
82 Id. For example, in In re Mackin, 668 F.2d 122 (2d Cir. 1981), the court upheld the U.S. Magistrate's decision that the political offense exception applied where England sought the extradition of a member of the Provisional Irish Republican Army for an alleged bomb attack on a British Army Installation.
84 Protection of Diplomats Convention, supra note 28.
86 Protection of Diplomats Convention, supra note 28, preamble.
tection of Diplomats Convention applies to the intentional commission of specific offenses, including murder, kidnapping or other attacks against protected persons.\textsuperscript{87} Unlike the Hague or Montreal Conventions, however, Article 2(1) of the Protection of Diplomats Convention specifically provides that the enumerated acts “shall be made by each State Party a crime under its internal law.”\textsuperscript{88} The acts covered by the Protection of Diplomats Convention, unlike hijacking, are already offenses under the laws of most states.\textsuperscript{89} Each contracting state is also required under Article 2(2) to render the crimes “punishable by appropriate penalties which take into account their grave nature.”\textsuperscript{90}

Article 3 of the Protection of Diplomats Convention requires contracting parties to establish jurisdiction over alleged offenders, paralleling Article 4 of the Hague Convention and Article 5 of the Montreal Convention. Article 3 states:

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in Article 2 in the following cases:
   (a) When the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;
   (b) When the alleged offender is a national of that State;
   (c) When the crime is committed against an internationally protected person as defined in Article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this article.\textsuperscript{91}

There are, however, some modifications in the Protection of Diplomats Convention. Article 3(1)(b) requires the state of nationality of the alleged offender

\textsuperscript{87} Id. at art. 2(1)(a).
\textsuperscript{88} Id. at art. 2(1).
\textsuperscript{89} Wood, supra note 85, at 805.
\textsuperscript{90} Protection of Diplomats Convention, supra note 28, at Article 2(2) is similar to Article 2 of the Hague Convention and Article 3 of the Montreal Convention: “Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.” Id.
Similarly, Article 3 of the Montreal Convention states: “Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.” Montreal Convention, supra note 27.
\textsuperscript{91} Protection of Diplomats Convention, supra note 28, at art. 3.
to provide for jurisdiction.\textsuperscript{92} Also, a state must establish jurisdiction similar to passive personality under Article 3(1)(c).\textsuperscript{93} The provisions for establishing jurisdiction over alleged offenders are comparable to those contained in the Hague and Montreal Conventions.

Two minor additions were made to the Protection of Diplomats Convention which do not appear in the hijacking conventions. First, Article 4 provides for cooperation among state parties in an effort to prevent the crimes proscribed by the Protection of Diplomats Convention.\textsuperscript{94} Second, Article 5 requires that the state of which the victim is a functionary must be kept apprised of the situation by any state having such information.\textsuperscript{95}

The key provisions requiring extradition or submission of the alleged offender to prosecution contained in Articles 7 and 8 of the Hague and Montreal Conventions are likewise present in the Protection of Diplomats Convention.\textsuperscript{96} On the whole, the technical aspects of the Protection of Diplomats Convention are similar to the Hague and Montreal Conventions.\textsuperscript{97} An international cooperative legal framework is established to facilitate apprehension, adjudication and punishment of alleged offenders of the Conventions.

E. \textit{International Convention Against the Taking of Hostages}

The ability of the world community to agree upon the Protection of Diplomats Convention and the Hague and Montreal Conventions indicated that international legal action against international terrorism was feasible if a narrow set of acts were identified and targeted as unacceptable.\textsuperscript{98} Kidnapping and hostage-taking are universally condemned as violations of human rights recognized in the Universal Declaration of Human Rights\textsuperscript{99} and the International Covenant

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{92} Id. at art. 3(1)(b).
\item \textsuperscript{93} Id. at art. 3(1)(c). Neither the Hague nor Montreal Conventions contains an equivalent provision but Article 3(1)(c) is similar to Article 4(1)(c) of the Hague and Article 5(1)(d) of the Montreal concerning the principal place of business or permanent residence of the lessee of the aircraft.
\item \textsuperscript{94} Protection of Diplomats Convention, supra note 28, at art. 4. Article 4 provides specifically for international cooperation to prevent preparations for the commission of Article 1 offenses whether they are to be committed within or outside the territories of particular state parties. Article 4 also requires the exchange of information and the cooperation of administrative measures to prevent the commission of offenses. Article 4(1) elaborates upon Article 9(1) of the Hague Convention and patterns closely Article 10(1) of the Montreal Convention.
\item \textsuperscript{95} Id. at art. 5.
\item \textsuperscript{96} Id. at art. 7.
\item \textsuperscript{97} L. Bloomfield and G. Fitzgerald, supra note 85, at 54.
\end{itemize}
\end{footnotesize}
on Civil and Political Rights. As reflected in the preamble, the Hostage-Taking Convention is an effort to prevent the “taking of hostages as manifestations of international terrorism . . . ” in violation of the basic human “right to life, liberty and security of person . . . .”

Similar to the earlier multilateral conventions, the Hostage-Taking Convention begins with a definition of the proscribed offense. Participants at the Conference rejected proposals by delegations to narrow the scope of the offense to acts involving “innocent” hostages, and to broaden the category to include “masses under colonial, racist or foreign domination.” Participants also rejected the suggestion that hostage-taking in the pursuit of self-determination be excluded. Ultimately, however, the drafters determined that the motive behind an act was irrelevant if the means of force were impermissible. Article 1 defines as an offender any person who detains or attempts to detain another person in order to compel a third party to act or refrain from acting as a condition for the release of that person.

The Hostage-Taking Convention requires state parties to amend their domestic laws to punish the attempt or actual taking of hostages. In addition, contracting parties are also obliged to provide international cooperation in preventing such occurrences. Neither of these two requirements is new to the Hostage-Taking Convention, as similar provisions are contained in the Hague, Montreal, and Protection of Diplomats Conventions.

Although Article 5 contains provisions substantially similar to provisions in earlier conventions which require state parties to establish jurisdiction over

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101 Hostage-Taking Convention, supra note 29, preamble.
102 The proposal was rejected because of the implication that there were some persons deserving of kidnapping. Rosenstock, supra note 98, at 173-74.
104 Rosenstock, supra note 98, at 177. For example, the Syrian delegation urged that a distinction be made between ordinary criminals and those engaged in the struggle of a national liberation movement.
105 Id.
106 Id.
107 Id. at art. 2.
108 Id. at art. 4.
109 Hague Convention, supra note 26, at art. 2, 9(1).
110 Montreal Convention, supra note 27, at art. 3, 10(1).
111 Protection of Diplomats Convention, supra note 28, at arts. 2(2), 4.
alleged offenders, the Hostage-Taking Convention varies slightly. While states are required to establish jurisdiction on the bases of territoriality, nationality, and the protective principle, passive personality is optional. Although civil law countries urged the inclusion of mandatory passive personality jurisdiction in Article 5(1)(d), several common law delegations did not accept such a proposal. In addition, Article 5 gives states the option of establishing jurisdiction over stateless persons residing in contracting states.

The same provisions concerning extradition that appear in earlier conventions are included in the Hostage-Taking Convention. Again, Article 8 requires state parties to extradite or submit to competent prosecuting authorities an alleged offender found within its territory. Although the provisions are incorporated into extradition treaties among contracting members, the Hostage-Taking Convention does allow a state to refuse to extradite under certain circumstances. Specifically, when the state believes the extradition is requested for “the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion,” it may refuse to extradite. Also, where a requested state determines that an alleged offender may be treated with prejudice for any of the above reasons, or that communication between the State entitled to protect the offender and the offender cannot be ensured, it may also refuse to extradite. Although this provision departs from previous conventions, it does not interfere with the system of practice prescribed under the Hague, Montreal, and Protection of Diplomats Conventions.

The existing framework for international cooperation in curbing terrorism is a compromise by the international community reflecting an inability both to agree upon the scope of terrorism and to adopt a comprehensive legal control. In light of the failure to reach an agreement on an anti-terrorism convention, the five multilateral conventions currently in force target specific actions which are generally condemned as unacceptable by the contracting parties. The legal framework established in each convention is an attempt to deter prohibited

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112 See Hague Convention, supra note 26, at art. 4; Montreal Convention, supra note 27, at art. 5; Protecting Diplomats Convention, supra note 28, at art. 3.
113 Hostage-Taking Convention, supra note 29, at art. 5(1)(d).
114 The United States is generally opposed to the use of passive personality as a basis for jurisdiction. Due to the problems unique to the protection of diplomats, however, the United States felt justified in accepting such a basis for jurisdiction in the Protection of Diplomats Convention. Rosenstock, supra note 98, at 180.
115 Hostage-Taking Convention, supra note 29, at art. 5(1)(b).
116 Id. at art. 8.
117 Id. at art. 9(1)(a).
118 Id. at art. 9(1)(b)(i), (ii).
119 See Rosenstock, supra note 98, at 182.
121 Rosenstock, supra note 98, at 170.
offenses and punish offenders through widespread ratification and adherence. By requiring as many states as possible to exercise jurisdiction over an alleged offender, the conventions increase the possibility that an offender will actually be punished. Furthermore, the conventions facilitate the extradition of alleged offenders, and overall, attempt to increase international cooperation among nations against acts of terrorism. 122

III. PROBLEMS IN ENFORCEMENT AND APPLICATION OF MULTILATERAL CONVENTIONS

Although the ability of the world community to agree to cooperate in the prevention of certain terrorist acts has led to the adoption of five multilateral conventions, the compromises made in drafting these agreements are reflected in the inadequacies of those conventions. Gaps exist, for example, in the hijacking conventions which result in incomplete protection against aerial violence. The Hague and Montreal Conventions apply to offenses committed while the aircraft is "in flight." 123 Such a definition undoubtedly excludes all acts of violence occurring on or against the aircraft before it is "in flight." 124 Further, diversion of one aircraft by another does not constitute "unlawful seizure" within


The development of regional political and economic organizations is beyond the scope of this Comment. For a collection of essays on the subject, see REGIONALISM AND THE UNITED NATIONS (B. Andemicael ed. 1979). The nature of the problem facing a state or states will often dictate which forum is the more appropriate, however, such problems are rarely exclusively global or regional and thus states come to depend upon both approaches. Id. at 3.

123 Hague Convention, supra note 26, at art. 3(1); Montreal Convention, supra note 27, at art. 2(a).

"In flight" is the period after which all internal doors are closed following embarkation and before any such door is opened for disembarkation.

124 Emanuelli, supra note 33, at 509. For example, explosions or other acts of violence against persons occurring within or on the grounds of an airport are not covered by either convention. The recent bombings at airports in Vienna and Rome, for example, are not offenses within the definition of the Hague and Montreal Conventions. See N.Y. TIME., Dec. 28, 1985, at A1, col. 1.
the meaning of the conventions. 125 Finally, the Hague and Montreal Conventions cover only civil aviation; offenses committed by or against military or police aircraft are not within their realm. 126

A. Noncompliance of Nonsignatory States

In order for any multilateral convention to be truly effective, all parties must be willing to enforce the provisions. 127 Even if parties are willing, there are states not party to international conventions which may act as safe havens for offenders and hinder the international community’s efforts to ensure extradition or prosecution of alleged offenders. 128 Nonsignatories of the multilateral conventions can themselves defeat the efficacy of these international agreements. 129

While a state party’s failure to comply with a multilateral convention is a violation of international law, there may also be a violation of international law where nonsignatory states fail to act in accordance with principles of international customary law. 130 In addition, according to the U.N. Declaration on

125 Emanuelli, supra note 33, at 509.
126 Id.
127 Franck & Lockwood, supra note 12, at 82.
128 According to the U.S. State Department, as of March 3, 1986, the number of signatories to the I.C.A.O. Conventions were as follows:
According to the United Nations, as of February 13, 1986, the number of signatories to the U.N. Conventions were as follows:
129 Murphy, Recent International Legal Developments in Controlling Terrorism, 4 CHINESE Y.B. INT’L L. & AFF. 97, 117 (1984).
See also Abramovsky, supra note 31, at 404, regarding particular treaties.
130 The Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States provides that:
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 involve a threat or use of force.
A state which fails to extradite or prosecute an alleged terrorist is arguably responsible to the international legal community. It has been suggested that the use of international claims against states which sponsor, support or permit terrorists to take advantage of their protection may be a solution to the problem of safe havens. Such claims would be brought on behalf of persons injured by terrorist activities. These claims would result in compensation to the victim of the terrorist act and condemnation of the act itself. The likelihood that such claims would be successful, however, is questionable. States charged with responsibility for a terrorist act may deny such a duty and refuse to take part in international judicial or arbitral proceedings. Evans, supra note 1, at 165. See also Lillich & Paxman, State Responsibility for Injuries to Aliens Occasioned by Terrorist Activities, 26 AM. U.L. REV. 217, 307 n.379 (1977).
Principles of International Law Concerning Friendly Relations, "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 . . . ."131

B. Noncompliance of State Parties

An analogous problem arises where state parties themselves do not comply with the terms of multilateral conventions. A state which fails to extradite or prosecute an alleged offender when it is obligated to do so under a multilateral convention becomes de facto a safe haven for terrorists.132 Thus, the enforcement of convention obligations becomes a critical issue in ensuring the punishment of terrorists.

If a state cannot enforce treaty obligations through the International Court of Justice or other legal body, its alternatives may be armed force or economic sanctions. Under the United Nations Charter, however, "[t]he parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."133 The use of force against states which support international terrorism may pose a greater threat to the security of the international community than the terrorism itself.134 As legal measures fail to be effective in combatting terrorism, however, the risk of armed force increases.135

Economic sanctions, although permissible, may be very difficult to effect. Although the United Nations Security Council has the authority to declare

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132 States which allow themselves to become safe havens permit a "[t]errorist, like certain corporations, [to] have the mobility to go jurisdiction shopping." Franck & Lockwood, supra note 12, at 82.
133 U.N. CHARTER art. 33, para. 1.
134 Murphy, supra note 129, at 120.
135 Murphy, supra note 129, at 120.

Although beyond the scope of this Comment, the recent U.S. bombing of Tripoli raises several international legal questions. Characterized as a measure of self-defense under Article 51 of the U.N. Charter, the effect of the U.S. action in deterring further acts of terrorism by the Libyans remains to be seen. See, e.g., N.Y. Times, April 16, 1986, at A17, col. 6. See also L. Oppenheim, INTERNATIONAL LAW 678-80, 704, 751-54 (H. Lauterpacht 7th ed. 1952).
economic sanctions, such measures may not be feasible due to the political climate and to pressures from the international community. The adoption of a multilateral sanctions convention dictating measures to be taken against non-complying state parties would pose potential legal problems of conflict with international treaties or international customary law. Also, a state which resorts to economic reprisals must meet the preconditions traditionally required for armed reprisal: (1) a prior international delinquency must exist against the claimant state; (2) redress by other means must be either exhausted or unavailable; and (3) the economic measures taken must be limited to the necessities of the case and be proportionate to the wrong done. Unilateral economic sanctions rarely are effective measures against states which support terrorism since states in which terrorists find a haven often have only limited economic ties with the nations imposing the sanctions.

C. Prosecution, Sentencing and Political Asylum

Since the multilateral conventions do not grant priority of jurisdiction, in practice, the apprehending state determines whether it or another state will prosecute the offender. As a result, the politics of the apprehending state, the involvement of its nationals in the incident and the threat to the state's sovereignty are determining factors in whether the apprehending state prosecutes or extradites an offender. Further, some states may invoke three bases of jurisdiction in addition to those provided for in the conventions, namely active nationality, passive nationality and the protective principle.

The "extradite or prosecute" principle incorporated in the multilateral conventions contains an inherent weakness due to the political nature of the inter-

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136 Article 41 of the U.N. Charter reads:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

U.N. CHARTER art. 41.

137 Murphy, supra note 129, at 118.

138 Id. at 119.


140 Wolf & McGill, supra note 130, at 4.

For example, the announcement on Jan. 7, 1986 by President Reagan of restrictions on trade with Libya in response to allegations that Libya is supporting terrorist acts, was not expected to have great impact on either nation. In 1984, trade with the United States amounted to 2% of Libya's imports. Feder, Libya Trade Was Low Before Ban, N.Y. Times, Jan. 8, 1986, at A7, col. 1.

141 Abramovsky, supra note 72, at 293.

142 Id.

It should be noted that during the Montreal Conference, the U.S.S.R. proposed that priority of jurisdiction be granted to the state where the aircraft was registered in order to avoid disputes between states qualified to exercise jurisdiction. Id. at 292.
national community. Where several states have concurrent jurisdiction over an alleged offender, the state in whose territory the offender is found has primary jurisdiction by virtue of the presence of the alleged offender. As a result, the extradite or prosecute option leaves the state with complete discretion.\textsuperscript{144} A state may choose to extradite an offender to a state with lenient sanctions or it may choose not to extradite at all and instead impose a lenient sentence.\textsuperscript{145} Even though a state must prosecute if it does not extradite under national law, the prosecuting authorities may find no offense has been committed.\textsuperscript{146} Such a procedure does not violate the extradite or prosecute principle.\textsuperscript{147}

The degree of punishment required by the conventions is not specified. For example, the Montreal Convention states, “[e]ach contracting State undertakes to make the offenses mentioned in Article 1 punishable by severe penalties.”\textsuperscript{148} In order to allow for the variations among signatory states, great leeway is afforded to the apprehending state.\textsuperscript{149} As such, “[t]he degree of the danger, the motives of the offender, and, as between the nations concerned, the nature of their political relations and of any existing extradition treaty, will usually determine the severity of the penalties imposed.”\textsuperscript{150} While allowing flexibility, this provision is potentially a basis for strained relations among states.\textsuperscript{151}

Finally, the political offense exception traditionally included in bilateral extradition treaties allows states to refuse to extradite an alleged offender, thereby granting political asylum.\textsuperscript{152} Article 12 of the Protection of Diplomats Convention and Article 15 of the Hostage-Taking Convention each specifically state that their provisions “shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties.”\textsuperscript{153} Thus, the right to extradite or prosecute

\textsuperscript{144} See Murphy, supra note 1, at 475.
\textsuperscript{145} The N.Y. Times reported that an Italian court had convicted five Palestinians accused of gun and explosives possession in connection with the Oct. 1985 hijacking of the Italian cruise ship Achille Lauro and sentenced the offenders to jail terms of from four to nine years. The public prosecutor declined to seek the maximum penalty of twelve years because the Palestinians had struggled for a cause “that cannot be considered devoid of valid motivation,” although the defendants had employed “terrorist methods.” N.Y. Times, Nov. 19, 1985, at A3, col. 4 (quoting public prosecutor Luigi Carli).
\textsuperscript{147} Emanuelli, supra note 33, at 511.
\textsuperscript{148} Montreal Convention, supra note 27, at art. 3.
\textsuperscript{149} Abramovsky, supra note 72, at 295.
\textsuperscript{150} Id. at 295–96. These criteria are similar to those involved in the initial decision to extradite. See Evans, supra note 146, at 494.
\textsuperscript{151} Abramovsky, supra note 72, at 296.
\textsuperscript{152} Evans, supra note 146, at 497.
\textsuperscript{153} Protection of Diplomats Convention, supra note 28, at art. 12; Hostage-Taking Convention, supra note 29, at art. 15.
preserves state sovereignty but allows states party to anti-terrorist conventions to grant political asylum in accordance with national laws.  

D. Terrorism As a Universal Crime

There exist some crimes, such as piracy, which are internationally recognized as crimes against all nations. The Restatement (Second) on Foreign Relations lists piracy as an offense subject to universal jurisdiction. Restatement Draft § 404 expands the group of universal offenses to include piracy, slave trade, attacks on or hijacking of aircraft, genocide, war crimes and perhaps terrorism. Comment (a) to the Restatement Draft states that "[t]here has been wide condemnation of terrorism although international agreements to define and punish it have not yet been widely adhered to because of inability to agree on its definition." The Reporters’ Notes to Restatement Draft § 404 indicate that multilateral conventions create an obligation on signatories to prosecute or extradite offenders found within their territory. At the present time, "[s]uch agreements are effective only among the parties, but if customary law comes to accept any of these offenses as subject to universal jurisdiction . . . any state will be justified in exercising jurisdiction with respect to the offense wherever and by whomever committed." 

Even if terrorism were defined as an international crime, there is no international body or court to prosecute and punish the international criminal. As the Reports to the Restatement Draft indicate, the punishment of an offender of all nations rests with individual states. As such, a state may (1) unilaterally

154 Abramovksy, supra note 31, at 403.
155 Restatement (Second) of Foreign Relations § 34 (1965).
 Piracy developed as delicti jus gentium, enabling any apprehending state to prosecute an offender on behalf of the states of the world. 1 M. BASSIOUNI, supra note 61, at VI § 6-1. Delicti jus gentium encompasses crimes as defined by the law of nations. I. BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 497-98 (2d ed. 1973).
 The expansion of jurisdiction over extraterritorial offenses "should not be viewed as a growth of nationalism and State sovereignty beyond the territorial frontiers. For the extension is rather a necessary measure which aims at protecting the international community against crime." Shachor-Landau, Extra-territorial Penal Jurisdiction and Extradition, 29 INT’L & COMP. L.Q. 274, 294 (1980).
157 Restatement Draft, supra note 156, at comment (a).
158 Id. at reporter’s note 1.
159 Id.
160 1 M. Bassouni, supra note 61, at VI § 6-8
161 Restatement Draft, supra note 156, at reporter note 1.
enact legislation granting jurisdiction, (2) enter into conventions, or (3) form international tribunals as was done at Nuremberg.

Legal proceedings, however, could be internationalized in one of three ways: (1) by allowing for the presence of an international legal observer; (2) by creating special domestic courts which have specific knowledge of international laws; or (3) by creating a court which includes an international member as an ad hoc judge who would assume the responsibility for the international law findings.

An international criminal court that would try persons accused of crimes in violation of international law would allow states unwilling to try offenders, due to internal political circumstances, to submit the offender to a neutral judicial body. The creation of a supranational body to adjudicate violations of international criminal law would remove the process from the obstacle-ridden arena of individual nation states. The establishment of an international criminal code and an international criminal code of procedure is a viable alternative to the present framework but depends upon the willingness of individual states to formulate and enforce such a system.

IV. NATIONAL LEGAL RESPONSES TO INTERNATIONAL TERRORISM

At present, international criminal law is defined through multilateral conventions, and enforced through the domestic criminal systems of contracting states. A multilateral conventions system which relies upon the municipal laws of state parties presents tremendous enforcement difficulties, for the efficacy of international legal controls directly depends upon the municipal legal systems of individual state parties and their willingness to employ such legislation.

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162 I. M. Bassiouni, supra note 61, at VI § 6-8.
164 Schutte, Problems of Jurisdiction in the International Control and Repression of Terrorism, in International Terrorism and Political Crimes 389, 390 (M. Bassiouni, ed. 1974).
For a history with documentation of the developments since World War I in efforts to establish an international criminal court, see B. Ferencz, An International Criminal Court: A Step Toward World Peace (1980).
166 Milte, Prevention of Terrorism Through the Development of Supra-National Criminology, 10 J. Int'l L. & Econ. 519, 520 (1975).
167 An international criminal court would remove the enforcement obligation from state parties: “The creation of such a court would entail the development of an international machinery of the administration of a new system of criminal justice. Such a prospect is unlikely given current economic and political realities.” M. Bassiouni, supra note 163, at 26.
Bassiouni contends in the meantime, that the international community will continue to rely upon the municipal legal system to enforce criminal sanctions for violations of international common crime as defined in multilateral conventions.
168 M. Bassiouni, supra note 163, at 22.
169 Professor Bassiouni lists ten weaknesses in reliance upon municipal legal systems for enforcing international criminal law:
A. British Legal Responses to Terrorism

As in the United States, the United Kingdom has adopted legislation aimed at international terrorism. By contrast, however, such legislative efforts arose out of attempts to curb domestic terrorism, specifically in connection with Northern Ireland.

Through integration of international conventions, British national law has been expanded to allow for the extradition or prosecution of an alleged offender of a multilateral convention subsequently found within British territory. Further, the United Kingdom is a party to the European Convention on the Suppression of Terrorism, and has amended its laws to provide for the extradition of alleged offenders of the Convention, without use of the political offense exception.

In response to terrorism committed within its own boundaries, the United Kingdom enacted legislation to extend police powers in situations involving terrorists. The Prevention of Terrorism (Temporary Provisions) Act 1974 allows the arrest of a person party to terrorist acts connected with the affairs of Northern Ireland. The power to arrest, however, was not intended to be used against a party "concerned with terrorism known to be unconnected with Northern Ireland." In 1984, this omission was addressed when the Act was amended to provide for the exercise of the police power to detain persons...
suspected of participation in "acts of terrorism of any other description except acts connected solely with the affairs of the United Kingdom or any part of the United Kingdom other than Northern Ireland."\textsuperscript{178} For the purposes of the Act, terrorism is defined as "the use of violence for political ends, and includes any use of violence for the purpose of putting the public or any section of the public in fear."\textsuperscript{179} Thus, the new Act both recognizes the existence of international terrorism and enhances British efforts to extradite or prosecute alleged offenders in compliance with convention duties.\textsuperscript{180}

B. U.S. Legal Responses to International Terrorism

Anti-terrorist legislation in the United States, as in the international community, generally has been limited to the proscription of specific acts. Apart from legislation implementing multilateral conventions to which it is a party, the United States has not enacted substantial legal controls against terrorism.\textsuperscript{181} Prior to the adoption of anti-terrorist legislation in 1984, the Foreign Intelligence Surveillance Act of 1978 (FISA) was the only legislation that pertained to terrorist activities.\textsuperscript{182} The purpose of FISA, however, was not to combat terrorism \textit{per se}, but to authorize a procedure for the use of electronic surveillance in gathering foreign intelligence information.\textsuperscript{183} Under FISA, the United

\begin{itemize}
  \item \textsuperscript{178} Prevention of Terrorism (Temporary Provisions) Act, 1984, ch. 8, at § 12(3)(b). A person suspected of an offense may be detained for up to 48 hours. \textit{Id.} at § 12(4). The Secretary of State may also extend the detention for up to five days. \textit{Id.} at § 12(b)(4), (5).
  \item \textsuperscript{179} Prevention of Terrorism Act, 1984, \textit{supra} note 178, at § 14(1).
  \item \textsuperscript{180} Walker, \textit{supra} note 177, at 705.
  \item Additionally, the government has issued a police circular which states: "In the case of acts of international terrorism committed or to be committed outside the United Kingdom, the powers should be used only when it appears that there is some prospect of a charge before United Kingdom courts or of the person concerned being deported." \textit{Id.} at 706, citing Home Office Circular, No. 26/1984, para. 91.
  \item \textsuperscript{181} According to Abraham D. Sofaer, legal adviser to the State Department, "the effort to apply law to modern terrorism is really in its infancy." \textit{N.Y.} Times, Jan. 19, 1986, at A1, col. 4.
  \item Significant to this Comment is the definition of international terrorism included in the FISA, which provides terrorist activities are those that:
    \begin{enumerate}
      \item involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;
      \item appear to be intended—
        \begin{enumerate}
          \item to intimidate or coerce a civilian population;
          \item to influence the policy of a government by intimidation or coercion; or
          \item to affect the conduct of a government by assassination or kidnapping; and
        \end{enumerate}
      \item occur totally outside the United States, or transcend national boundaries in terms of the means by
States may protect against international terrorism through the surveillance of a member of a group engaged in international terrorism. The stated purpose of the Acts was to deter terrorism "[w]ith trained personnel, effective laws, close international cooperation, and diligence . . . ." By October 1984, three of the four bills, the Aircraft Sabotage Act, the Act for the Prevention and Punishment of the Crime of Hostage-Taking, and the Act to Combat International Terrorism, were adopted and codified.

1. Aircraft Sabotage Act

Under Article 5(1)(a) of the Montreal Convention, contracting parties are required to take necessary measures to establish jurisdiction over alleged of-
Although the United States ratified the Montreal Convention in November 1972, U.S. national law was not amended to establish jurisdiction over alleged offenders until October 1984 with the enactment of the Aircraft Sabotage Act. Prior to the adoption of the Aircraft Sabotage Act, the United States was not in full compliance with the terms of the Montreal Convention. This failure to adopt implementing legislation was seen as "an impediment to ... diplomatic efforts to encourage further concerted international action against terrorism."

The Aircraft Sabotage Act brought the United States into compliance with the Montreal Convention. Accordingly, the major addition to U.S. hijacking law has been the extension of United States jurisdiction over alleged offenders of the Montreal Convention. As codified, the Aircraft Sabotage Act provides for the punishment of an offender who is found in the United States. Jurisdiction applies over persons who have committed a crime outside the United States against an aircraft registered outside of the United States. Thus, if a terrorist in England bombed an aircraft registered in Italy, that terrorist could be prosecuted if subsequently found within the United States.

In addition to extending criminal jurisdiction over offenders of the Montreal Convention, the Aircraft Sabotage Act also serves as an indication of U.S. commitment to the deterrence of international terrorism through legislation. Although the United States was an original signatory to the Montreal Conven-

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188 Montreal Convention art. 5(1) and (2) states:
(1) Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:
   (a) when the offence is committed in the territory of that State;
   (b) when the offence is committed against or on board an aircraft registered in that State;
   (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
   (d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.
(2) Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph (a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

Montreal Convention, supra note 27, at 5(1) and (2).
192 Legislative Initiatives to Curb Domestic and International Terrorism, supra note 6, at 48 (prepared statement of Victoria Toensing, Dep't Attorney Gen', Criminal Div., Dept. of Justice).
194 Id.
195 Legislative Initiatives, supra note 6, at 47.
tion.\textsuperscript{197} The absence of enabling national legislation was a weakness in U.S. anti terrorist policy.\textsuperscript{198} The enactment of the Aircraft Sabotage Act brings the U.S. legal position into line with the Montreal Convention requirements and further emphasizes U.S. dedication to international legal controls and cooperation in fighting terrorism.


In order to fulfill its obligations under the Hostage-Taking Convention\textsuperscript{199} and to establish hostage-taking as a crime, the United States adopted the Act for the Prevention and Punishment of the Crime of Hostage-Taking.\textsuperscript{200} Analogous to the enabling provisions of the Aircraft Sabotage Act,\textsuperscript{201} the Act for the Prevention and Punishment of the Crime of Hostage-Taking amends the federal kidnapping laws\textsuperscript{202} to provide the United States with jurisdiction over an offender who is subsequently found within the United States.\textsuperscript{203} Jurisdiction also applies where the offender or the person seized is a national of the United States,\textsuperscript{204} or where demands are made of the U.S. government.

The federal kidnapping statute, as amended, provides for U.S. jurisdiction in all cases required and permitted by the Hostage-Taking Convention. In addition to territoriality,\textsuperscript{205} nationality,\textsuperscript{206} the protective principle,\textsuperscript{207} and universality,\textsuperscript{208} the Hostage-Taking Convention allows state parties to exercise jurisdiction “with respect to a hostage who is a national of that State, if that State considers it appropriate.”\textsuperscript{209} The use of passive personality jurisdiction by the

\textsuperscript{197} See 10 I.L.M. 1151 (1971).
\textsuperscript{198} President’s Message, supra note 185, at 592. U.S. legislation sends a message to terrorists: “The gap in the United States laws with respect to implementation of the Montreal Convention has not proved disabling for our Government. But as long as that gap exists, so does the danger that it might be misinterpreted as a lessening of our determination to close every door against criminal acts that threaten the safety of civil aviation. Prompt enactment of S. 2623 will eliminate the danger of any such misinterpretation and send a strong signal of our continuing resolve in this important score.

Legislative Initiatives, supra note 6, at 134 (statement of James E. Landry, Sr. V.P. and Gen’l Counsel, Airline Pilots’ Ass’n).

\textsuperscript{199} Hostage-Taking Convention, supra note 29, at art. 5(1) and (2).
\textsuperscript{201} See supra text accompanying notes 193–95.
\textsuperscript{204} 18 U.S.C. § 1203(b)(1)(A) and (C) (Supp. III 1985).
\textsuperscript{205} Hostage-Taking Convention, supra note 29, at art. 5(1)(a).
\textsuperscript{206} Id. at art. 5(1)(b).
\textsuperscript{207} Id. at art. 5(1)(c).
\textsuperscript{208} Id. at art. 5(2).
\textsuperscript{209} Id. at art 5(1)(d). Legislation currently under consideration in the House would amend U.S. law to provide for the prosecution of terrorists who murder U.S. citizens outside the United States. H.R. 4125, Terrorists Prosecution Act of 1985.
United States reflects a belief that “the crime of hostage-taking is approaching in the international community a status similar to that which piracy has had under international law.” 210 The government, however, has indicated that the statute will be invoked only where there is a compelling federal interest involved. 211

3. Act for Rewards for Information Concerning Terrorist Acts

The Act for Rewards for Information Concerning Terrorist Acts (Rewards for Information Act), 212 located in Title I of the 1984 Act to Combat International Terrorism, 213 is designed to deter terrorist acts through advanced warning and to facilitate apprehension and prosecution of alleged terrorists. The statute is constructed to appeal to law-abiding persons and disgruntled terrorists alike, for the reward is available to anyone who discloses information concerning terrorist activities. 214

According to a House Foreign Affairs Committee Report, “[s]trong and timely intelligence is clearly the most effective first-line defense against terrorism.” 215 Under the Rewards for Information Act, the Attorney General is authorized to pay rewards to any person who provides information which (1) leads to the arrest or conviction in any country for the commission of an act of terrorism against a U.S. person or property, 216 (2) leads to the arrest or conviction in any

210 Legislative Initiatives, supra note 6, at 127 (responses of the U.S. Dept. of Justice to written questions of Senator Leahy).


211 Legislative Initiatives, supra note 6, at 49.

In addition, 18 U.S.C. § 1203(b)(2) is designed to allow state and local authorities to maintain jurisdiction over local kidnappings.

One commentator has stated, however, that “[i]t is expected that most kidnappings and hostagetakings will continue to be handled by those [state and local] authorities and that the federal government will not unnecessarily intervene in situations that local authorities can handle.” Leich, supra note 96, at 920.


214 Id. The Department of State foresaw that:

The rewards program will also encourage informants to provide information invaluable to capturing and prosecuting terrorists. Importantly, rewards may also induce members of terrorist groups or others close to them to desert and provide information necessary for the capture and successful prosecution of group members, thus weakening the organization and negating its ability to commit further terrorist acts.


country for a conspiracy or attempt to commit an act of terrorism against a U.S. person or property,\textsuperscript{217} or (3) leads to the prevention, or favorable resolution of an act of terrorism committed against a U.S. person or U.S. property.\textsuperscript{218}

In addition to deterring terrorist acts, the Rewards for Information Act could also facilitate acquisition of evidence for use in prosecuting terrorists.\textsuperscript{219} If the United States were to obtain \textit{in personam} jurisdiction over an alleged offender either through extradition or the physical presence of the offender in the United States, and chose to prosecute, there are potential problems in obtaining sufficient evidence.\textsuperscript{220} The difficulties in acquiring evidence, especially concerning an act committed outside of the United States, arise because of logistics and politics.\textsuperscript{221} If the Act is successful in encouraging persons with relevant information to come forward, sufficient evidence may be obtained in order to prosecute a terrorist under a national law such as the Aircraft Sabotage Act or Hostage-Taking Act.\textsuperscript{222} In response to recent terrorist acts, the U.S. Justice Department has placed several reward offers.\textsuperscript{223} At this time, however, the effectiveness of the Rewards for Information Act can not be assessed adequately.

Title II of the Act to Combat International Terrorism is addressed to the President and urges international cooperation in combatting international terrorism.\textsuperscript{224} Specifically, Title II recommends "severe punishment for acts of terrorism,"\textsuperscript{225} and the "extradition of all terrorists ... to the country where the
terrorist incident occurred or whose citizens were victims of the incident.”

Title II also recommends negotiations to establish “a permanent international working group” to coordinate an international anti-terrorism effort. As recommended by Title II, such a group would promote international cooperation, develop new methods of fighting terrorism, negotiate measures for exchanging information, and finally, study the use of diplomatic immunity by terrorists to further their goals.

V. INTERNATIONAL AND NATIONAL RESPONSES: THE GAPS IN LEGISLATION

A. Limitations of the Prosecute or Extradite Principle: The U.S. Model

According to current U.S. policy, extradition is permitted only on the basis of a bilateral treaty. The policy results from the desire to retain discretion in granting or refusing extradition requests of particular states party to multilateral conventions. Further, by refusing to enter into extradition treaties, the United States can determine to which states it will, or will not, extradite. Although this practice does not violate the terms of any anti-terrorist multilateral convention, there is potential for frustrating the goals of the conventions by allowing offenders to escape punishment.

Four of the five multilateral conventions discussed contain clauses requiring extradition or prosecution of alleged offenders and permit extradition based

226 Id. at § 201(a)(2).
227 Id. at § 201(b).
228 Id. at § 201(b)(1).
229 Id. at § 201(b)(2).
230 Id. at § 201(b)(3).
231 Id. at § 201(b)(4).

The Act also contains Title III, on the security of U.S. missions abroad. Funds are appropriated for security enhancement at such missions for the protection of diplomatic personnel abroad. Id. at § 301-304.

On February 4, 1986, Secretary of State George Schultz also requested Congress to approve a $4.4 billion antiterrorist security program at U.S. embassies abroad. N.Y. Times, Feb. 5, 1986, at A4, col. 3.

232 Murphy, supra note 1, at 475; 1 M. Bassiouni, supra note 61, at II §§ 3-1, 3-2.

The United States is party to one multilateral extradition treaty which has not been employed (Montevideo Extradition Treaty, Dec. 26, 1933, 49 Stat. 3111, T.S. No. 882). 1 M. Bassiouni, supra note 61, at II § 3-6.

233 Murphy, supra note 1, at 475.

234 See Hague Convention, supra note 26, at art. 7; Montreal Convention, supra note 27, at art. 7; Protection of Diplomats Convention, supra note 28, at art. 7; and the Hostage-Taking Convention, supra note 29, at art. 8.

235 Hague Convention, supra note 26, at art. 7; Montreal Convention, supra note 27, at art. 7; Protection of Diplomats Convention, supra note 28, at art. 7; Hostage-Taking Convention, supra note 29, at art. 7.
on their provisions. In practice, however, some state parties, such as the United States, do not rely upon multilateral treaties for the purpose of extradition.\textsuperscript{236} Extradition of alleged offenders of multilateral anti-terrorist conventions is not easily achieved under international or domestic law.\textsuperscript{237} Although the purpose of the “extradite or prosecute” obligation is to ensure apprehension and punishment of offenders, the possibility that either an extradition request might not be made or might be refused, is an obstacle to effective cooperation in fighting terrorism.

Should the United States resort to methods other than extradition in order to apprehend alleged terrorists, serious international and domestic legal questions would arise.\textsuperscript{238} Obtaining custody of an alleged terrorist by abduction or kidnapping may achieve the immediate goal of prosecution at the expense of long term foreign relations.\textsuperscript{239} Further, in the United States, where an accused may challenge the circumstances of his return,\textsuperscript{240} such “informal” methods should be questioned.\textsuperscript{241} In addition, these actions may be violations of international law, as one court found in \textit{United States v. Toscanino}.\textsuperscript{242} Future kidnapping of alleged terrorists abroad, however, have not been ruled out by the State Department.\textsuperscript{243} While alternative means of apprehending alleged terrorists for prosecution exist, extradition is the only formal or “legal” method.\textsuperscript{244}

\textsuperscript{236} See supra text accompanying note 232–33.
\textsuperscript{237} Evans, supra note 146, at 494.
\textsuperscript{238} Resolution of the legality of apprehending alleged terrorists is beyond the scope of this Comment. For a thorough discussion on the subject see Evans, \textit{Acquisition of Custody Over the International Fugitive Offender—Alternatives to Extradition: A Survey of United States Practice}, 40 \textit{Brit. Y.B. Int’l L.} 77 (1966) [hereinafter cited as \textit{Acquisition of Custody}]; Evans, supra note 146, at 494.
\textsuperscript{239} Evans, \textit{Acquisition of Custody} note 238, at 102.
\textsuperscript{240} \textit{Id.} at 104. The Supreme Court has determined that “mere irregularities” in the apprehension of the suspect do not deny the court jurisdiction. Ker v. Illinois, 119 U.S. 436 (1886)(apprehending agent failed to present authorities in asylum state proper extradition papers). Similarly, in \textit{Frisbie Warden v. Collins}, 342 U.S. 519 (1952), the court held that due process is satisfied when the offender present in court, is fully apprised of the charge and is afforded a fair trial. In the \textit{Frisbie} case, the suspect was forcibly kidnapped by police agents outside their jurisdictional boundaries.
\textsuperscript{241} \textit{Id.}
\textsuperscript{242} U.S. v. Toscanino, 500 F.2d 267 (2d Cir. 1974). \textit{Cf.} United States \textit{Ex rel. Lujan v. Gengler}, 510 F.2d 62 (2d Cir. 1975), \textit{cert. denied}, 421 U.S. 1001 (1975)(court held that kidnapping alone, without allegations of torture, is not sufficient to convert an abduction which is simply illegal into one which sinks to a violation of due process). \textit{Id.} at 66.

In \textit{Toscanino}, U.S. officials had abducted an Italian citizen from Uruguay. 500 F.2d 267 (2d Cir. 1974). The court stated, “[A]bductions by one state of persons located within the territory of another violate the territorial sovereignty of the second state and are redressable usually by the return of the person kidnapped.” \textit{Id.} at 278. Further, the court held that the abduction violated the U.N. Charter art. 2 and the O.A.S. Charter art. 17. \textit{Id.} at 276.
\textsuperscript{243} See \textit{N.Y. Times}, supra note 181.
\textsuperscript{244} Evans, \textit{supra} note 146, at 493.
B. Political Offense Exception

In general, there are two universally accepted exceptions incorporated into extradition treaties. A state may refuse to extradite an alleged offender if the offense is political, or if the extradition request is politically motivated. These two exceptions preserve a state’s right to refuse to take part in the political disputes of another sovereign state or to grant political asylum for humanitarian reasons. In the United States, the Secretary of State makes the determination whether or not a request is politically motivated and, therefore, should be denied. The procedure for judging the political nature of an offense, however, involves the judiciary.

The political offense exception is a loophole in the extradition process. A British case, In Re Castioni, in which Switzerland was denied the extradition of a Swiss national accused of murder, first enunciated this exception stating “one cannot look too hardly and weigh in golden scales the acts of men hot in their political excitement.” Although a generally accepted definition of “political offense” does not exist, the three tier test developed in In Re Castioni is still generally applied today in U.S. courts. For the court to allow a political offense exception, three requirements must be met: (1) there must be a political revolt; (2) the act on which the extradition request is based must be incidental to that political unrest; and (3) there must be political or ideological motivation behind the act.

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245 Id. at 504. For both a European and American history of the political offense exception, see generally Hannay, International Terrorism and the Political Offense Exception to Extradition, 18 Col. J. Transnat’l L. 381 (1979).


247 Id. at 55.

248 Hannay, supra note 245, at 383–84.

249 In re Castioni, [1891] 1 Q.B. 149.

250 Id. at 167.

251 See generally, id.

252 1 M. BASSIOUNI, supra note 61, at VIII § 2-25.

253 Garcia-Guillen v. U.S., 450 F.2d 1189, 1192 (5th Cir. 1971), cert. denied, 405 U.S. 989 (1972). In several recent cases, U.S. courts have both granted and denied the use of the political offense exception as a bar to extradition. For example, McMullen v. Immigration & Naturalization Service, 658 F.2d 1312 (9th Cir. 1981)(the court found an ongoing political uprising in Northern Ireland, a rational nexus between the political objective and the bombing of British army barracks, and nationalism was the goal behind the bombing); In re Mackin, 668 F.2d 122 (2d Cir. 1981)(the court here also found the existence of a political uprising in Northern Ireland, the shooting of a British army soldier was a related incident, and that the goal behind the act was nationalism); cf. Eain v. Wilkes, 641 F.2d 504 (7th Cir. 1981), cert. denied, 454 U.S. 894 (1981)(here the court denied the use of the political offense exception in a case involving indiscriminate bombing of civilians because the petitioner failed to show a link between the means employed and the target chosen); Quinn v. Robinson, 783 F.2d 776 (9th Cir. 1986)(court found that although a political uprising was in progress in Northern Ireland, no such uprising was taking place in England when petitioner was alleged to have conspired bombing attacks).
Critics of the political offense exception point out the inconsistent policies the United States promotes by refusing extradition. By making individual determinations on essentially similar actions, U.S. courts are indicating that, in some instances, the goals of a group may justify the use of otherwise impermissible means. In addition, if the judiciary is involved in making determinations concerning the value of an alleged offender’s actions, there is by necessity an imposition of U.S. national values on other sovereign states. By involving itself in such determinations, the U.S. judiciary participates in major foreign policy decisions.

Suggested remedies for the political offense exception loophole include actions that might be taken at both the national and international levels. First, the United States could reject the continued use of the exception. Such an act would, however, limit the state’s ability to determine whether an offender should be extradited to a given state. Second, the determination of the political offense could be removed from the realm of the judiciary. Since the Secretary of State is given the discretion to determine whether a request is politically motivated, perhaps it would also be prudent to have the executive branch differentiate between political and non-political offenses. Third, the United States could continue to promote adoption of bilateral extradition treaties which specifically exclude the political offense exception. Fourth, the drafting of an international agreement limiting the use of the exception in specific instances could achieve cooperation on the international level. Fifth, the international

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254 Hannay, supra note 246, at 56.
255 In granting the political offense exception, “These decisions appear to place a stamp of approval on, and thereby sanctify, terrorist activities of all kinds.” Id.
256 1 M. Bassion, supra note 61, at VIII § 2-107.
257 Hannay, supra note 246, at 62.
259 See 1982 Extradition Act, reprinted in 1 M. Bassion, supra note 61.
260 Hannay, supra note 245, at 410–11.
261 See text accompanying note 247.
262 See Hannay, supra note 245, at 410–11; Hannay, supra note 246, at 75. In Quinn v. Robinson, 783 F.2d at 788, the government argued that the judiciary should not be the authority to determine a policy decision such as the political offense exception. The Court rejected this argument and cited Mackin, 668 F.2d at 32–37, and Eain, 641 F.2d at 513–18. The court in Quinn argued that the judiciary is not involved in determining whether a political uprising is justified, but rather, whether it was in progress during the act in question.
264 President Reagan said of the U.S./U.K. treaty, it “represents a significant step in improv[ing] law enforcement cooperation and combatting terrorism, by excluding from the scope of the political offense exception serious offenses typically committed by terrorists . . . .” Presidential Letter of Transmittal to U.S. Senate, 131 Cong. Rec. No. 95 (daily ed. July 17, 1985).
266 Evans, supra note 146, at 508–09.
community could allow the International Court of Justice or other international body to determine the criteria to be applied in cases involving the political offense exception. Such a procedure could only be effective, however, if an international standard definition of the political offense exception could be agreed upon.

C. Compensation and International Cooperation

Even if international and national legal controls fail to deter acts of terrorism, and allow some terrorists to escape prosecution, victims of terrorist acts should be permitted, when possible, to seek redress. Recently, a U.S. court permitted victims of international terrorism to sue for damages. U.S. courts have also held airlines responsible for hijackings which occurred as a result of poor security. The cause of action, as defined by one U.S. court, is based on airline responsibility for the safety of its passengers while they are boarding, flying or disembarking an aircraft, as outlined in the Convention for the Unification of Certain Rules Relating to International Transport by Air of 1929 (Warsaw Convention).

An international agreement penalizing states which fail to give effect to anti-terrorist conventions, or which fail to extradite or prosecute alleged offenders would allow the victims to receive some compensation. The problem of enforcement, however, arises once again. If individual states are not willing to give effect to international conventions to which they are party, it is doubtful that they can be forced to compensate victims of terrorist acts who exercise a right to sue for damages.

The recent U.N. Security Council condemnation of terrorism is an indication that the world community may be able to agree upon a terrorism convention.

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265 1 M. BASSIOUNI, supra note 61, at VIII § 2-108.
266 Id.
267 Evans, supra note 1, at 163.
268 See Letelier v. Republic of Chile, 748 F.2d 790 (2d Cir. 1984), cert. denied, 105 S. Ct. 2656 (1985). Assassinated Chilean diplomat's widow was permitted to sue Chilean government. The Court of Appeals, however, held that the assets of the Bank of Chile in the U.S. could not be confiscated to satisfy the judgment.
272 Evans, supra note 1, at 163.
273 On December 18, 1986 the United Nations Security Council passed a resolution which:
Since a multilateral convention, however, is an agreement between states and parties who are not present at the negotiations, \(^{274}\) namely the terrorists, the convention must be a realistic offer on two levels. First, state parties must reach common ground among themselves. \(^{275}\) Second, state parties must agree to enforce the provisions against all offenders. \(^{276}\)

Increased international cooperation in apprehending and prosecuting offenders of existing anti-terrorist conventions would signify the international community's commitment to those agreements. \(^{277}\) Short of an international criminal court, an information gathering committee could be established to aid states in obtaining evidence sufficient to prosecute alleged offenders. \(^{278}\) While international conventions typically require international cooperation in providing prosecuting states with evidence, \(^{279}\) such cooperation can be difficult even on a good faith basis due to the variations in legal systems among state parties. \(^{280}\)

In addition, states could agree to exclude terrorist acts from extradition treaties, as the United States has done recently. \(^{281}\) A concerted effort to use the anti-

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1. **Condemns unequivocally all acts of hostage-taking and abduction;**
2. **Calls for the immediate safe release of all hostages and abducted persons wherever and by whomever they are being held;**
3. **Affirms the obligation of all States in whose territory hostages or abducted persons are held urgently to take all appropriate measures to secure their safe release and to prevent the commission of acts of hostage-taking and abduction in the future;**
4. **Appeals to all States that have not yet done so to consider the possibility of becoming parties to the International Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons Including Diplomatic Agents adopted on 14 December 1973, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation adopted on 23 September 1971, the Convention for the Suppression of Unlawful Seizure of Aircraft adopted on 16 December 1970, and other relevant conventions;**
5. **Urges the further development of international co-operation among States in devising and adopting effective measures which are in accordance with the rules of international law to facilitate the prevention, prosecution and punishment of all acts of hostage-taking and abduction as manifestations of international terrorism.**

**U.N. Doc. S/RES/579.**

On December 9, 1986, the General Assembly adopted a resolution condemning terrorism:

1. **Unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security;**

**U.N. Doc. A/RES/40/61.**

\(^{274}\) Franck & Lockwood, supra note 12, at 88.

\(^{275}\) Id.

\(^{276}\) Murphy, supra note 1, at 490.

\(^{277}\) Hannay, supra note 246, at 56.

\(^{278}\) Murphy, supra note 129, at 111.

\(^{279}\) See e.g., Hostage-Taking Convention supra note 29, at art. 11 which states:

States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offences set forth . . . . including the supply of all evidence at their disposal necessary for the proceedings.

Id.

\(^{280}\) Murphy, supra note 129, at 101–02.