

INTERNATIONAL ORGANIZATIONS AND COMBATTING TERRORISM

(what is done and what can be done)

Dr. Yüksel İNAN

I — INTRODUCTION

To defend the freedoms of the individual and to respect their fundamental rights, that are recognized by the Universal Declaration of Human Rights and by other conventions concerning human rights, are primary duties and responsibilities of all states and states parties to the concerned conventions.

All acts of terrorism like aerial hijacking, hostage-taking, kidnapping or extortion of persons, wilfully and dreadfully killing or heavily wounding the persons for highly political ends, constitutes a heavy breach of the fundamental rights and freedoms of the individual. If such acts are committed against the aliens, in this case the state on whose territory such crime is committed and has defects or negligence, bears international responsibility. In addition, states that support terrorism, if they do dare to declare directly or implicitly, also bears international responsibility. But this is a question beyond the scope of this paper.

I highly share the general view that there are some states that are directly involved in carrying out or supporting international terrorism and terroristic acts.¹ Some

¹ After the hijacking of a Pakistan International Airlines aircraft in March 1981, the Babrak Karmal government of Afghanistan, gave the hijackers the right to refuge to its country. With this action, Afganistan breached its international obligations under the Hague

states have special interests in providing arms, ammunition, training and logistical support to terrorist organizations. Some states feel sympathy for terrorist organizations and activities. This is primarily due to their political philosophy, and they consider terrorism as an active and effective means of undermining their adversaries.²

After the outbreak of the events of international terrorism in the last decades, states started unilaterally or jointly condemning terrorism and taking certain legal measures to prevent and punish it. International terrorism and acts connected to it, were accepted by states as serious common crimes.

All acts of international terrorism and crimes connected to it, especially when committed against persons entitled to special protection under international law, i.e. diplomats, creates grave consequences for relations among the concerned states and also constitutes a threat to the international peace.

II — COMMENCEMENT OF INTERNATIONAL CO-OPERATION AND FIRST INTERNATIONAL MEASURES

After the escalation in the number of acts of international terrorism, especially by means of aerial hijacking in the 1960's, states felt the necessity of taking and adopting joint international measures which will prevent and punish acts of international terrorism. Those international measures not only helped international co-operation in this field, but also helped to the progressive development of International Law.

Convention of 1970, to which it is a party. But, despite this breach, no special sanctions was applied to Afganistan. See, I. L.M., Vol. 20, No. 4, 1981, p. 956.

² SAYRE, R.M.: "Combatting Terrorism: American Policy and Organization", Department of State Bulletin, August 1982, p. 5; Ottawa Economic Summit Conference, Statement on Terrorism, July 20, 1981. For the text of the Statement, see, I. L.M., Vol. 20, No. 4, 1981, p. 956.

The first steps for international co-operation among states and first international measures were taken by the U.N. They were mainly aimed to the security of civil aviation and prevention and punishment of aerial hijacking. These international measures or conventions are :

- i — Convention on Offences and Certain other Acts Committed on Board the Aircraft, signed at Tokyo, Japan, on September 14, 1963.³
- ii — The Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Netherlands, on December 16, 1970.⁴
- iii — The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal, Canada, on September 23, 1971.⁵

The above mentioned Conventions are not the only ones prepared by or carried out under the auspices of the U.N. There are some other conventions dealing with international terrorism acted after this period. These conventions deal with different aspects of international terrorism. Before getting on what these conventions are and what sort of international measures were taken by these conventions, I would like to emphasize that the Conventions dealt with aerial hijacking were, in a manner, effective in punishing and preventing those events. Due to those multilateral law making Conventions and international co-operation among

³ This Convention entered into force on December 4, 1969. For the text of the Convention, see. United Nations Treaty Series, Vol. 704, No. 10106, pp. 216-228. Turkey became a party to this Convention on December 8, 1975. See, Official Gazette, No. 15436, December 8, 1975.

⁴ This Convention entered into force on October 14, 1971. For the text of the Convention, see. United States Treaties and other International Agreements, Vol. 22, Part 2, 1971, pp. 1644-1652. Turkey became a party to this Convention on March 31, 1973. See, Official Gazette, No. 14493, March 31, 1973.

⁵ This Convention entered into force on January 26, 1973. For the text of the Convention, see. United States Treaties and other International Agreements, Vol. 24, Part 1, 1973, pp. 568-576. Turkey became a party to this Convention on November 29, 1975. See, Official Gazette, No. 15427, November 29, 1975.

the states, incidents of aerial hijacking were greatly reduced in the 1970's.

III — INTERNATIONAL MEASURES BY REGIONAL ORGANIZATIONS

Besides the U.N., regional international organizations like Organization of American States (OAS), Council of Europe etc. also took binding international measures among the member countries.

A — *The Organization of American States*

The Organization of American States on February 2, 1971, at Washington D.C., United States, signed the "Convention to Prevent and Punish the Acts of Terrorism Taking the form of Crimes Against Persons and Related Extortion that are of International Significance"^{6,7}.

Despite the fact that this Convention was prepared by a regional organization, it was open to the accession to all members of the U.N. By this way the members of the Organization wanted more states to accede to it, and give it a universal character.

This Convention deals with certain aspects of terrorism and the parties to this Convention have agreed to co-operate effectively for the exchange of information and taking administrative measures among themselves, in order to prevent the commitment of such terroristic crimes. The purpose of this Convention is to prevent and punish crimes of kidnapping, murder or crimes against the lives or personal integrity of persons to whom the state has the duty to give special protection according to International Law

⁶ For the text of the Convention, see. BASSIOUNI, M.C. (ed. by): International Terrorism and Political Crimes, Illinois 1975, pp. 321-325.

⁷ Costa Rica, Dominican Republic, Mexico, Nicaragua, United States, Uruguay, Venezuela became parties to this Convention till January 1, 1982. See, Treaties in Force, A List of Treaties and Other International Agreements of the United States in Force on January 1, 1982. New York 1982, p. 294.

The parties also agreed to punish effectively and severely such crimes in accordance with their own national laws (Art. 1, 2, 8).

The motives of terroristic crimes against persons specially protected by International Law, was left out of consideration in order to give effectiveness to the Convention. Terroristic crimes against this category of persons was declared to be common crimes of international significance (Art. 2). By exempting crimes against internationally protected persons from the category of political crimes, it made the extradition of the offenders easier. On the other hand, it gave a special effectiveness to the punishment of such crimes.

Persons prosecuted or convicted for crimes of terrorism shall be subject to extradition, according to the provisions of the extradition treaties in force between the parties or according to the provisions of this Convention (Art. 3,7). But demands of extradition does not give the demanding state the right to intervene to the domestic administrative decision process of the requested state. The requested state has the right under International Law not to extradite the offender if the terrorist is its own national. But in this case, the requested state ought to prosecute the offender as if the crime was committed on its own territory and communicate the decision of its courts to the demanding state (Art. 5). As we have witnessed in the past, extradition or compulsory jurisdiction over the offenders seems an effective way for achieving the goals of prevention and punishment of terrorism.

Like many other extradition treaties, this Convention also preserved the right of asylum, and left the discretion of this right to the requested state (Art. 6). According to my personal opinion, the right of asylum could easily be abused and therefore will create one of the weakest points of the Convention. If this right will be abused by a party, in this case the aims of the Convention will collapse and it will become useless. On the other hand, this Convention also lacks special sanctions, especially in the field of non-

prosecution and non-conviction of the offenders. This will also constitute a grave breach to the effectiveness of the Convention.

B — *Council of Europe*

It didn't took much time for the events and acts of international terrorism to jump and spread to Europe. In other words, international terrorists also chose Europe as an area of activity.

The Member States; defenders of human rights, democracy and the common heritage of mankind, felt the immediate necessity of taking measures for the prevention and punishment of international terrorism. The steps taken by this Organization, according to my personal opinion, was primarily aimed to protect the political integrity of the Member States. Prevention and punishment, unfortunately took the second place despite the recommendations, resolutions, decisions and conventions

1 — *Resolutions and Recommendations*

Committee of Ministers of the Council of Europe on January 24, 1974, adopted its first resolution on International Terrorism⁸. This resolution covered all acts of international terrorism, and declared the necessity and effectiveness of extradition for the prevention and punishment of international terrorism. Despite this provision, the Resolution also granted the right of refusal of extradition to the requested state. But in this case, the requested state ought to prosecute and punish the offenders.

After the above mentioned resolution, organs of the Council of Europe, at different years, accepted several decisions or recommendations concerning international terrorism.⁹ All those efforts were aimed to give effect to

⁸ For the text of Resolution (74)3 on International Terrorism, see, FRIEDLANDER, R.A. (ed. by) : *Terrorism, Documents of International and Local Control*, Vol. 2, New York 1979, pp. 563-564.

⁹ Committee of Ministers; in November 1978 at its 63rd Session adopted the "Declaration on Terrorism", at its 67th Session in October

the 1974 Resolution on "International Terrorism" and to the 1976 "Convention on the Suppression of Terrorism". On the other hand, those efforts tried to draw the attention of the Member States to the grave importance of the concern and its consequences.

In 1982, Committee of Ministers once more felt the necessity of international co-operation for the prosecution and punishment of acts of terrorism. By a recommendation on January 15, 1982¹⁰, the Committee of Ministers declared that increasing number of acts of terrorism breaches the maintenance of democratic institutions of Member States, and constitutes a threat to society. It also asked Member States to improve channels of information and judicial assistance for the prevention, prosecution and punishment of acts of terrorism. On the other hand, the recommendation also asked states to treat cases involving acts of terrorism with urgency, according to the procedure provided by Art. 15/2 of the "European Convention on Mutual Assistance in Criminal Matters".

The resolutions, recommendations and declarations of the Council of Europe has no binding force and only reflects the views and desires of the Member States. It also asks members, at least morally, to act in accordance with the resolutions or decisions of the Council. Therefore, to act in accordance with the resolutions or decisions, only lies on the good will of the Member States. If states perform their moral and legal obligations in good faith, too many

1980, at its 68th Session in May 1981 and at its 69th Session in November 1981 joint communiques on terrorism.

The Consultative Assembly adopted several recommendations on international terrorism. Such as 684 (1972), 703 (1973), 852 (1979), 916 (1981).

The Council of Europe also convened a conference on the "Defence of democracy against terrorism in Europe-Tasks and Problems" in November 1980.

¹⁰For the text of the recommendation concerning "International co-operation in the prosecution and punishment of acts of terrorism" adopted by the Committee of Minister's Deputies on January 15, 1982, at the 342nd Meeting, see. I. L.M., Vol. 20, No. 1, 1982, pp. 199-201.

concerns could easily be settled for our joint and mutual benefits.

2 — *Convention on the Suppression of Terrorism*

In November 1976 the Council of Europe prepared the "European Convention on the Suppression of Terrorism"^{11,12}. The Convention aimed taking effective measures in order to ensure that the perpetrators of terroristic acts do not escape prosecution and punishment. The Convention also declared and emphasized that extradition is a particularly effective measure in achieving this result.

The Convention, as an indication of the good will of the Member States, disclosed the principle that none of the terroristic acts should be accepted as political offences, no matter what the cause of the act or the offence is (Art. 1,2). In addition, the Convention also accepted extradition compulsory (Art. 1,3).

Despite these perfect and aimfull articles for suppressing terrorism, the Convention in order to satisfy some of the members of the Organization, unfortunately gave the right to the Member States to declare reservations for accepting certain acts as political offences. In addition, it also gave the requested state the right to refuse extradition for offences that it unilaterally decides as political (Art. 5,13). These provisions, according to my personal view, almost nullified the whole aims of the Convention. Therefore, the Convention as a whole was deadly born and became a political one rather than meeting the needs and suppressing terrorism. Nevertheless, in the case of refusal of extradition on the ground that the offence is political, the state on whose territory the suspect of the offence is, the state refusing extradition shall without delay submit the case to its competent authorities for the purpose of

¹¹ For the text of the Convention, see. FRIEDLANDER, R.A.: op. cit., pp. 565-569; I. L.M., Vol. 15, 1976, pp. 1272-1277.

¹² The Convention was opened to signature on January 27, 1977 and entered into force on August 4, 1978. Turkey became a party to this Convention on March 26, 1981, see. Official aGzette, No. 17291, March 26, 1981.

prosecution (Art. 7). By this provision, the Convention at least aimed the compulsory prosecution of the offenders. But the Convention didn't specify any sanction for the case of non-prosecution, in case of refusal of extradition.

We have witnessed in the past, states that refused extradition didn't perfectly and strictly used their right of jurisdiction over the offenders. This was primarily due to their domestic policy or policy disputes, i.e. France. In cases of the abuse of the right of jurisdiction by the effect of the prevailance of the domestic matters, it creates grave consequences to the relations and loosens, especially political ties, between the requester and the requesting state. Those sorts of attitudes also constitutes a breach of of the international peace.

The most beneficial part of this convention is the enforcement of mutual assistance in criminal matters among the parties, even if the requested state accepts the offence as political and refuses extradition. In this case, the laws of the requested state shall apply for mutual assistance in criminal matters. But the assistance should not solely be refused on the ground that the offence is a political one or committed by political motives (Art. 8).

The exceptions or in other words the refusal of extradition on the ground that the offence is political, creates one of the weakest points of the Convention. Because, all terroristic acts have at different degrees some political motive. No one in the last decade had witnessed any terroristic act without a political motive. The Council of Europe, with this Convention, once more played to the political audience of Europe. It only tried to satisfy certain pressure groups, but never satisfied the public opinion and never suppressed terrorism, especially in some parts of the Europe.

C — *European Communities*

The European Communities also felt the necessity for combatting international terrorism, and took certain international measures. "Agreement Concerning the Application of the European Convention on the Suppression of

Terrorism Among the Member States" done and signed by the Ministers of Justice of the nine Member States at Dublin on December 4, 1979, is an important step taken by this Organization for this end.¹³

This agreement, in a way, sees the defects and gaps of the "European Convention on the Suppression of Terrorism" and tries to amend and fill them.

The preamble of this agreement, expresses the utmost desire of the ratification of the "European Convention on the Suppression of Terrorism" without reservation. By this way, the members of the European Community tried to fill one of the gaps of the above mentioned Convention, and also tried to avoid the right of refusal of extradition, on the ground that the crime is committed by political motives. This clause seems to be an effective way of preventing and punishing international terrorism, but lacks specific sanctions.¹⁴

This agreement is applicable in relations between the two European Community Member states of which one at least is not a party to the European Convention or a party to that Convention but with a reservation (Art. 1, 2/1). These provisions replaces the relevant articles of the European Convention and makes extradition, in a way, compulsory between the Member States. This clause, as a result, effectively aims to prevent and punish crimes of

¹³ For the text of this agreement, see: I. L.M., Vol. 19, No. 2, 1980, pp. 325-326.

¹⁴ None of the resolutions, recommendations, decisions, treaties or conventions dealt in the previous pages concerning combatting terrorism, places any specific sanctions in case of refusal of extradition or non-prosecution of the offender by the requested state. The only document bearing specific sanctions is the "Joint Statement on International Terrorism" by Canada, Federal Republic of Germany, France, Italy, Japan, United Kingdom and United States done on July 17, 1978, at the Bonn Economic Summit Conference. According to this Joint Statement, the parties decided to halt all flights to and from the country which has refused to extradite or the prosecution of the hijacker. At the same time, the signatories of this Joint Statement demanded other governments to join them to their commitment. For the text of the Joint Statement, see: I. L.M., Vol. 17, No. 5, 1978, p. 1285.

terrorism. But, nevertheless, it also preserved the right of making reservation for extradition.

The reservation clause that we have seen in all treaties, for the refusal of extradition on the ground that the act is political, seems to be the only compromising point to bring states into agreement for combatting terrorism. But it also seems like obvious, that without this clause, it is rather impossible to resolve the conflicting political views of Member States and bring them to an absolute agreement.

When all the members of the European Community will become a party to the European Convention without reservation, the steps taken by this agreement will cease to have effect (Art. 8). This agreement, in a way, makes us hopeful for taking joint measures and enforces Member States to become a party to the European Convention without reservation for effective combatting within the borders of Europe. This is actually what we and what the European people is looking forward to see with eagerness, for combatting terrorism effectively.

D — *United Nations*

The U.N., whose function is to strengthen and maintain international peace and security, and to reaffirm faith to the fundamental human rights, also and inevitably dealt with international terrorism. The U.N. General Assembly, it won't be wrong to call this organ the World Assembly, on several occasions, draw the attention of the Member States to the importance of the concern and to its grave consequences to the world peace. It carried out investigations over terrorism by its sub-organs, passed several resolutions and prepared treaties for the prevention and punishment of such acts.

1 — *Resolutions*

Apart from aerial hijacking, other appearances of international terrorism first came before the General Assembly's agenda at its 27th session in 1972. The Secretary-General, by a note dated September 8, 1972, requested that

General Assembly include in its agenda of its 1972 session the item entitled "Measures to prevent terrorism and other forms of violence which endangers or take innocent human lives or jeopardize fundamental freedoms". The Secretary-General, in support of his request, also draw the attention of the Member States at the General Committee to the importance of the concern. He disclosed that, international terrorism created a climate of violence which no one was immune from it, and expressed the immediate necessity for taking urgent and appropriate measures. According to his view, that I highly share, the underlying causes of terrorism are different, and it makes it difficult for the governments to agree upon the kinds of measures for the prevention and punishment of such crimes.¹⁵

On December 18, 1972, the General Assembly adopted a resolution concerning terrorism, which was mainly recommended by the Sixth Committee.¹⁶ Turkey, with 34 other country, voted against this recommendation. This recommendation; demanded the study of the underlying causes which gives rise to terrorism with a view to finding just and peaceful solution, invited states to become parties to the existing international conventions that relate to various aspects of terrorism, invited states to take appropriate measures at the national level with a view to the elimination of the problem, and established an *Ad Hoc* Committee on International Terrorism.

As can be seen from the provisions of this recommendation, it only dealt with the matter at surface, didn't get into the roots but only tried to satisfy the public, upto a level.

On December 14, 1973, the General Assembly adopted by consensus a resolution¹⁷ to which the text of the "Con-

¹⁵ Yearbook of the United Nations, Vol. 26, 1972, pp. 639-640.

¹⁶ For the text of Resolution 3034 (XXVII) adopted by the General Assembly on December 18, 1972, see. Yearbook of the Pnited Nations, Vol. 26, 1972, pp. 649-650.

¹⁷ For the text of the General Assembly Resolution 3166 (XXVIII) adopted by consensus on December 14, 1973, see. Yearbook of the United Nations, Vol. 27, 1973. pp. 774-775.

vention on Protection of Diplomats" was annexed. According to the provisions of this resolution, the General Assembly declared by consensus the importance and the necessity for taking effective measures for the prevention and punishment of crimes against diplomats. By securing the lives of diplomats and internationally protected persons, it will contribute to the maintenance of peace and will promote friendly relations and co-operation among states. On the other hand, it declared that the Convention re-affirmed the obligations of states under International Law and will help to carry out their obligations more effectively.

This resolution, in other words, once more reminded states the importance of carrying out the moral and legal international obligations in good faith, in order to achieve peace and co-operation among states.

In the 1974 and 1975 sessions, the General Assembly didn't had time to discuss the item on international terrorism and the 1973 report of the *Ad Hoc* Committee on International Terrorism.

The item on international terrorism was again discussed at the thirty-first (1976) session of the General Assembly, mainly in the Sixth (Legal) Committee. On December 15, 1976, upon the recommendation of the Sixth Committee, the General Assembly once more adopted a resolution on international terrorism.¹⁸ The General Assembly, as usual, expressed its deep concern over increasing acts of terrorism and urged states to continue to seek just and peaceful solutions to the underlying causes that give rise to such acts of violence. On the other hand, the General Assembly also asked states, as usual, to become parties to the existing conventions on international terrorism, and to take appropriate measures at the national level for the prevention, punishment and elimination of the problem. Turkey, once more, abstained to this resolution. The General Assembly

¹⁸ For the text of the General Assembly Resolution 31/102, adopted on December 15, 1976, see. Yearbook of the United Nations, Vol. 30, 1976, pp. 833-834.

expressed the same views at its thirty-second (1977) session, and Turkey again abstained.¹⁹

The item on the measures to prevent international terrorism, once more came before the General Assembly at its thirty-fourth (1979) session. The General Assembly again adopted a resolution on December 17, 1979, and re-affirmed almost the same principles as it did by the resolutions of 31/102 and 32/147. Turkey, once more and again abstained to this resolution.²⁰ Because, this resolution, like the previous ones on this item, didn't bring any effective measures for the elimination of terrorism. It only satisfied the Third World States and the states that are not unequivocal over this concern.²¹

The General Assembly at its thirty-fifth (1980) session, again dealt with international terrorism. But this time, on a specific item, "The Protection and Safety of Diplomatic and Consular Staff". On December 15, 1980, the General Assembly adopted a resolution by consensus on this particular item.²² With this resolution the U.N. and particularly the General Assembly, took a positive step in combatting terrorism. The resolution called on Member States to prohibit acts against the security and safety of diplomatic and consular missions and their representatives in territories under their jurisdiction, in conformity with the accepting states international obligations arising from International Law. Member States were also asked to take practicable steps to prohibit in their territories illegal activities of persons, groups and organizations that encourage,

¹⁹ For the text of the General Assembly Resolution 32/147, adopted on December 16, 1977, see. Yearbook of the United Nations, Vol. 31, 1977, p. 971.

²⁰ For the text of the General Assembly Resolution 34/145, adopted on December 17, 1979, see. I. L.M., Vol. 19, 1980, pp. 533-535.

²¹ States abstaining to the Resolution 34/145 are as follows : Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Guatemala, Iceland, Ireland, Israel, Italy, Japan, Jordan, Luxembourg, Netherlands, Norway, Portugal, Sierra Leone, Spain ,Turkey, United Kingdom and United States.

²² For the text of the General Resolution 35/168, adopted on December 15, 1980, see. I. L.M., Vol. 30, 1981, pp. 459-461.

organize or engage in the perpetration of such inhuman and violent acts. It also called states to become a party to the relevant conventions. In addition, it invited all states to report to the secretary-General serious violations of the protection, security and safety of diplomatic and consular missions and representatives. The state in which the violations took place should report to the Secretary-General on measures taken to bring to justice the offenders and to prevent a repetition of such violations, and the final outcome of the proceedings against the offenders. The Secretary-General, unless otherwise requested, should circulate this report to all Member States. On the other hand, the Secretary-General was also requested to submit a report to the General Assembly, on the reports and views expressed by Member States.

This resolution emphasized the duty of states, for aliens and especially diplomatic and consular staff, arising from International Law. On the other hand, it placed certain sanctions over the states. Such as, giving reports to the Secretary-General about the proceedings against the offenders and explanations before the General Assembly upon request. These provisions, at least morally, binds states and reminds them their international obligations once more. States in order to be not condemned by other states and not to be more cautious, keen and frank in combatting terrorism.

The General Assembly at its later sessions, re-affirmed the same principles laid down by its Resolution 35/168 of 1980.

If the General Assembly Resolution 35/168, adopted on December 15, 1980, operates fully, it will achieve its main goals. This resolution in a way, only reminds states their moral and legal international obligations, but at the same time gives the other states the opportunity to judge and question how well particular states fulfill and perform their international obligations in good faith. Austria, Denmark, Switzerland, United Kingdom, United States, Yugoslavia are among the states that had performed their

international obligations in good faith for the prevention and punishment of international terrorism, at least according to International Law and the General Assembly resolutions. But, we can't claim the same good will was shown, especially by France.²³ The attitude of the French Government in this important context, was encouraging the terrorists rather than discouraging them.²⁴ France, one of the defenders and champions of human rights, never had given its reports fully and on time to the Secretary-General, and never had mentioned in its reports what sorts of measures were taken by the French Government to prevent the repetition of such violent acts, despite the fact that it had given affirmative votes to the above mentioned General Assembly resolutions. These attitudes and the recent attitude shown at NATO on March 16, 1983, by the French Government, is an obvious breach of its international obligations and ought to be sanctioned by the international community.

2 — *Conventions*

a — *Protection of Diplomatic Agents*

Upon the request of the General Assembly on December 3, 1971,²⁵ the International Law Commission, at its 1972 session, prepared a draft treaty on the concern of "The Protection and Inviolability of Diplomatic Agents and Other Persons Entitled to Special Protection Under International

²³ France still didn't become a party to the "Convention on the Protection and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents"; adopted by the U.N. on December 14, 1973. Even this attitude of France is an obvious evidence of how it behaves for combatting terrorism.

²⁴ The negative attitude of the French Representative at the NATO Meeting in Brussels, at Permanent Representatives level, on March 16, 1983, that wanted to condemn international terrorism after the assassination of the Turkish Ambassador to Yugoslavia, constitutes an obvious evidence for our conviction.

²⁵ For the text of the General Assembly Resolution 2780 (XXVII) adopted on December 3, 1971, see. Yearbook of the United Nations, Vol. 25, 1971, pp. 594-595.

Law". The Commission, as a next step, submitted its draft to the General Assembly for consideration.

On December 14, 1973, the General Assembly adopted a resolution by concensus.²⁶ The text of the "Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents" was annexed to this resolution.²⁷ But the resolution is not in any sense a part of this Convention.²⁸

The preamble of this Convention declared that crimes against internationally protected persons and diplomats, jeopardizes and creates a serious threat to the maintenance of normal relations necessary for co-operation among states. And such crimes also creates a grave concern to the international community.

The Convention defines the terms "internationally protected person" and "alleged offender" fully, and delineates the scope of the Convention by setting forth the crimes to which it was to apply. It almost covers all sorts of acts committed against internationally protected persons, their official premises, their private accommodation and their means of transport. The Convention also asks states to punish such crimes by appropriate penalties according to their grave nature (Art. 1, 2). This Convention does not aim to suppress the legitimate exercise of the right of self-determination and independence, in accordance with the purposes and principles of the Charter of the United Nations, and the Declarations stemming from it. But if a terroristic crime is committed against an internationally protected person by a member of the national liberation

²⁶For the text of the General Assembly Resolution 3166 (XXVIII) adopted on December 14, 1973, see. Yearbook of the United Nations, Vol. 27, 1973, pp. 774-775.

²⁷ For the text of the Convention, see. Ibid., pp. 775-777. This Convention entered into force on February 20, 1977. Turkey became a party to this Convention on July 23, 1981, see. Official Gazette, No. 17409, July 23, 1981.

²⁸ WOOD, M.C.: "The Convention on the Protection and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents". I. C.L.Q., Vol. 23, 1974, p. 796.

movement, the crime will fall within the Convention and states must act and punish the offender in accordance with the obligations of this Convention.²⁹

The Convention asks states to establish their jurisdiction over terrorist crimes committed against internationally protected persons in their territory, by their nationals and over the offenders present in their territory (Art. 3). It also demands co-operation among states to take measures necessary for the prevention of the preparation in their territories the commission of those crimes within or outside their territories and the punishment of such acts and crimes (Art. 4). On the other hand, one of the other important provisions to give effectiveness to the Convention, is the non-exclusion of criminal jurisdiction exercised in accordance with internal law (Art. 3/3). By this provision, it is aimed to punish the offenders compulsorily, severely and effectively.

This Convention also gives the right of refusal of extradition. But in case of the non-extradition of the offender, the State Party in whose territory the alleged offender is present shall, without exception whatsoever and without delay, submit the case to its competent authorities for the purpose of prosecution (Art. 7). By this way, the Convention urges the State Party for compulsory jurisdiction.

We can claim that, by this Convention the international community had taken a step forward for the prevention and punishment of terrorism. But we can also easily claim that, the steps taken in this field are still insufficient and the application merely depends on the good will of states and the States Party to the Convention, like every other convention.

b — *Taking of Hostages*

On September 28, 1976, the Federal Republic of Germany asked the General Assembly the possibility of filling

²⁹ WOOD, M.C.: op. cit., p. 798.

a gap on international terrorism by the adoption of a convention against the taking of hostages. The General Assembly on December 15, 1976, accepted this proposal and established an *Ad Hoc* Committee by a resolution for the drafting of an international convention on this item.³⁰ The action of the Federal Republic of Germany was constructive and timely.

The General Assembly by its Resolution 34/146 of December 17, 1979, accepted the "International Convention Against the Taking of Hostages" and opened it to signature on December 18, 1979.³¹

This Convention declared that the taking of hostages is an offence of grave concern to the international community and persons committing these offences should either be prosecuted or extradited. To this end, states were asked for co-operation for the prevention, prosecution and punishment of such acts.

The Convention after defining the terms of "hostage" and "hostage taking" (Art. 1), asked states to take the necessary steps at the national level for punishment (Art. 2). This Convention accepts the offence of hostage taking as extraditable (Art. 10), but also gives states the right to refuse extradition on certain substantial grounds (Art. 9). But, in this case, the state is obliged without exception whatsoever and whether or not the offence was committed in its territory, to submit the case before its competent authorities for prosecution (Art. 8). In addition, the State Party shall communicate the final outcome of the proceedings to the Secretary-General of the U.N., who shall transmit the information to the other states concerned. This procedure also works in case of extradition (Art. 7).

On the other hand, the provisions of this Convention, like the other conventions for combatting terrorism, does

³⁰ For the text of the General Assembly Resolution 31/103 adopted on December 15, 1976, see. Yearbook of the United Nations, Vol. 30, 1976, pp. 835-836.

³¹ For the text of the Convention, see. A.J.I.L., Vol. 74, 1980, pp. 277-283.

not apply to peoples who are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of selfdetermination as enshrined in the Charter of U.N. (Art. 12).

This Convention as a whole fills a gap in the prevention and punishment of international terrorism. In addition, it obliges states to give reports to the Secretary-General of the U.N. about the proceedings of the prosecution which urges states to be more keen and positive on this particular crime. But as a whole, like all international agreements, the performance of the duties and obligations of states mainly depends on their good will. But, by obliging states to give reports to the Secretary-General, is a step forward taken for combatting terrorism. By this way, states could easily be questioned before the General Assembly and could be put into severe conditions that will oblige them to change their policies for combatting terrorism.

IV — CONCLUSION AND REMARKS

To defend the freedoms of the individual and to respect their fundamental rights, are among the primary duties and obligations of modern and contemporary states. All terroristic acts constitute a breach of the fundamental rights and freedoms of the individual, and in case of defect or negligence of the state it also bears its responsibility.

It is a shame for our era and for the international community to witness states directly or implicitly supporting or involving in carrying out terrorism due to their special interests or policies. International terrorism, terrorists and their supporters, deserves strict and severe sanctions from the international community and from its individual members.

International terrorism creates grave consequences for relations among the states. Due to this reason and its threat to the international peace, states and international organizations accepted international terrorism and terroristic acts as serious common crimes threatening peace. But, it

would be better and be for the benefit of the international community, to accept those crimes as international crimes or crimes against humanity threatening peace.

States and International Organizations dealt with various aspects of international terrorism, and condemned it through declarations and resolutions. International Organizations took certain measures through resolutions, recommendations and conventions for the prevention and punishment of international terrorism, and to achieve exchange of information, administrative and judicial co-operation among states to this end. Each measure taken either by states at the national level or by International Organizations, not only helped to combat terrorism but also helped to the progressive development of International Law in this field. Despite the progress, no one can claim that the steps taken or the level achieved is sufficient to combat terrorism. Combatting terrorism, like any other international concern, depends primarily on the good will of the states concerned. This is a reality of the international community that no one can easily deny. But to make the difficult easier, it is necessary and essential to apply certain joint or international sanctions to those states or communities that directly or implicitly support or carry out terrorism, or deny co-operation, disobey the decisions, or resolutions of the International Organizations and misperform their duties and obligations attributed to them by International Law for the combat of this vital concern.

Despite the difficulty in getting states into agreement due to conflicting views and policies, it is also essential and vital to take strict, severe and joint actions by states for the effective combat of terrorism. In addition, non-prosecution or insufficient penalties given to the offenders, could not be justified by the sole reference to the political character of the offence. Therefore, extradition ought to be accepted compulsory without any exception or an internationally controlled prosecution is necessary and seems essential, such as an international criminal court, for the effective punishment of terrorism.

Terrorism can in no way be justified. Therefore, causes and political motives of terror should be left out or side-stepped, and be handled on strictly legal bases. In other words, discussion among states should concentrate on the victims rather than the causes. A study of the causes of terrorism can never be a substitute for positive steps against terrorism. In order to achieve a real and effective combat, priorities should be given to the exchange of information concerning effective precautionary techniques and punishment, in all international steps and conventions. Therefore, states should once more be asked to become parties to the existing and to the forthcoming international conventions, in order to obtain greater participation and real support for an effective combat. On the other hand, states should re-examine their national legislation relating to terrorism once more under the light of the existing international decisions and resolutions.

The time had reached and even passing for the international community and organizations to take more effective actions and measures immediately. If we can't take more effective measures immediately, both at the national and international level, it will be too late and the international community will be witnessing the collapse of the international system and our common heritage of civilization and democracy.