

Making progress in codifying body of international law

By Erik Wang and Joseph Stanford

*Balance-sheet
of lawmaking
activities*

With the increasingly preponderant membership of the Third World countries in the United Nations General Assembly and the Specialized Agencies, these countries have, by force of numbers, been able to concentrate the attention of the UN on issues of concern to them. A degree of disenchantment with these developments has set in amongst Canadians, some of whom question whether the UN can continue to be an effective and useful means for international co-operation in the interests of all member states, developed as well as developing. Under Article 13 of the Charter, one of the basic tasks of the UN General Assembly is to initiate studies and make recommendations for the purpose of "encouraging the progressive development of international law and its codification". It is legitimate to ask how well the UN has discharged this responsibility. The following is an attempt to draw up a kind of balance-sheet of successes and failures in UN lawmaking activities, as seen from a Canadian viewpoint.

It is clear from recent General Assembly debates that the climate has been unfavourable to the development of international law in certain areas. Where a majority of members are preoccupied with political disputes it may be difficult to sustain the balanced, long-range approach necessary for the development of rules that are workable and broadly acceptable. The outcome of debate on several lawmaking efforts has reflected political perceptions

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inherent in the Arab-Israeli and Southern African problems.

The General Assembly reached agreement in 1974 on a definition of aggression after 50 years of intermittent discussion by international lawyers at the Conference of Nations and later at the United Nations. The definition was adopted, however, at the cost of dilutions and ambiguities which pose questions for international law of the future and may impair the effectiveness of the accepted definition in inducing and restraining state behaviour. Similarly, discussions in the General Assembly on international terrorism have evoked widely-divergent views among member states about the manner in which to fabricate international law and strengthen it in this field. There is considerable doubt whether any international measures against terrorism can find general support in today in view of the position of Arab and African states regarding the Palestine Liberation Organization and African liberation movements.

Recent developments at the United Nations may, however, point to a willingness of member states to grapple with the issue of international terrorism, if not in general terms at least in relation to specific categories of international crimes considered to be particularly repugnant.

First, as a result of a Western initiative at the thirty-first session of the General Assembly, a UN committee has been established to draft an international convention against the taking of hostages.

A second development is the reactivation of the Ad Hoc Committee on International Terrorism, which met in 1973 and was unable to reach agreement on any effective international measures against terrorist acts. As the terms of reference of the reactivated committee are virtually identical to those of the 1973 committee, there is some doubt whether this body, of which Canada is a member, can achieve progress. The