

Behind-the-scenes negotiation of treaty to protect diplomats

By Edward G. Lee and Serge April

In October 1970, James Cross, the British Trade Commissioner in Montreal, was kidnapped. The Tupamaros had set the example in Uruguay during the Sixties. More than a dozen crimes against diplomats had been committed in the western hemisphere before the Cross kidnapping took place. Some of the incidents had paid off for the terrorists, and "political prisoners" were liberated in exchange for the lives of kidnapped diplomats. Other incidents ended in bloodshed.

Shots were fired into the apartment of a Soviet diplomatic representative to the United Nations. Embassies round the world received letter-bombs. In March 1973, the Saudi Arabian Ambassador in Khartoum was giving a cocktail party, which was suddenly interrupted by a guerrilla team. Two American diplomats and one Belgian were held hostage and later killed.

In 1974, the United States Ambassador to Cyprus was killed, apparently by a bullet, during a violent demonstration against his chancery in Nicosia; the French Ambassador in The Hague was held hostage by Japanese terrorists; and an American diplomat and several Venezuelan consular officers were held hostage in the Venezuelan Consulate in Santo Domingo.

Within the space of a few years, diplomacy has become a perilous career. For all sorts of reasons and in all sorts of places, a bloody method of solving disputes was developing. Something had to be done at the international level. As regards hijacking, as soon as countries realized that no air-line was immune from air piracy, the international community found the will to do something. This led to the conventions in Montreal and at The Hague.

As for international terrorism, the United Nations has so far done nothing really effective, though representatives have often talked emotionally about it. The reason is easy to understand. Acts of international terrorism are intimately linked with certain political struggles, and

it appears impossible to define such terrorism without making reference to these political factors. It has proved impossible to find an objective legal foundation that would rally all points of view in the international community and form the basis for some meaningful action against this threat.

Protection of diplomats

So far, however, as diplomats were concerned, something was done, and done quickly. Two years after the matter was first raised in the UN General Assembly, on December 14, 1973, the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents was adopted by consensus in the Assembly. This article will describe how this convention was negotiated in the Legal (or Sixth) Committee of the UN Assembly in the autumn of 1973.

There exists a legal foundation for the convention, accepted by all and independent of political considerations; it is the ancient principle of inviolability of diplomatic agents. The convention is based on that universally-recognized principle.

Those few countries that opposed the idea of a convention or had misgivings about it in the first place based their opposition on the claim that the convention was not necessary and that the existing rules of international law, as codified, for example, in the Vienna Convention on

Legal foundation independent of political considerations

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