1986

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State-Sponsored Terrorism: Libya's Abuse of Diplomatic Privileges and Immunities

I. Introduction

Every day the world is threatened by some new act of terrorism. Governments are constantly held hostage to terrorist acts designed to achieve a political advantage. The aggressive conflicts of the 1980s implement measures short of outright warfare to destabilize politically pluralist societies. Nations, striving to achieve recognition in an international arena dominated by a few nations, may resort to terrorism to attain stronger political leverage. In order to be viewed as a politically viable entity, some states have implemented terrorism as a major political device. This struggle has led to state-sponsored terrorism through which states have begun to facilitate terrorist operations through diplomatic structures.

Libya best illustrates a state's abuse of diplomatic privileges and immunities in support of terrorism. Colonel Mu'ammar Qaddafi, Libya's leader, employs terrorism as a substitute for traditional warfare. The murder of a British police officer in April of 1984 high-


Political terrorism is the use, or threat of use, of violence by an individual or group, whether acting for or in opposition to established authority, when such action is designed to create extreme anxiety and/or fear-inducing effects in a target group larger than the immediate victims with the purpose of coercing that group into acceding to the political demands of the perpetrators.


3. *Libyan Sponsored Terrorism: A Dilemma for Policy Makers, supra* note 1, at 6 (statement of Dr. Yonah Alexander, Member of the Senior Research Staff for the Center for Strategic and International Studies at Georgetown University).
lights the depth of Libya's diplomatic abuses. Terrorists, harbored in the Libyan diplomatic establishment in the United Kingdom, shot a police officer. The British government permitted these terrorists, masquerading as diplomats, to escape punishment. The Vienna Convention on Diplomatic Relations was construed as a protective shield for the Libyan nationals operating within the diplomatic establishment.

International law should not hamper governments threatened by terrorists abusing diplomatic privileges. The ramifications of Libya's state-supported terrorist network, operating through diplomatic channels, will be addressed in this Comment. The Vienna Convention on Diplomatic Relations will be evaluated in light of the April 1984 Libyan embassy shooting. Present international inactivity will illustrate the legal and political dilemmas faced by a nation's policy makers in suppressing terrorism. Finally, the Vienna Convention on Diplomatic Relations will be discussed to assess the Convention's viability in the current political arena threatened by terrorists.

II. The Libyan People's Bureau in the United Kingdom

A. The 1984 Libyan Embassy Incident

On April 17, 1984, a demonstration, prompted by the hanging of two Tripoli students sentenced to death for treason, formed across the street from the Libyan People's Bureau. The demonstrators consisted of approximately seventy anti-Qaddafi protestors and a group of Qaddafi supporters. Many of the anti-Qaddafi demonstrators wore stocking caps to conceal their identity for fear of retaliation by the Libyan government. The protestors made no hostile attacks upon the Bureau. The British police had no difficulty controlling the
two separate groups; however, gunfire from within the embassy quickly dispersed the demonstrators. The gunfire killed British Police Constable Yvonne Fletcher and wounded eleven demonstration participants.

The shoot-out began an eleven day seige of the Libyan People's Bureau. For five days, negotiators suggested that the embassy occupants allow police to search the premises. Due to the failure of peaceful negotiations, the British government severed diplomatic relations with Libya on April 22, 1984. The embassy occupants were given seven days in which to leave the United Kingdom and were guaranteed safe passage from the country.

At the end of the seige, thirty men filed out of the Libyan People's Bureau. The expelled Libyan nationals returned home to a hearty welcome on April 27. Libya's Foreign Minister greeted his expelled countrymen with the following statement: "We are meeting our people who have been victims of harrassment for the past ten days." Colonel Qaddafi claimed the United Kingdom was to blame for the British police officer's death and the eleven wounded demonstrators.

B. United Kingdom's Response

Throughout the seige, the British government forbade the police from entering the People's Bureau because the government believed the premises and those inside were protected under the Vienna Convention on Diplomatic Relations. The British government stated Article 19 of the Convention protected the embassy because noth-
ing indicated that the Bureau, as a foreign mission, was being used for an improper purpose.22

The United Kingdom’s justification contravenes the essence of diplomatic facilities and personnel set forth in the Convention because gunfire into a peaceful crowd is not a proper diplomatic function.23 The British Foreign Office Minister, Richard Luce, called the incident an “unacceptable breach of British law, international law, and the Vienna Convention on Diplomatic Relations.”24 George Robertson, the Labor Member of Parliament and the Deputy Spokesman on Foreign Affairs, felt that the use of British streets as a stage for Libyan domestic affairs abridged the privilege of diplomatic immunity.25 Robertson further declared that terrorism, officially sanctioned by the government of the embassy occupants, necessitates a re-examination of diplomatic relations with Libya.26

III. Historical Treatment of Diplomatic Personnel

A. Diplomats in International Relations

Diplomatic immunity is the freedom from local jurisdiction accorded under international law by receiving states to duly accredited representatives of another state.27 The concept of diplomatic privileges and immunities has existed throughout the history of international relations.28 Historically, the exchange of diplomatic proxies can be separated into two distinct periods.

Initially, ambassadors were granted complete immunity from local jurisdiction.29 The early practice of diplomatic representatives developed under the Greek City-States, the Roman states, the Asian states, and the Islamic countries of West Asia.30 These ancient governments sent proxies to represent the nation on a nonpermanent, ad hoc basis, and the envoys were extended complete personal inviolability while in the receiving state.

The establishment of permanent diplomatic missions evolved into the modern body of diplomatic privileges and immunities, beginning at the close of the Middle Ages.31 Since Venice was the diplo-
matic center during the Renaissance, the Italian cities began to interact more frequently and, therefore, the maintenance of permanent diplomatic missions became advantageous. The custom of establishing permanent diplomatic legations spread from Italy to other European cities. As commerce and trade spread from Europe to other nations in the seventeenth and eighteenth centuries, the need for diplomatic missions on the trading continents arose. The interaction of foreign nations through state envoys gave rise to the current system, which embodies the customary practices established by these early nations.

Although a well-recognized international rule, the law of diplomatic privileges and immunities remained entirely customary until the late nineteenth century. Treaties on diplomatic relations dealt primarily with the treatment of ambassadors on a particular mission and did not address any long-range, comprehensive guidelines. In 1924, the League of Nations recognized that diplomatic privileges and immunities required international regulation or codification; however, no comprehensive resolution was adopted by the League of Nations.

In 1961, the United Nations codified customary international law regarding the privileges and immunities of diplomatic agents in the Vienna Convention on Diplomatic Relations. The Convention formulates a plan by which nations tailor their treatment of diplomats. In order to promote international peace and security, the Convention's ideal is the facilitation of harmonious interaction between politically intertwined nation-states. Since the Vienna Convention is universally accepted as a codification of binding customary law on diplomatic relations, nonsignatory nations would be extended

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32. B. SEN, supra note 30, at 7.
33. Id.
34. See generally B. SEN, supra note 30.
35. Young, supra note 31.
36. Id. at 157.
40. The Preamble states in part as follows:
Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations, believing that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems, . . .
Vienna Convention on Diplomatic Relations, supra note 5. Preamble.
the same privileges and immunities as signatory states.41

B. Justifications for Diplomatic Privileges and Immunities

Historically, three theories have supported the continuation of immunities granted to diplomats: personal representation, extraterritoriality, and functional necessity. The personal representation theory viewed the diplomatic agent as a personification of the sovereign state he represented.42 Consequently, since the sovereign's representative was the equivalent of the ruler in the receiving state, the inviolability of the sending nation extended to the appointed envoy.43 International law, however, no longer justifies diplomatic immunity upon the personal representation theory for several reasons.44 First, the theory placed the diplomat beyond the receiving state's law, giving the representative unlimited power.45 Second, due to the increase of modern democratic nations, the theory was inadequate to determine the extent of immunities to be granted.46 Last, the personal representation theory did not encompass a rationale for extending immunity to the private acts of diplomats in contrast to their official acts undertaken while performing proper diplomatic functions.47

The extraterritoriality theory emerged from the sixteenth century concept of feudal society.48 Exterritoriality is rooted in a legal fiction whereby a foreign diplomat is perceived as a resident of the sending state although currently residing in the host state.49 The New York Supreme Court has recognized the exterritoriality theory, stating that international law "derives support from the legal fiction that an ambassador is not an inhabitant of the country to which he is ac-

43. See Bergman v. De Sieyes, 71 F. Supp. 334 (S.D.N.Y. 1946). The Defendant was the duly appointed, acting, and accredited Minister of the Republic of France to the Republic of Bolivia. The diplomat was enroute from France to his post in Bolivia when he was detained. Id. at 338.
44. R. WILSON, supra note 42, at 4.
46. In the modern, democratic nation-state, authority is vested in the people and this authority is distributed among three government branches. Under the personal representation theory, the governmental entity the ambassador represents would be ambiguous in the modern democratic system. R. WILSON, supra note 42, at 1.
47. Id. at 20.
48. "The terms 'exterritoriality' and 'extraterritoriality' have traditionally been used interchangeably when referring to this theory of diplomatic immunity." Id. at 5, n. 24. While the modern trend favors the shorter version, both terms are still present in current legal analysis. Id.
49. Id. at 7.
credited but of the country of his origin, and whose sovereign he represents, and within whose territory he, in contemplation of law, always abides." Since the host state lacks personal jurisdiction over the diplomat, jurists enumerated several reasons for disregarding the theory as an international legal premise.

Exterritoriality described the entire gamut of privileges and immunities afforded to diplomats and defined the diplomatic mission as foreign territory. Due to this broad usage, difficulty arose in detailing the actual immunities that were to be properly extended to diplomats. The exterritoriality theory presupposes an unlimited grant of authority because the theory fails to establish the proper duties that a diplomat may engage in for the sending state. Exterritoriality also disregards the interdependence of nation-states by an unlimited immunization from local authority. In the absence of boundaries defining the full scope of diplomatic privileges and immunities, the exterritoriality theory was replaced as the international legal foundation for diplomatic benefits by the functional necessity theory.

Immunities are granted upon the traditional concept that diplomats require immunities to conduct effectively the affairs of the sending state. The functional necessity theory extends privileges and immunities so that diplomats can function uninhibited by local authorities. The functional necessity theory shifts the emphasis from the centralized figure of the diplomat found under both the personal representation and exterritoriality theories to the functions appropriately served by the foreign proxy.

The function of the diplomat is the core concern of the functional necessity theory. This is a more realistic approach to determine the extent of privileges to be bestowed upon diplomatic agents. Although more pragmatic, the functional necessity theory is not without criticism. For instance, this theory is criticized as too vague since it does not provide any explanation of those functions undertaken by the diplomat, necessary to safeguard the sending state's interests. The functional necessity theory has also been denounced for presupposing that diplomats, by requiring immunity to function properly, engage in illegal or injurious activity.

52. R. Wilson, supra note 42, at 12.
55. R. Wilson, supra note 42, at 17.
56. Comment, supra note 42, at 118.
57. See id.
58. R. Wilson, supra note 42, at 22.
59. Comment, A New Regime of Diplomatic Immunity: The Diplomatic Relations Act
C. Vienna Convention on Diplomatic Relations

The Vienna Convention on Diplomatic Relations was drafted utilizing the functional necessity theory as its justification for diplomatic privileges and immunities. The International Law Commission formulated the Convention in an attempt to standardize the treatment of diplomats. The treaty recognizes "that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States."

Diplomats serve as the communications network between nations and they should be protected from a local government's hostile attempts to abridge the duties the diplomats were appointed to perform. As the embodiment of customary international law regarding diplomatic privileges and immunities, the Convention continues the traditional practice of full immunity for criminal acts. The Convention, however, departs from the customary practice of complete civil immunity by placing limitations on the diplomatic agent's private activities.

Under the Convention, before an agent can be recognized as an official member of any diplomatic mission, the receiving state must review a diplomat's accreditation from the sending state. The appointing government has a duty to notify the host state of an embassy appointment. Under Article 4, the sponsor state must receive
the host state's agreement that the nominated head of a mission is satisfactory to the host state. Moreover, the receiving state is under no obligation to accept an envoy and is not required to state reasons for rejecting a diplomatic nominee. Furthermore, Article 11 empowers the receiving state to refuse acceptance of an entire category of officials.

Once the host nation accredits a diplomat, the Convention, through a classification of diplomatic personnel, restricts the scope of available immunities on the basis of the functions performed by the diplomatic mission members. Article 37 categorizes the diplomatic personnel into four groups: the diplomat and his or her family, the administrative and technical staff, the mission's service staff, and the private servants of the diplomat. Diplomats and their immediate families are accorded the traditional spectrum of immunities. The administrative and technical staff, including their families, are extended full criminal immunity, with civil immunities limited to acts performed within the scope of their duties. The service staff is only permitted immunity for those acts undertaken during the course of their official duties. Private servants no longer enjoy any level of diplomatic immunity unless it is specifically granted by the receiving state.

The personal inviolability of the diplomat has been viewed as the basic principle from which all privileges and immunities have been derived. Diplomats and their families, as well as the administrative and technical staff, are immune from any form of arrest or detention. An exception to complete immunity from arrest or detention arises in circumstances in which the receiving state detains a diplomatic agent in order to prevent the commission of a particular crime. Another exception to the doctrine arises when the sending state...

67. Article 4(1) provides as follows: "The sending State must make certain that the agreement of the receiving State has been given for the person it proposes to accredit as head of the mission to that State." (Emphasis added.) Vienna Convention on Diplomatic Relations, supra note 5, art. 4, para. 1.

68. Article 4(2) provides as follows: "The receiving State is not obliged to give reasons to the sending State for a refusal of agreement." (Emphasis added.) Vienna Convention on Diplomatic Relations, supra note 5, art. 4, para. 2.

69. Vienna Convention on Diplomatic Relations, supra note 5, art. 11, para. 2.

70. Vienna Convention on Diplomatic Relations, supra note 5, art. 37.

71. Id. para. 1.

72. Id. para. 2.

73. Id. para. 3.

74. Id. para. 4.

75. R. Wilson, supra note 42, at 46.

76. The Convention provides as follows: "The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity." Vienna Convention on Diplomatic Relations, supra note 5, art. 29.

77. See Case Concerning United States Diplomatic and Consular Staff in Tehran (Iran
The waiver is permissible by the state because immunity for diplomatic agents is a privilege granted to the state and not to the individual. However, the sovereign rarely waives immunity.

D. Proper Diplomatic Functions

The diplomatic personnel serve a variety of functions for their respective nations. The diplomatic mission exists to represent the sending state in the host state, to protect the interests of the sending state within the limits of international law, to act as a negotiator between the receiving and sending nations, to ascertain by all lawful means developments in the host state, and to promote friendly relations between the sending and receiving nations. The Convention's enumeration of duties is consistent with the functional necessity theory in that it provides a field of activity within which the diplomat must operate. A diplomatic agent should be protected from a local authority's coercive measures if the agent faithfully discharges his duties and abides by local laws.

Under international law, this jurisdictional shield afforded to diplomats does not confer a license to disregard local law. Moreover, this shield of immunity protects diplomatic agents from consequences of acts that, if perpetrated by someone subject to local law, would incur severe penalties. The Convention frames proper diplomatic functions by which those granted privileges should tailor their activities to receive the full benefit of immunities under the Convention. Arguably, any privileges and immunities afforded to diplomatic agents should only be extended when pursuing proper diplomatic functions.

The Convention stresses that the need for diplomatic activity stay within the bounds of the proper diplomatic functions set forth in Article 3. Diplomats are required to abide by local laws although a violation does not negate the personal immunities granted to the
agent under Article 29. Historically, the observance of local laws was treated as a corollary to the receiving state’s duty to extend privileges and immunities. One writer viewed this duty upon the diplomat as a moral obligation to respect the receiving state’s laws. Unless a specific exemption exists as a matter of policy or an international rule must be upheld, the modern practice specifies that the diplomat be subject to the substance of local law with regard to his private acts.

The Convention, which is the international standard on diplomatic privileges, excuses criminal acts committed by a diplomat. The complete criminal immunity illustrates the extensive privileges granted to diplomats. The immunity is based on jurisdiction, not liability, because the act must be regarded as an act of the sending state. Attributing the violation to the sending state maintains the functional premise of the Convention; however, acts perpetrated on behalf of the state only legitimize any unlawful conduct. Even if legal liability is placed upon the sending state, no legal punishment will result because the nation is protected under the doctrine of sovereign immunity.

E. Mechanism to Curb Diplomatic Abuse

The Convention acknowledges the potential abuse of diplomatic privileges and immunities by providing the receiving state with a mechanism to handle a diplomat’s abuse. The Convention permits the host state to declare a diplomat persona non grata. The persona non grata label provides the receiving state with a protective means to avoid further sufferance from an unacceptable diplomat. When the host state requests the sending state to recall the offensive agent, no reasons need to be enunciated. Therefore, the persona non grata status may be declared prior to the diplomat’s entry into the receiving state. This buttresses the requirement of prior consent by the host state before accepting the envoy.

89. Id.
90. F. Denza, supra note 41, at 263-64.
91. The duty to respect the receiving state’s laws has been viewed as a moral obligation that is less than the imposition of a legal duty. Id.
92. However, this ignores the function premise of the Convention, which grants complete criminal immunity. Id. at 264.
93. Vienna Convention on Diplomatic Relations, supra note 5, art. 37.
94. F. Denza, supra note 94, at 264.
95. Id.
96. Green, supra note 84, at 137.
97. Vienna Convention on Diplomatic Relations, supra note 5, art. 9, para. 1. In international law, a person not acceptable to the court or government to which he was appointed is labelled persona non grata. Black’s Law Dictionary 1030 (5th ed. 1979).
98. F. Denza, supra note 41, at 40.
99. Vienna Convention on Diplomatic Relations, supra note 5, art. 9, para. 2.
100. F. Denza, supra note 41, at 43.
However, in the current political atmosphere, practical application of the Convention does not provide adequate redress for abuses of diplomatic privileges and immunities committed in the receiving state. The Convention merely establishes the avenue by which the receiving state may prevent recurrent abuses by an individual diplomat. The Convention embodies no general security mechanism to punish abuses of the diplomatic infrastructure.

IV. State-Sponsored Terrorism: The Libyan Example

A. Terrorism as a State Tool

A number of totalitarian governments actively export terrorism. State-sponsored terrorism can be defined as follows:

The deliberate employment of violence or the threat of use of violence by sovereign states (or sub-national groups encouraged or assisted by sovereign states) to attain strategic and political objectives by acts in violation of law intended to create overwhelming fear in a target population larger than the civilian or military victims attacked or threatened.

Recent history further supports that "[t]he main goal of this state-sponsored terrorism now at the end of the twentieth century is to undermine selectively the policies, the psycho-social stability, and political governability of pluralist states with representative governments." State-sponsored terrorism is commonly called low-intensity conflict because it serves as intentional yet undeclared warfare. Terrorism, sponsored by a government, targets foreign institutions that might not be effectively destroyed by direct confrontation. For example, a country's political stability, commercial activity, and diplomatic relations are undermined by terrorism. Terrorism attempts to thwart the harmonious interaction of nations. Further, state-supported terrorism undermines respect for international law and peace-

101. "At present, Communist states, especially the Soviet Union, and a number of other militant totalitarian regimes like Iran, Libya, and Syria, are exporting terrorists and terror techniques into other countries whose governments they wish to injure or overthrow." Senate Subcommittee Report on State-Sponsored Terrorism, supra note 2, at XI.
102. Id. at XIII.
103. Id.
104. Id. The United States Army defines low-intensity conflict (LIC) as follows: "A broad term describing political-military struggle, short of conventional warfare between national armed forces, to achieve political, social, economic, or psychological objectives. The military aspects of LIC are characterized by constraints on the level of violence, weaponry and tactics. The aim of LIC is to create social discontent. War lies at the opposite end of the spectrum because war utilizes overt, organized military hostilities. Senate Subcommittee Report on State-Sponsored Terrorism, supra note 2, at 49-51.
105. Id. at XIII.
106. Id.
ful resolutions of conflicts.

Organized international terrorism is a principal instrument employed by totalitarian nations to destroy democracy.\textsuperscript{107} The most significant factor in the growth of terrorism is state sponsorship, which implements terrorism as a coercive foreign policy tool.\textsuperscript{108} International terrorism has an escalation potential, although the terroristic act itself has a relatively low strategic value.\textsuperscript{109} However, this low value potential accredited to a singular terroristic event may not accurately reflect the problem because terrorist activity frequently results in concessions from the attacked nation. For example, the 1979 Palestine Liberation Organization (P.L.O.) attack on the Egyptian embassy in Ankara, Turkey resulted in an official recognition of the P.L.O. by Turkey such that the organization was permitted to open a diplomatic office in the country.\textsuperscript{110} Similar concessions, springing from one terroristic event, provide the foundation for terrorism legitimacy and increased terrorist activity.

Once a terrorist group has state-sponsorship, intelligence, diplomatic, and political contacts become available to facilitate terrorist missions.\textsuperscript{111} Terrorist factions reach a level of dependency upon state support, developing into surrogate bodies of the state.\textsuperscript{112} Most major terrorist groups have maintained a direct or indirect support line with the state.\textsuperscript{113} State sponsorship is a critical factor in terrorism maintenance.\textsuperscript{114} Sustained terrorism requires state support as a major financial source.\textsuperscript{115} Terrorism would be less of a problem if the various state systems facilitating political violence were denied the ability to assist terrorist activity.\textsuperscript{116} The highly destructive nature of

\begin{thebibliography}{116}
\bibitem{107} M. ASA, \textit{ON TERRORISM AND COMBATING TERRORISM} 119 (A. Merari ed. 1985).
\bibitem{108} \textit{Id.} at 121.
\bibitem{109} International terrorism is to be distinguished from “narco-terrorism” and “Euro-terrorism.” “Narco-terrorism” describes a political terrorist group operating in narcotics to raise the financial support for terrorist missions. “Euro-terrorism” categorizes the integration and coordination of European terrorist activity. \textit{Libyan-Sponsored Terrorism: A Dilemma for Policy Makers, supra} note 1, at 4-6 (statement of Fred C. Ikle, Undersecretary of Defense for Policy, U.S. Dept of Defense).
\bibitem{110} \textit{International Terrorism, supra} note 1, at 75 (statement of Martin Sicker, Director, Center for International Security, Washington, D.C.).
\bibitem{111} State sponsorship involves the direct or indirect association of the state with a terrorist entity for purposes of coercion and widespread intimidation to achieve a political or strategic objective. This can be achieved by directing the terrorists activities, supplying monetary support and weapons, and providing training and intelligence functions. \textit{Senate Subcommittee Report on State-Sponsored Terrorism, supra} note 2, at 58-61.
\bibitem{112} Once a level of dependency upon the state is reached, the nation can direct the activities of the terrorist group. For example, Libya and Syria played a role in the P.L.O power struggle of 1982 by supporting factions challenging Chairman Yassar Arafat’s leadership. \textit{Id.} at 62.
\bibitem{113} \textit{Id.} at 65.
\bibitem{114} M. ASA, \textit{supra} note 107, at 127.
\bibitem{115} \textit{Libyan Sponsored Terrorism: A Dilemma for Policy Makers, supra} note 1, at 5 (statement of Fred C. Ikle, Undersecretary of Defense for Policy, U.S. Dept of Defense).
\bibitem{116} \textit{Id.}
international terrorism in the 1980s is due to the infrastructure of state sponsorship.\textsuperscript{117}

The Middle East has become the primary source of international terrorism, accounting for thirty-five percent of terrorist incidents.\textsuperscript{118} The Soviet Union is a major sponsor of international terrorism, spending approximately two hundred million dollars annually on terrorist training programs.\textsuperscript{119} Almost all Arab countries support Palestinian terrorists, the more active, radical countries being Libya, Syria, Algeria, and the People's Democratic Republic of Yemen.\textsuperscript{120} Libya independently maintains an international terrorism structure in contrast to the client states of the Soviet Union.\textsuperscript{121} Client states undertake terrorist activity to attain the sponsoring state's goals while independent states promote terrorism as a political tool for their own aims.

While terrorism is not solely exported from the Middle East, this region hosts numerous camps to train foreign terrorist organizations.\textsuperscript{122} The Palestinian connection flourishes because the groups have access to the state's infrastructure as an operational resource and have free maneuverability in several countries.\textsuperscript{123} Libya has supported Palestinian terrorist groups, most notably the Abu Nidal group and the Popular Front for the Liberation of Palestine — general command.\textsuperscript{124} These groups further extend the assistance they receive to other terrorist organizations, proliferating the worldwide terrorist network.\textsuperscript{125}

\section*{B. Libyan Support for Terrorism}

Libya, under Colonel Mu' ammer Qaddafi since 1969, has incorporated terrorism as a political tool.\textsuperscript{126} Terrorist groups have become surrogate bodies of the Libyan government. Libyan-employed terrorism is considered a substitute for traditional warfare.\textsuperscript{127} Qaddafi aims to reorder Third World politics through subversion of opposition governments.\textsuperscript{128} The Libyan leader strives to unify the Arab

\begin{thebibliography}{99}
\bibitem{117} Senate Subcommittee Report on State-Sponsored Terrorism, supra note 2, at 65.
\bibitem{118} International Terrorism, supra note 1, at 295.
\bibitem{120} M. ASA, supra note 107, at 120.
\bibitem{121} Senate Subcommittee Report on State-Sponsored Terrorism, supra note 2, at 11.
\bibitem{122} Z. GAD, ON TERRORISM AND COMBATING TERRORISM 137 (A. Merari ed. 1985).
\bibitem{123} Id. at 140.
\bibitem{124} Libyan Sponsored Terrorism: A Dilemma for Policy Makers, supra note 1, at 4 (statement of Robert B. Oakley).
\bibitem{125} Id.
\bibitem{126} LIBYA UNDER QADDAFI: A PATTERN OF AGGRESSION, supra note 4, at 1.
\bibitem{127} Id.
\bibitem{128} Id.
\end{thebibliography}
world with a personal expansion of influence and power. Qaddafi believes armed struggle is the only means of uniting the Arab states. Libya's state-supported terrorists implement this singular policy by attacking opponents worldwide.

In order to achieve his unification goal, Qaddafi has supported various terrorist organizations to create political instability. In 1985, by giving millions of dollars, training, arms, and travel assistance to commit attacks abroad, Libya strengthened an alliance with the Abu Nidal group. This group is officially known as "Al Fatah — the Revolutionary Council." The Abu Nidal organization, headed by Sabri al-Banna, was originally a faction of the P.L.O.

Abu Nidal separated from the P.L.O. in 1974 because the organization had become moderate in attempts to liberate Palestine. Abu Nidal focuses aggression upon moderate Palestinian and Arab leaders who participate in the Middle East peace process. The Fatah is committed to the violent destruction of reconciliation efforts between Israel and Arab states. The organization believes the combination of Arab revolution with terrorism is necessary to achieve Palestinian freedom.

The Fatah is one of the most dangerous terrorist groups in the Middle East. Libya has increased support for Abu Nidal and reportedly hosts the group's operational center. The group is well organized, highly financed, and operates through a tight compartmentalization of its targets. As a result, Abu Nidal has become the most effective, radical Palestinian terrorist organization. The Fatah consists of several hundred members and uses Palestinian students studying abroad to implement terrorist missions. In 1985, their operations accounted for nearly seventy deaths and two hundred and one wounded. The organization does not confine terrorist missions to its fundamental regional goals. The Fatah has increasingly expanded its operations field into Western Europe.
rently, Europe is the largest target arena for terrorist acts.  

Qaddafi claims the right to murder Libyan dissidents around the world and, as such, he actively promotes terrorism by assassinating dissidents abroad, waving violence as a Libyan policy banner (see Appendix). In 1980, Qaddafi's extermination scheme murdered eleven Libyan expatriates abroad. In 1985, Qaddafi sponsored attacks in Austria, Cyprus, Greece, Italy, and West Germany. The United States has not gone untouched by Libya's reign of terror. A Libyan diplomat at the United Nations was declared persona non grata in May 1985 and non-official Libyans were also revealed in an attempt to assassinate dissidents in four American states.

Over a four year period, in at least four European cities, the Qaddafi government has sponsored a series of assassinations of Libyan nationals. For example, in March of 1984, both London and Manchester were the victims of numerous bomb attacks that injured several dozen Arabs. The police believed the bombs were part of Qaddafi's terror campaign against Libyan exiles. Diplomatic airline facilities serve as another link in Qaddafi's chain of terrorist operations.

By appointing known terrorists to the Libyan People's Bureau, Libyan diplomats have actually carried out terrorist missions. Therefore, in a country that is a prime Qaddafi target, such as Sudan, the resumption of diplomatic ties is exploited by terrorists operating under diplomatic status. Additionally, journalists, critical of Qaddafi's expelling over three thousand Tunisians and confiscating their property, were sent letter bombs in September of 1985 by Libyan diplomats.

143. International Terrorism, supra note 1, at 298 (prepared statement of Robert B. Oakley).
145. Id.
146. Libya Under Qaddafi: A Pattern of Aggression, supra note 4, at 2.
147. Id.
148. Id.
149. Smith, supra note 8.
150. Nordheimer, supra note 7.
151. Id. The British government expelled four members of the Libyan diplomatic corps for complicity in the attacks. Four officials of the Libyan People's Bureau were also deported in 1980 for the politically organized murder of two Libyans. Sutton, Diplomatic Immunity and the Seige of the Libyan People's Bureau, 1985 PUB. L. 193, 194 (1985).
152. Libyan Activities, supra note 144, at 2.
153. Libyan Sponsored Terrorism: A Dilemma for Policy Makers, supra note 5, at 5.
154. Libya Under Qaddafi: A Pattern of Aggression, supra note 4, at 2.
155. Id. at 2-3.
Libyan diplomatic facilities provide support for African terrorist groups.\textsuperscript{156} In South and Southeast Asia, Qaddafi's diplomatic establishments host an infrastructure for subversion tactics, such as financial disbursement and organized leftist training.\textsuperscript{157} In the summer of 1984, Libya lost its Grenada embassy and has been forced to use other diplomatic posts in the region as operational bases.\textsuperscript{158}

Qaddafi hosts numerous training sites for foreign terrorist organizations. A current statistic lists forty-four training sites that instruct terrorists in tactics, explosives, kidnapping, hijacking, assassination, and the use of small arms.\textsuperscript{159} In order to support these training sites, Qaddafi imported five billion dollars in arms from 1974 to 1978.\textsuperscript{160}

In addition to tactical training, Libya provides a support network for terrorist activities through numerous abuses of diplomatic privileges and immunities. The Libyan diplomatic corps provides extensive and diverse support for terrorism.\textsuperscript{161} Libyan embassies serve as communication centers for Qaddafi-sponsored terrorist missions abroad.\textsuperscript{162} Foreign diplomatic establishments store and distribute the weapons or explosives used to assassinate expatriate Libyans.\textsuperscript{163} Diplomatic missions, representing Libya, have been reported by Libyan exiles in London as arsenals for a terror campaign against them.\textsuperscript{164}

\textbf{C. Terrorists as Diplomatic Agents}

Protection of Libyan terrorists under the Vienna Convention on Diplomatic Relations ignores the fundamental principles of the Convention. As one author has stated, "[t]he purpose of the Vienna Convention is to grant immunity only to \textit{bona fide} diplomatic agents, to \textit{bona fide} embassies and to \textit{bona fide} diplomatic bases, but not to terrorists masquerading as diplomats."\textsuperscript{165} Qaddafi has repeatedly demonstrated widespread abuse of diplomatic privileges and immunities by employing diplomatic facilities as terrorist operational bases.\textsuperscript{166} Through such conduct, the Libyan leader continually disre-
gards the boundaries of recognized international law.\textsuperscript{167}

D. The Libyan Embassy in the United Kingdom

Under Qaddafi’s approval, the Libyan People’s Bureau in the United Kingdom was seized by revolutionary students on February 18, 1984.\textsuperscript{168} The British government had been notified of Ambassador Kuwiri’s removal as the Libyan representative in charge of the embassy.\textsuperscript{169} However, the British government was not informed of a successor to Ambassador Kuwiri.\textsuperscript{170} Moreover, the government was not notified of any internal appointments within the embassy or given the names of the current inhabitants in the Libyan People’s Bureau.\textsuperscript{171} The British Foreign Office had accepted and accredited a Charge d’Affaires, which is permitted under the Convention.\textsuperscript{172}

The traditional procedure for an ambassador is acceptance by the Head of State of the receiving country, and an ambassador must be accredited in this fashion.\textsuperscript{173} Although the Foreign Office had accredited a Charge d’Affaires, he performed his function under revolutionary committee directives and this revolutionary committee had no diplomatic status.\textsuperscript{174}

The embassy gunfire directed against Qaddafi demonstrators in April of 1984 blatantly violated the functional premise of the Convention.\textsuperscript{175} The Convention bestows upon foreign envoys privileges and immunities to the extent necessary to pursue proper diplomatic functions.\textsuperscript{176} The shooting from the Libyan People’s Bureau was not a proper diplomatic mission under the Convention.\textsuperscript{177}

Switzerland also expelled the Libyan Charge D’Affaires in April 1983 for transferring arms to local terrorists. Libyan embassies further assist terrorists by providing arms, cash, forged passports, and counterfeit documents. The Libyan embassy in Kuala Lumpur, Malaysia, operates as a contact for Asian and Libyan terrorists. Furthermore, Spain expelled two Libyan diplomats in December 1985 when it was discovered the diplomats were planning an attack. Id. at 8.

168. Smith, supra note 8.
170. Id.
171. Goldberg, supra note 4, at 7.
172. Id. at 3. A Charges d’Affaires is a duly accredited foreign representative accepted by the minister of foreign affairs in the receiving state. A Charges d’Affaires ad interim is not a duly accredited official, but is the senior official who represents the head of the mission during any absence. H. Jankovic, \textit{Public International Law} 252 (1984).
173. Vienna Convention on Diplomatic Relations, supra note 5, art. 19, para. 1.
174. Goldberg, supra note 4, at 10.
175. Smith, supra note 8.
176. R. Wilson, supra note 42, at 10.
177. Article 3 of the Vienna Convention on Diplomatic Relations states proper diplomatic functions as follows:

1. The functions of a diplomatic mission consist \textit{inter alia} in:
   (a) representing the sending State in the receiving State;
   (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
   (c) negotiating with the Government of the receiving State;
British Police Constable Fletcher, while protecting the Libyan People's Bureau, hardly qualifies as a promotion of friendly relations.

Diplomatic agents are to protect the interests of the sending state through lawful means when the diplomats are in the receiving state. The Libyan embassy occupants were protecting only Qaddafi's interests by destroying negative sentiments in the host state; however, the Convention requires that such protection be achieved by lawful measures. Murder is not a lawful means to accomplish a diplomatic function. Furthermore, the lawful ascertainment of developments by the diplomat in the host state is not attained by shooting innocent demonstrators.

The Convention operates to offer immunity to an embassy and its duly accredited members who undertake proper diplomatic relations. Article 41, section 3 clearly states that an embassy may not be used incompatibly with either the functions set forth in Article 3 or any other general rules of the international law. "Harboring hit squads clearly does not come within the protection of that provision."

Throughout this scenario, the British government was denied its rights under the Convention. Prior to the takeover by the revolutionaries, the United Kingdom had not been given the opportunity to declare the embassy occupants persona non grata. The British Foreign Office repeatedly attempted to obtain information concerning internal embassy appointments and received no response to these requests. In the absence of any formal notification, the Committee of Revolutionary Students enjoyed no diplomatic status. The embassy occupants never received diplomatic acceptance; therefore, they were not bona fide diplomats entitled to protection under the Convention.

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(d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;

(e) promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

Vienna Convention on Diplomatic Relations, supra note 5, art. 3, para. 1.

178. Libya formally renamed its embassies as the Libyan People's Bureau.
179. Vienna Convention on Diplomatic Relations, supra note 5, art. 3, para. 3.
180. Id.
181. Goldberg, supra note 4, at 9.
182. Vienna Convention on Diplomatic Relations, supra note 5, art. 41, para. 3.
183. Goldberg, supra note 4, at 10.
184. Id. at 2.
185. Id. at 7.
186. Id.
187. Id. at 3.
V. Terrorists Under the Vienna Convention on Diplomatic Relations

A. Protection of Internal Security

International diplomacy serves to balance the pursuit of foreign policy interests with the respect for the territorial integrity of the receiving state. Diplomats are granted privileges and immunities on a reciprocal basis because this exchange facilitates relations among nations. Diplomatic relations survive due to reciprocal obligations upheld by all nations. A state's own agents are in a sense hostage in the receiving state and their privileges are dependent upon the foreign state's treatment of diplomats. The balancing of interests through diplomatic discourse can only be achieved when diplomats do not flout local laws. However, violations of local law do not annul a diplomatic agent's personal privileges and immunities.

The Vienna Convention was drafted prior to the implementation of terrorism as a strategic political device. The receiving state's security takes precedence over a diplomat's immunity. Exceptions arise to personal inviolability when the diplomat disturbs the receiving state's internal stability or when an agent conspires against the nation. This doctrine is best set forth in a 1947 Canadian case, 

*Rose v. The King*, in which the court concluded as follows:

> Before granting or recognizing a privilege to another State, a State has the right to accord to itself a first privilege, that of its own security. To decide otherwise would be to grant a so-called international rule of authority superior to the strict, rigid, and necessary rule that the State, first and foremost, owes a duty to its citizens . . . of its own security. . . . The first duty of the diplomatic agent is to respect the security of the State.

Temporary detention, in order to prevent a threat to a state's internal security, is an exception to complete personal inviolability. The British police made no arrests after the Libyan's gunfire injured demonstrators. However, diplomatic agents can be arrested, and then they must plead immunity as a defense to prosecu-
tion. Similarly, terrorists masquerading as diplomats should not be afforded protection under the Convention that they have systematically abused. Terrorism, assisted by a nation's diplomatic establishments, is not a situation contemplated by the Convention. Therefore, a nation whose internal security is threatened by diplomats should not be confined by the Convention in countering terrorism.

A nation attacked by a diplomat operating as a state-sponsored terrorist has no legal recourse to punish the sponsoring state. The mere expulsion of the diplomat only satisfies the current situation; however, a nation has no punitive measure to deter future diplomatic abuse. The diplomatic agent typically returns to the sending state as a glorified soldier fighting for his state's political superiority. State-sponsored terrorism should not permit an interpretation of the Convention such that the Convention becomes a suicide pact for civilized countries.

B. Global Response

"If terrorism is tolerated, it may become a mode of operation by governments as a form of covert or surrogate warfare." The difficulty, however, may not be one of toleration, but rather a lack of effective measures by governments to legally restrain terrorists and concurrently prevent international discord. Government inaction stems from a variety of policy considerations: concern for the safety of nationals abroad, the uncertainty of whether economic sanctions are effective, and other foreign policy interests.

Governments seek to protect numerous foreign policy interests, which include the protection of nationals living abroad, the exchange of technological advancement, and the sale of commodities between

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199. United States v. Enger, 472 F. Supp. 490 (D.N.J. 1978). In this case, the defendants, Valdik Aleksandrovich Enger and Rudolf Petrovich Chernyayev, citizens of the Union of the Soviet Socialist Republic, were charged with various espionage offenses. Both Defendants were denied immunity under the Vienna Convention on Diplomatic Relations, codified in 22 U.S.C. § 254 et. seq. because they did not have diplomatic status nor were they "an intimate associate with the work of the permanent diplomatic mission." Id. at 506. United States v. Egoro, 222 F. Supp. 106 (E.D.N.Y. 1963). In this case, the defendants, Ivan Dmitrievich Egorov and his wife, Aleksandia Egorov, were issued diplomatic passports by their country; however, this does not control the determination of diplomatic status nor does the title conferred upon him by the host nation. Id. at 107. To deny the United States the right to accredit him as a diplomat would deny the United States its sovereign right to pass upon the acceptability to it of diplomatic representatives of foreign governments. Id. at 108.

200. The occupants of the Libyan People's Bureau who were responsible for the death of the British police officer, Yvonne Fletcher, received a hearty welcome on their return to Libya. Libya felt that their people had been the victims of harassment after the shooting on April 16, 1984. Libyans Receive Vociferous Welcome Home, N.Y. Times, Apr. 27, 1984, at A3, col. 1.

201. Goldberg, supra note 4, at 2.


203. Libyan Sponsored Terrorism: A Dilemma for Policy Makers, supra note 1, at 8 (statement by Robert B. Oakley).
nations. In order to protect these foreign policy interests, long-term, collective measures are needed to combat political terrorism\(^\text{204}\) and, more importantly, to curb terrorist proliferation. "State-supported terrorism . . . has become commonplace in many parts of the world."\(^\text{205}\) State support for terrorism will increase, allowing terrorist operations to become more effective, more sophisticated, and more destructive.\(^\text{206}\) The balancing of foreign policy interests with respect for territorial integrity is the goal of international diplomacy.\(^\text{207}\) A factor that plays a crucial role in tailoring a nation’s lawful response to abuses of diplomatic status by the sending nation is the protection of nationals residing in the state sponsoring the abusive diplomats.\(^\text{208}\)

It is believed the United Kingdom conceded to granting the Libyan People’s Bureau immunity in April 1984 to safeguard the eight thousand British nationals in Libya.\(^\text{209}\) A similar consideration prevented West Germany from implementing an effective response to counter Libyan terrorism. In April 1985, Qaddafi had a Libyan dissident assassinated in West Germany, precipitating the mere recall of the German Ambassador from Tripoli.\(^\text{210}\) This meaningless reaction was substantiated by West Germany’s fear for one thousand five hundred West Germans in Libya.\(^\text{211}\) The protection of nationals is a legitimate concern for a state; however, subjecting the local population to internal security sacrifices, especially for purely economic reasons, only promotes continued state-sponsored terrorism.

The United States example weakens the rationale for concessions based upon commercial personnel living abroad. After the United States severed diplomatic relations with Libya, numerous Americans have continued to reside in Libya.\(^\text{212}\) The Americans operate commercial enterprises valued by Qaddafi for technological assistance.\(^\text{213}\) The commercial personnel reside in "Special Interests Sections" and have gone unmolested by the government.\(^\text{214}\) Furthermore, private commercial enterprises that continue operations, once warned of potential danger, should not hold their nations hostage to terrorism.

\(^{204}\) Id. at 9.
\(^{205}\) Libyan Sponsored Terrorism: A Dilemma for Policy Makers, supra note 1, at 2 (statement of Dr. Yonah Alexander, Member of the Senior Research Staff for the Center for Strategic and International Studies at Georgetown University).
\(^{206}\) Id. at 3.
\(^{207}\) Goldberg, supra note 4, at 8.
\(^{208}\) Id.
\(^{209}\) Apple, supra note 16.
\(^{210}\) International Terrorism, supra note 1, at 2 (statement of the Chairman, Senator Thurmond).
\(^{211}\) Id.
\(^{212}\) Goldberg, supra note 4, at 5.
\(^{213}\) Id.
\(^{214}\) Id.
Weak punishment and inactivity by liberal democracies creates a low-risk atmosphere in which perpetrators freely engage in terrorism on the state's behalf. As a result of global inaction to counter terrorism, Qaddafi does not fear world reaction because the Libyan leader continues to violate international law by sponsoring terrorism.

Governments, other than the United States, have been reluctant to take positive actions to exert pressure upon Qaddafi. President Reagan has unilaterally moved to terminate remaining commercial and financial ties with Libya in response to the 1985 Rome and Vienna airport attacks. In addition to economic sanctions, the United States has taken legislative steps to prevent terrorists from escaping punishment. Two bills recently introduced in the United States Senate would criminalize terrorist acts. The Senate is also considering a bill authorizing the death penalty for first degree murder committed by a terrorist. Another Senate bill, currently in the Committee on the Judiciary, would permit United States prosecution of terrorists who attack Americans abroad.

A global approach is necessary to eradicate terrorism and eliminate further proliferation. To combat terrorism, international standards need to be formulated to condemn state-supported terrorism. An international framework could limit the increasingly frequent use of terroristic measures to gain political leverage. The international community's failure to label terrorism as criminal behavior and as low-intensity warfare directly contributes to the growth of terrorist activity. Criminalizing terrorism would eliminate any legitimacy terrorist groups might believe they operate under, thereby destroying the effect of terrorism. Furthermore, criminalization of terrorist acts would justify self-defense under international law.
International law recognizes that the use of force is permissible in self-defense.\textsuperscript{227} Article 51 of the United Nations Charter legally permits a nation to use force in self-defense against an armed attack.\textsuperscript{228} Forceful reprisals directed towards states sponsoring terrorist activity may fall within the meaning of armed attack under the United Nations Charter.\textsuperscript{229} However, the fear of escalation from armed reprisals could be one reason why terrorism remains a non-criminal activity under international law.

The United States Department of Justice disfavors criminal legislation containing the term terrorism.\textsuperscript{230} The Department believes basing legislative enactments upon the pivotal determination of political motivation in order to prosecute a terrorist could contain a sanctuary note for violence as acceptable human conduct.\textsuperscript{231}

\textbf{C. Failure of United Nations to Curb Terrorism}

Five multilateral conventions exist addressing specific terrorist acts.\textsuperscript{232} The existing international conventions, however, can only serve as a moral force against terrorism because they lack effective enforcement mechanisms.\textsuperscript{233} There exists no generally accepted definition of terrorism.\textsuperscript{234} Before any type of collective plans can be formulated to counter the proliferation of terrorism, a consensual defi-

\begin{footnotesize}

\textsuperscript{228}. R. BROWNLEE, INTERNATIONAL LAW AND THE USE OF FORCE BY STATES 265 (1963).

\textsuperscript{229}. The Foreign Relations Committee of the United States Senate set forth a more realistic interpretation of "armed attack" to describe Article 5 of the North Atlantic Treaty: Experience has shown that armed attack is ordinarily self-evident... it should be pointed out that the words 'armed attack' clearly do not mean an incident created by irresponsible groups or individuals, but rather an attack by one State upon another. Obviously, purely internal disorders or revolutions would not be considered 'armed attack' with the meaning of Article 5. However, if a revolution were aided and abetted by an outside power such assistance might possibly be considered an armed attack. Id. at 278 (emphasis added).

\textsuperscript{230}. International Terrorism, supra note 1, at 412 (prepared responses of the U.S. Department of Defense).

\textsuperscript{231}. Id.


\textsuperscript{233}. International Terrorism, supra note 1, at 320.

\textsuperscript{234}. Id. at 335.
\end{footnotesize}
nition must be established. A consensus on appropriate responses to terrorist activities would assist attacked nations in countering a terrorist crisis. At the present time, reactions to terrorism are ad hoc, often isolating the reactionary state from international support. Smaller coalitions would promote more cooperative measures to arrest the problem.²³⁶

The United Nations has been prevented from attempts to define terrorism as criminal behavior due to vehement Third World resistance.²³⁶ The Soviet Union has abstained from voting against terrorism at the United Nations.²³⁷ Moreover, the Soviet Union obstructs attempts to pass a comprehensive treaty addressing terrorism.²³⁸ The major impediment to a cooperative effort has not been the concept of terrorism as abridging international law, but vagueness as to the implementation, enforcement, and interpretation of the law once established.²³⁹ Specific exclusion of terrorist acts, undertaken on the state’s behalf, from the currently accepted political offense exception would increase the likelihood that international terrorists would be prosecuted and punished.²⁴⁰

The International Law Association consolidated its Committee on International Terrorism discussions to serve as a draft convention precursor.²⁴¹ Section 8 establishes that “[n]o State may afford support to a person or group engaged in or preparing to engage in acts of international terrorism.”²⁴² The explanatory note further clarifies that state sponsorship of terrorism violates basic international law in all instances.²⁴³ However, anti-terrorism instruments are ineffective because many signatories ignore the legal obligations and boundaries established by international conventions.²⁴⁴

VI. Conclusion

The 1984 murder of British Police Constable Yvonne Fletcher highlights the extensive abuses of diplomatic privileges and immunities by state-supported terrorists. The United Kingdom’s protection

²³⁵ Id. at 321.
²³⁶ Senate Subcommittee Report on State-Sponsored Terrorism, supra note 2, at 27.
²³⁷ Y. ALEXANDER, ON TERRORISM AND COMBATING TERRORISM 111 (A. Merari ed. 1985).
²³⁸ Id.
²³⁹ Senate Subcommittee Report on State-Sponsored Terrorism, supra note 2, at 28-29.
²⁴⁰ International Terrorism, supra note 1, at 358.
²⁴¹ The International Law Association Paris Conference, held in 1984, convened to formulate general definitions and to establish guidelines on the numerous aspects of international terrorism. Id. at 383 (International Law Association Paris Conference, Committee on International Terrorism Report).
²⁴² Id.
²⁴³ Id. at 388.
²⁴⁴ Senate Subcommittee Report on State-Sponsored Terrorism, supra note 2, at 8.
of the Libyan terrorists under the Vienna Convention on Diplomatic Relations contravenes the fundamental purposes of the Convention. Terrorists, masquerading as diplomats, should not be afforded immunity under a Convention that the state sponsoring the terrorists has systematically schemed to abuse. A state should not be permitted the freedom to use the diplomatic structure to promote illegal activity.

The Vienna Convention is the embodiment of customary international law on diplomatic relations and is designed to tailor the activities of representatives exchanged between nations. The Convention does not need to be amended to address the problem of state-sponsored terrorism since nonsignatory nations are equally bound as signatories because the Convention outlines customary international law. The Convention lacks a mechanism to effectively address the situation of state-sponsored terrorists functioning under diplomatic immunity. Therefore, the Vienna Convention on Diplomatic Relations should not become the legal standard binding nations subjected to terrorists operating within the diplomatic structure.

A nation threatened by terrorism must use other means to readdress terroristic behavior by persons conferred diplomatic status by the sponsoring state. The recent United Kingdom response to the Syrian Embassy involvement with a terrorist more appropriately addresses diplomatic abuses by nations sponsoring terrorism. The prison sentence given to the terrorist and the British government's curtailment of diplomatic relations with Syria places the responsibility and punishment for those responsible directly upon the source of the terrorism, the state promoting the terrorism by use of the diplomatic structure.

Jane Chace Sweeney

245. The Jordanian terrorist, Nezar Hindawi, attempted to blow up an El Al jet bound for Tel Aviv by using his pregnant fiancee, Anne Murphy, as a human bomb. Hindawi had placed a bag with plastic explosives in the suitcase of his Irish fiancee. When the bomb plot was discovered by security agents as Anne Murphy boarded the plane, Hindawi fled to the Syrian embassy. Serrill, Making the Syrian Connection, TIME, Nov. 3, 1986, at 39.

246. Nezar Hindawi was convicted by a criminal court jury and sentenced to forty-five years in prison, the stiffest sentence ever given by a British court. Id.
# APPENDIX

## CHRONOLOGY OF LIBYAN SUPPORT FOR TERRORISM
### 1979-85

<table>
<thead>
<tr>
<th>Year</th>
<th>Month</th>
<th>Location</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985</td>
<td>DECEMBER</td>
<td>Italy/Austria</td>
<td>Passports used by Abu Nidal terrorists in attack on El Al counter provided by Libya.</td>
</tr>
<tr>
<td></td>
<td>NOVEMBER</td>
<td>Malta</td>
<td>Hijacking of Egyptian airliner by Abu Nidal supporters may have involved Libyan support.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Egypt</td>
<td>Four-man team of Libyan agents arrested shortly before attempting to attack gathering of Libyan exiles. Former Libyan Prime Minister Bakoush was the main target.</td>
</tr>
<tr>
<td></td>
<td>OCTOBER</td>
<td>Greece</td>
<td>Libyan merchant wounded in Athens by two gunmen; the victim had left Libya 5 years earlier.</td>
</tr>
<tr>
<td></td>
<td>SEPTEMBER</td>
<td>Tunisia</td>
<td>Libyan diplomat smuggles about 100 letter bombs addressed to journalists into Tunisia. Several explode, injuring two postal workers and causing Tunisia to sever diplomatic relations.</td>
</tr>
<tr>
<td></td>
<td>MAY</td>
<td>United States</td>
<td>A Libyan diplomat at the United Nations was declared <em>persona non grata</em>, and 16 non-official Libyans were subpoenaed to appear before a U.S. grand jury in connection with a plot to kill dissidents in several different states.</td>
</tr>
<tr>
<td></td>
<td>APRIL</td>
<td>West Germany</td>
<td>Moroccan citizen, a resident in the F.R.G. since 1960, killed by a Libyan, who was arrested at the scene.</td>
</tr>
</tbody>
</table>
Anti-Qaddafi Libyan student killed in Bonn by Libyan gunman who was arrested. The assassin also wounded two German passersby, one seriously. The victim had been a target of the Libyan regime for at least 2 years.

Cyprus

Libyan businessman assassinated in downtown Nicosia by an unidentified gunman. The victim was the director of an offshore holding company and was believed to be an opponent of the Libyan regime.

MARCH Italy

Libyan jeweler murdered in his shop in Rome. A silencer equipped pistol was left at the scene by the assassin.

FEBRUARY Austria

Former Libyan Ambassador to Austria severely wounded by two shots fired from a car outside his home in Vienna. The victim had supported Qaddafi's seizure of power in 1969, but he quit his post in disgust at the regime in 1980.

1984

NOVEMBER Egypt

President Mubarak announces that four assassins sent to Egypt by Libya to kill former Libyan Prime Minister Bakoush had been arrested and forced to send fake pictures to the Libyan Embassy in Malta showing Bakoush apparently dead. Official Libyan press sources then claimed Bakoush had been executed by suicide squads sent abroad “to liquidate enemies of the revolution.”

SEPTEMBER Italy

A Libyan exile was found gagged and strangled in a hotel in Rome. The victim had been the subject of Libyan requests for deportation to Libya.
<table>
<thead>
<tr>
<th>Country</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chad</td>
<td>Chadians discover plot to assassinate President Habre with an attache case bomb. Evidence of the plot, including photographs of the bomb, was provided to the United Nations the following February when Chad lodged a complaint against Libya.</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>One of six Libyans awaiting trial for bomb attacks in London in March 1983 found shot to death in a London apartment. The victim may have been silenced by the Libyan Government.</td>
</tr>
<tr>
<td>Belgium</td>
<td>A bomb wrecks a car parked in front of the Zairian Embassy in Brussels.</td>
</tr>
<tr>
<td>Belgium</td>
<td>A bomb exploded in the Brussels office of Air Zaier.</td>
</tr>
<tr>
<td>Red Sea</td>
<td>Libya mined the Red Sea, damaging 18 merchant ships of varying nationalities.</td>
</tr>
<tr>
<td>Greece</td>
<td>Two Libyan students found murdered in their apartment in a crime reminiscent of Libyan killings of anti-Qaddafi students in 1980 and 1981. The two were beaten, strangled, and gagged before being shot twice in the back.</td>
</tr>
<tr>
<td>Greece</td>
<td>Anti-Qaddafi Libyan editor of an Arab newspaper in Athens killed by two men on a motorbike.</td>
</tr>
<tr>
<td>Libya</td>
<td>Jana, the official Libyan news agency, announces “the Libyan masses have decided to form suicide commandos to chase traitors and stray dogs wherever they are and liquidate them physically.”</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>A bomb hidden in an unclaimed suitcase probably unloaded from a Libyan airliner explodes at London’s Heathrow Airport, injuring 25.</td>
</tr>
</tbody>
</table>
Libya

A number of British subjects in Libya arrested on trumped-up charges as hostages in order to pressure British Government during siege of Libyan People's Bureau in London.

United Kingdom

British policewoman killed and 11 anti-Qaddafi demonstrators wounded by gunfire from London Libyan People's Bureau. After a siege, British authorities found weapons and spent shell casings in the vacated embassy.

MARCH

United Kingdom

Four bombs explode in London and Manchester near homes of Libyan exiles or at businesses frequented by them. Over 25 people injured. Three other bombs defused. Nine Libyan suspects arrested.

Sudan

One Libyan TU-22 bomber drops bombs on Omdurman, Sudan, site of a radio transmitter used by anti-Qadhafi oppositionists.

FEBRUARY

Libya

Following annual Libyan General People's Congress, the Libyan Revolutionary Committees announce that all Libyan exiles must return to Libya or face "the death penalty."

Congo

Chadian dissidents ready to negotiate with Government of Chad threatened in Brazzaville, Congo.

1983

AUGUST

Burkina

Libya gave material support to coup in Burkina.

JULY

Chad

Libya invaded Chad for the second time. Occupation continues into 1985.

JUNE

West Germany

Eight Libyan students in West Germany, all members of an anti-Qaddafi group, complain Libyan agents are harassing and threatening them.
<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FEBRUARY</strong></td>
<td><strong>Libya</strong></td>
<td>Libyan General People's Congress warns all Libyans in exile to return home or face the &quot;anger of the Libyan people.&quot;</td>
</tr>
<tr>
<td><strong>1982</strong></td>
<td><strong>NO KNOWN INCIDENTS</strong></td>
<td></td>
</tr>
<tr>
<td><strong>1981</strong></td>
<td><strong>NO KNOWN INCIDENTS</strong></td>
<td></td>
</tr>
<tr>
<td><strong>NOVEMBER</strong></td>
<td><strong>Sudan</strong></td>
<td>Several bombs explode near government installations in Khartoum.</td>
</tr>
<tr>
<td><strong>OCTOBER</strong></td>
<td><strong>Sudan</strong></td>
<td>Planned assassination of visiting Chadian official, Hissein Habre, failed when those sent to conduct the operation surrendered.</td>
</tr>
<tr>
<td><strong>Egypt</strong></td>
<td></td>
<td>Two bombs explode in luggage being unloaded from a plane coming from Libya via Malta.</td>
</tr>
<tr>
<td><strong>AUGUST</strong></td>
<td><strong>Libya</strong></td>
<td>Two Libyan SU-22s that fired at U.S. Navy F-14s over Gulf of Sidra shot down.</td>
</tr>
<tr>
<td><strong>JULY</strong></td>
<td><strong>United States</strong></td>
<td>Anti-Qaddafi Libyan student killed in Ogden, Utah.</td>
</tr>
<tr>
<td><strong>JUNE</strong></td>
<td><strong>Sudan</strong></td>
<td>Bomb explodes in front of Chadian embassy in Khartoum.</td>
</tr>
<tr>
<td><strong>FEBRUARY</strong></td>
<td><strong>Italy</strong></td>
<td>Libyan gunmen open fire on passengers arriving at Rome's airport on a flight from Algiers. Prominent anti-Qaddafi exile was the target.</td>
</tr>
<tr>
<td><strong>1980</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>NOVEMBER</strong></td>
<td><strong>United Kingdom</strong></td>
<td>Anti-Qaddafi Libyan student brutally murdered in London. Two children of an anti-Qaddafi Libyan poisoned by eating peanuts containing thalium.</td>
</tr>
<tr>
<td><strong>OCTOBER</strong></td>
<td><strong>Chad</strong></td>
<td>Libyan force occupied Chad. Qaddafi attempted to force a Libyan-Chadian union.</td>
</tr>
</tbody>
</table>
Libyan subversion in The Gambia caused break in relations. Senegalese troops intervene under a mutual defense treaty.

**JUNE**

**Italy**

Anti-Qaddafi exile wounded in Rome.

Libyan exile killed in Milan within hours after expiration of a deadline set by Qaddafi for all Libyan exiles to return home.

**MAY**

**Italy**

Libyan exile shot at in Rome. The arrested Libyan gunman says he was sent by Libya "to kill an enemy of the people."

**Greece**

Libyan exile killed in Athens. His throat was slit.

**Italy**

Libyan businessman found strangled to death in Rome.

**West Germany**

Libyan exile gunned down in Bonn.

**Italy**

Libyan exile killed in Rome by two gunshots to the head.

**APRIL**

**United Kingdom**

Libyan lawyer shot and killed in London.

**Italy**

Well-known Libyan businessman killed. The arrested assassin said the victim was an enemy of Col. Qaddafi.

**United Kingdom**

Two gunmen kill an anti-Qaddafi Libyan journalist.

**FEBRUARY**

**Libya**

Tunisian and French Embassies in Tripoli sacked and burned by a mob while Libyan authorities took no action.

1979

**DECEMBER**

**Libya**

An estimated 2,000 Libyans set fire to the U.S. Embassy in Tripoli. The Libyan authorities did not respond to requests by the Embassy for protection.
NOVEMBER  West Germany  Two Libyans arrested with three suspected Palestinians for an unspecified terrorist operation.
