

Abu Taher Salahuddin Ahmed

THE NATURE AND OUTCOME OF STATES' RESPONSE TO INTERNATIONAL TERRORISM

I. INTRODUCTION

Terrorism is defined as "systematic intimidation as a method of governing or securing political or other ends."¹ Terrorism, as the word suggests, is to put the victim(s) in a state of terror through the application of violence, be it explicit or implicit. It is neither a purposeless business conducted by a group of terrorists nor is it a function of mentally-derailed men; rather, it is also engineered by states² as a strategy of counterterrorism. In essence,

1. *Oxford Dictionary*, (Oxford University Press, London, 1961), p. 216. To define terrorism has become a thorny and insoluble problem for the students and experts of terrorism. There is no accepted standard single definition of terrorism. On this issue, see, especially, John Richard Thackrah, *Encyclopedia of Terrorism and Political Violence*, (Routledge and Kegan Paul, London and New York, 1987), pp. 53-64. It must be noted that terrorism has often been described as "mindless", "senseless", "irrational", violence. This is a sheer myopic statement and hence one should exercise cautious pragmatism when one deals with the concept, terrorism, for Brian Jenkins has cautiously argued that aside from "the action of a few authentic lunatics, terrorism is seldom mindless or irrational." See, Brian Jenkins, "International Terrorism : A Balance Sheet," in John D. Elliott. *et al* (eds.), *Contemporary Terrorism : Selected Readings*, (Maryland, USA, 1978), p. 235.
2. On this theme, see, James D. Sidaway, "State-Supported Terrorism : Libya and the American Response," in *Paradigms* (Vol. 3, No. 1, Autumn, 1989), pp. 38-46; N. S. Saksena, *Terrorism : History and Facets : In the World and in India*, (Abhinav Publications, New Delhi), 1985.

it is an instrument used by the states and the terrorists to reach a goal. Today, terrorism has become a growing concern for world community, for it poses a threat not only to the domestic political order of concerned states, but also to the international order.

Terrorism which is both a historical as well as a transnational phenomenon³ occurs nowadays almost in every state. Although nearly every state is vulnerable to this pressing menace, incidents of terrorism are more frequent in open societies than the closed ones. The primary cause behind the frequent incidents of terrorism in open societies is the easy access to arms to the terrorists. In Western Europe, Italy⁴, Spain⁵, Germany⁶, France⁷, have become the havens for acts of terrorism. By contrast, in the

3. See, John Richard Thackrah, *op. cit.*, pp. 99-101; and Edward Mickolus, "Transnational Terrorism," in Michael Stohl (ed.), *The Politics of Terrorism*, (Marcel Dekker, Inc., New York and Base, 1979), pp. 147-190.
4. On terrorism in Italy, see, Richard Drake, "The Red Brigades and the Italian Political Tradition," in Yonah Alexander and Kenneth A. Myers (eds.), *Terrorism in Europe*, (Croom Helm : London and Canberra, 1982), pp. 102-140; Alison Jamieson, "The Italian Experience," in H. H. Tucker (ed.), *Combating The Terrorists : Democratic Responses to Political Violence*, (Facts On File, New York and Oxford, 1988), pp. 113-154; Vittoriofranco S. Pisano, "The Red Brigades : A Challenge to Italian Democracy," in William Gutteridge (ed.), *Contemporary Terrorism* (Facts On File Publications, New York, New York, Oxford, England for the Institute for the Study of Conflict, 1986), pp. 167-198.
5. On terrorism in Spain, See, Peter Janke, "Spanish Separatism : ETA'S Threat to Basque Democracy," in William Gutteridge (ed.), *op. cit.*, pp. 135-166; Edward Moxon-Brown, "Terrorism and the Spanish State : The Violent Bid for Basque Autonomy," in H. H. Tucker (ed.), *op. cit.*, pp. 155-184; Jose A. Trevino, "Spain's Internal Security : The Basque Autonomous Police Force," in Yonah Alexander and Kenneth A. Myers (eds.), *op. cit.*, pp. 141-153.
6. On terrorism in Germany, see, Hans Josef Horchem, "West Germany's Red Army Anarchists," in William Gutteridge, (ed.), *op. cit.*, pp. 199-216; Schura Cook, "Germany : From Protest to Terrorism," in Yonah Alexander and Kenneth A. Myers (eds.), *op. cit.*, pp. 154-178.
7. On terrorism in France, see, Edward Moxon-Browne, "Terrorism in France," in William Gutteridge (ed.), *op. cit.*, pp. 111-134.

Third World, Latin America⁸, and the Middle East⁹ have become the pivotal centres for terrorism. According to one estimate,¹⁰ from 1969 to 1980, a total number of 12,690 incidents of terrorism were committed by the left and the right wing terrorist groups in Italy only where 362 people had been killed and 4,524 had been wounded. Another estimate¹¹ shows that during the period from 1969 to 1986 in Italy alone, a total of 14,589 acts of terrorism took place involving 415 deaths and 1,181 injuries. The same estimate points out that between 1969 to 1974, incidents of terrorism carried out in Italy were 4,384 of which 83 per cent were attributed to neo-fascist subversion.¹²

On the other hand, in Spain, from 1968 to mid 1980, a total of 2,812 acts of terrorism occurred involving 236 deaths.¹³ In the United States, between 1978 to 1987, the total number of acts of terrorism was 318 involving 29 deaths and 125 injuries.¹⁴ According to another study,¹⁵ from 1970 to 1981, some 3,851 domestic and international terrorist operations had occurred in Europe with a toll of some 1,464 individuals killed, 2,834 wounded and roughly US \$ 500 million worth of property damaged.

-
8. On terrorism in Latin America, see, John W. Sloan, "Political Terrorism in Latin America : A Critical Analysis," in Michael Stohl (ed.), *op. cit.*, pp. 301-322.
 9. On terrorism in the Middle East, see, Vaughn F. Bishop, "The Role of Political Terrorism in the Palestinian Resistance Movement," in Michael Stohl (ed.), *op. cit.*, pp. 323-350; Philp Windsor, "The Middle East and Terrorism," in Lawrence Freedman and *et al*, *Terrorism and International Order*, (Chatham House Special Paper, The Royal Institute of International Affairs, Routledge, 1989), pp. 26-36.
 10. Richard Drake, *op. cit.*, p. 102.
 11. Alison Jamieson, *op. cit.*, p. 114.
 12. *Ibid.*, p. 114.
 13. Peter Janke, *op. cit.*, p. 135.
 14. Samuel T. Francis, "Terrorism in the United States : Background and Prospects," in H. H. Tucker (ed.), *op. cit.*, p. 2.
 15. Yonah Alexander and Kenneth Myers, "Introduction," in Yonah Alexander and Kenneth Myers (eds.), *op. cit.*, p. 2.

A 1990 report¹⁶ which noted an upsurge of terrorism in the 1980s, points out that in 1985 alone almost 700 acts of terrorism took place worldwide, which included attacks in London, Paris, Rome, and Vienna. The same report shows that the figure rose to 832 in 1987 and to more than 1000 in 1988.¹⁷ Growth in the incidence and dimension of terrorism have, indeed, been so pervasive that in many cases these have challenged the very foundation of the modern society and state-system. The states, as the ultimate authority against which usually most of the terrorist acts are directed, are made to respond to these in various ways. The basic objective of such response is to protect the lives, properties and the overall socio-political structures, values, and institutions which are often at jeopardy because of the terrorist attacks. The other main objective is also to prevent such occurrences and their incidences by legal, political, diplomatic, and various other means.

The objective of this paper is to examine the type of states' response to terrorist attacks in the light of some particular cases. Attempt is also made to analyse the outcome of such responses, particularly in view of the notion that many of these often turn out to be acts of counterterrorism which, in turn, tend to further proliferate the incidences of terrorism. The focus is mainly on international terrorism. How do the states respond to acts of terrorism? Do the states respond individually? Or do they respond collectively? Are there any complications that arise out of the states' responses toward terrorism? What are the end-results of such responses? The paper is an attempt at answering these and related questions.

II. THE STATES' RESPONSES TOWARD INTERNATIONAL TERRORISM

States' responses toward international terrorism vary from case to case. In some cases, diplomacy may yield a result while in some

16. *The World Almanac And Book of Facts 1990*, (Newspaper Enterprise Association, Inc., New York, 1989), p. 36.

17. *Ibid.*, p. 36.

other cases it may not. Then states may apply economic sanctions as a mode of response. If economic sanctions fail to bring an effective outcome, then states may resort to use of force. It is difficult to prognosticate which type of response is likely to yield a satisfactory and desired outcome. Here an analysis has been made on both less coercive response, such as, diplomacy, and more coercive response, such as, economic sanctions, and military action.

a) Diplomacy

Diplomacy has been regarded as an important means of responding to international terrorism, which has shown its success on a number of occasions.¹⁸ In the wake of a series of hijacking incidents involving the United States and Cuban airplanes and vessels during the late 1950s and early 1960s, the United States and Cuba entered into negotiations (by diplomatic notes through third party) for their return. The particular focus was on an *Electra* airplane owned by Eastern Airlines that had been hijacked to Havana on July 24, 1961, and on a Cuban patrol vessel that had been hijacked to Key West. Diplomatic correspondence between the two governments indicated a willingness on both sides to release the airplane and patrol boat. The Cuban government also expressed a desire to adopt "the most effective measures to avoid in the future the repetition of acts of piracy and seizure of ships and airplanes."¹⁹

The outcome of these negotiations was the 1973 United States-Cuba Memorandum of Understanding on Hijacking of Aircraft and Vessels and Other Offenses. The memorandum provides that any person who hijacks an aircraft or vessel registered under the law of one party to the territory of the other party

18. See, John F. Murphy, *State Support of International Terrorism : Legal Political, and Economic. Dimensions*, (Westview Press, Boulders, San Francisco, Mansell Publishing Limited, London, 1989), p. 55.

19. As cited in Murphy, *op. cit.*, p. 56.

shall either be returned to the party of registry or "be brought before the courts of the party whose territory be reached for trial in conformity with its laws for the offense punishable by the most severe penalty according to the circumstances and seriousness of the acts to which the Article refers."²⁰ In 1976 the memorandum was denounced by Cuba on the ground that the United States had failed to control anti-Castro terrorists who had planted a bomb on a Cuban civilian aircraft. Nevertheless, the U.S.-Cuba memorandum could be cited as an instance of successful diplomacy in combatting international terrorism.

Another type of diplomatic response to international terrorism is the adoption of some common stance by a group of countries on a regional basis. Agreements to cooperate in combatting terrorism have been developed between states, such as, the Netherlands and Britain, Germany and other EC countries. In 1975, the Rome European Council decided to establish the "TREVI" system of consultation between concerned ministers of the member states to discuss matters related to combatting terrorism. The establishment of TREVI which derives from the French acronym for combatting Terrorism, Radicalism, Extremism, Violence and International Terrorism, was a very significant step by the European Community (EC) to combat terrorism. And accordingly, in June 1976, the governments of the EC agreed to put in operation a working programme for European TREVI.²¹ Subsequently, the scope of TREVI programme has been widely expanded upto inter-regional level of cooperation to include non-EC countries as well as the United States.

While strong collective measures have been taken by the EC countries along with other non-EC countries to combat terrorism

20. As quoted in *Ibid.*, p. 56.

21. Juliet Lodge, "The European Community and Terrorism," in H. H. Tucker (ed.), pp. 52-53.

regionally in the context of Europe, countries of South Asia are not altogether unaware of the very necessity of combatting terrorism in the context of their own region.

Countries of South Asian Association for Regional Cooperation (SAARC), Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Srilanka, jointly recognized the importance of addressing the issue of terrorism in the First SAARC Summit that was held in Dhaka in 1985. In the next year, following the Bangalore Summit Declaration of November 17, 1986, all member states of SAARC agreed to cooperate on issue of terrorism.²² It was during this period the theme : "Prevention of Terrorism" was included within the areas of cooperation among SAARC countries. Subsequently, all the member states signed a SAARC Convention on Prevention and Suppression of Terrorism during the Third Summit meeting of SAARC states held in Kathmandu in November 1987. The convention which included eleven articles²³ spelled out detailed possible procedures of how to combat terrorism regionally in the context of South Asia.

b) Economic sanctions

The Iranian hostage crisis was a "seminal" event in modern terrorism where economic sanctions were imposed by the United States on Iran. The event took place when the deposed Shah came to the United States to seek medical treatment in November 1979. The crisis²⁴ started when the militant students in Tehran occupied the US embassy and held 56 employees hostage. Even the

22. See, Iftekharuzzaman, *The SAARC In Progress : A Hesitant Course Of South Asian Transition*, BIIS Papers, No. 7, January 1988, Bangladesh Institute of International and Strategic Studies, Dhaka, pp. 90-91.

23. See, for details, Annexure-E : SAARC Regional Convention On Suppression Of Terrorism, in Iftekharuzzaman, *op. cit.*, pp. 91-96.

24. See, for details, *Fighting Terrorism : Negotiation or Retaliation : An Editorials On File Book*, Oliver Trager. (ed.), (Facts On File Publications, New York, New York, Oxford, England, 1986), pp. 3-21.

departure of Shah from the soil of America did not pacify the militants. When the event took a critical turn, America severed its diplomatic relations with Iran, banned American exports to Iran and ordered the ouster of Iranian diplomats from the United States. The break in relations called for immediate closing of the Iranian embassy in Washington and consulate office in five cities and for the departure of all Iranian diplomatic personnel. The US sanctions against Iran failed to receive uniform response even from Washington's allies. The European Community (EC) turned a deaf ear to President Carter's call for "concrete actions" against Iran.²⁵ The situation became more complicated when Japan, on April 11, 1980, endorsed the EC's decision.²⁶ The reluctance of the EC and Japan to support Carter's line of action was, of course, the result largely of their respective calculation as far as their own national interests were concerned.²⁷

Following the Iranian hostage crisis, the Reagan Administration had intensified such response. The Administration imposed sanctions on Libya, citing Libya's support for world terrorism.²⁸ On January 7, 1986, President Reagan announced the imposition of United States economic sanctions against Libya and ordered the 1,000 to 1,500 Americans remaining in Libya to leave

25. *Ibid.*, p. 8.

26. *Ibid.*, p. 8.

27. The *Des Moines Register* commented: "In announcing their intention . . . the Common Market's Foreign Ministers properly make explicit references to the United Nations. The Ministers said any sanctions taken would be imposed 'in accordance with Security Council Resolution on Iran of 10 January 1980, which was vetoed (by the Soviet Union on Jan. 13), and in accordance with the rules of international law.'" The *Des Moines Register*, De Moines, IA, April 25, 1980 as compiled in Oliver Trager (ed.), *op. cit.*, p. 10; *Winnipeg Free Press* commented: "Japan, worried about ten per cent of its oil supply that comes from Iran, had reluctantly decided to reduce its trade links, a row over gouging price increases has led to a suspension of Iranian oil imports to Japan," *Winnipeg Free Press*, Winnipeg, Man., April 26, 1980 as compiled in Oliver Trager (ed.), *op. cit.*, p. 18.

28. Oliver Trager (ed.), *op. cit.*, p. 97.

immediately.²⁹ The next day, the President followed up with another order freezing all Libyan assets in the United States.³⁰ Reagan's actions were in response to alleged Libyan support for international terrorism, in particular the December 27, 1985 attacks at the Rome and Vienna airports that left five American dead.³¹ By the same token, the United States tightened control on exports to Iran in 1984 and severed sanctions against Syria in November 1986 and June 1987.³²

However, the major multilateral step toward sanctioning supporters of terrorism has been taken with respect to the hijacking of civilian aircraft. On July 17, 1978, the seven³³ heads of state and government participating in the Bonn Economic Summit issued the Bonn Declaration on Hijacking.³⁴ On July 20, 1981, the first test of the Bonn Declaration came following the hijacking of a Pakistani International Airlines aircraft from Afghanistan. The hijacking took place during March 1981. After the incident the heads of seven summit countries agreed that the action of the Afghan regime "was and is a flagrant breach of its international obligations under the Hague Convention to which Afghanistan is a party and constitutes a serious threat to air safety."³⁵ Consequently, a proposal was made to "suspend all flights to and from Afghanistan in implementation of the Bonn Declaration unless Afghanistan immediately takes steps to comply with its obligations."³⁶ A call was further issued to "all states which

29. *Ibid.*, p. 106.

30. *Ibid.*

31. *Ibid.*

32. Murphy, *op. cit.*, p. 70.

33. Seven countries are Italy, Japan, Canada, France, Federal Republic of Germany, the United Kingdom, and the United States.

34. Murphy, *op. cit.*, p. 70.

35. As cited in Murphy, *op. cit.*, p. 71.

36. See, Chamberlain, "Collective Suspension of Air Services with States which Harbour Hijackers," as cited in Murphy, *op. cit.*, p. 71.

share their concern for air safety to take appropriate action to persuade Afghanistan to honour its obligations."³⁷

Following these decisions, the United States strongly advocated for an immediate application of the Bonn Declaration sanctions against Afghanistan. By contrast, three states—France, Federal Republic of Germany, and the United Kingdom could not favour an instant application of the Bonn Declaration sanctions because of two reasons. First, they were the three states among the seven through whose territories Ariana Afghan Airlines flew; second, all these three states had their bilateral air transit agreements with Afghanistan. Hence, they were not able to apply sanctions immediately, for doing so would amount to violation of the agreed terms and conditions of their bilateral air transit agreements with Afghanistan. As a result, they issued a year's advance notice to Afghanistan projecting their plain intention of terminating the air transit agreements.³⁸ And following this, on November 30, 1982, all three applied the Bonn Declaration sanctions against Afghanistan by suspending air traffic with Afghanistan.³⁹ The sanctions, however, remained effective till 1986 and then they were terminated.

Complications also arose about the proper application of the Bonn Declaration in connection with the South African case. The case began with the raid of the airport near Victoria, the capital of the Seychelles, on November 25, 1981. The raid was committed by a group of roughly fifty armed mercenaries in a coup bid. When the raid proved unsuccessful, the group escaped to South Africa in Durban by an Air India Jetliner which happened to have landed at the airport during the coup bid. Following the landing of the plane in Durban, all the passengers and crews were released unhurt. The forty four mercenaries who had taken over the plane

37. Department of State Bulletin, 16, 1981, as quoted in Murphy, *op. cit.*, p. 71.

38. Murphy, *op. cit.*, p. 71.

39. As referred in *Ibid.*, p. 71.

were sent to custody. Of the forty four, thirty nine mercenaries were surprisingly released without charge within a few days. However, the kidnapping charge was brought against the rest five, and later they were released on bail. No charges were framed relating to the hijacking itself. The United States government strongly protested, and requested "prompt and severe punishment" for the hijackers, and pointed out South Africa's obligations under the Hague Convention.

Later, the joint Anglo-American strong pressure on South Africa, however, compelled the latter (South Africa) to try the armed mercenaries in the court. After the trial, of the forty four, forty two mercenaries were found guilty and they were sentenced to jail accordingly. The Bonn Declaration was not applied any longer as a device of sanctions after the Afghanistan and South African cases.

Questions were raised when the Bonn Declaration was not applied to Lebanon for its failure to apprehend and extradite the hijackers of Trans World Airlines (TWA) flight 847. The incident began when two Lebanese Shiite Muslim gunmen on June 14, 1985 hijacked a TWA Jet that was carrying 153 passengers including 104 Americans, shortly after take off from Athens airport. Over the next two days, as the plane was forced to shuttle back and forth across the Mediterranean between Beirut and Algiers, one American passenger was killed and 100 others were freed by the hijackers. The slain passenger, who had been severely beaten before being shot and dumped from the plane, was identified on June 17 as Robert Stethem, 23, a US Navy steel worker and driver. Forty American men, including three crew members, remained hostage as of June 21, most of them having been moved from the plane to Shiite strongholds near Beirut airport.

Geoffrey Levitt has aptly narrated the problems that arose then: "...In the chaotic state of Lebanese politics, the local

'authorities'—those political and security forces with an ability to control and influence the situation at the site of the hijacking—were operating on the basis of a completely different set of assumptions from the typical government faced with such a problem. To these authorities, the hijacking was not a criminal security problem to be resolved as quickly as possible through the neutralization and/or apprehension of the hijackers and the safe release of hostages. Rather, it was above all a political opportunity to be exploited through alliance with the hijackers and partial adoption of their demands, while presenting to the rest of the world the picture of honest brokers and mediators trying to consider the interests of all 'sides'. Further complications arose from the fact that the chief demand of those in control of the TWA hostages was directed not against the U.S. government, whose nationals and flag aircraft had been seized, but against a third party, Israel."⁴⁰

The fact that the European allies had their reservations about America's response to the TWA flight hijacking was obvious.⁴¹ In any event, the example shows the presence of subjective considerations of states concerned even in their dealing with the menace of terrorism.

c) The Use of Military Force

The use of military force becomes imperative when all other means usually become exhausted. One can note two types of such responses. One type of response is carried out against the terrorist groups, and the another type of response is aimed at those states which sponsor terrorism. We shall take up four case studies; two cases shall be taken up to project the type of response carried out against the terrorist groups, and the other two shall be

40. As referred in *Ibid.*, p. 73.

41. See for details, Oliver Trager (ed.), *op. cit.*, p. 73.

taken up to analyse the type of response directed against states themselves.

i) The Israeli Military Operation at Entebbe, Uganda, on July 3, 1976.

The story of Israeli rescue operation at Entebbe, Uganda, began on June 27, 1976 with the control of an Air France Jet shortly after it took off from the Athens airport by a group of four terrorists, allegedly belonging to a splinter group of the Palestine Liberation Organization (PLO). After the group took over the plane, it ordered the pilot of the plane to take it to Benghazi, Libya for the purpose of refuelling and then directed the pilot to land it at Entebbe airport in Uganda, where they held the passengers of the plane as hostages for six days in a terminal not used by passengers. Shortly after the plane did land at Entebbe, the hijackers made a demand that 53 prisoners be released of which 14 were imprisoned in Israel, and the other 13 elsewhere. They issued a note of warning by saying that unless their demands were materialized by the Israeli government, the very fate of its citizens would be uncertain. Subsequently, between June 30, and July 1, 147 passengers—all non-Israelis who included children and women, were released and allowed to leave Entebbe, while the 96 Israelis were kept at Entebbe under the direct vigilance of the hijackers. The Israeli government soon went for the military option and launched a military raid on Entebbe in an attempt to rescue the Israeli hostages. On July 3, three planeloads of Israeli commandos made a surprise landing at the Entebbe airfield and within less than an hour were airborne with the remaining Israeli hostages. The casualty during the raid included killing of 3 hostages, 1 Israeli soldier, 20 Ugandan soldiers, and almost all of the hijackers. Other casualties included destruction of ten Ugandan aircrafts and damage of various parts of the airfield. In retaliation for the raid, Ugandan

soldiers reportedly killed one Israeli woman who was taken to a Ugandan hospital earlier in the week, and who had to be unfortunately left behind because of unavoidable circumstances. The rescue team arrived back with the Israeli hostages in Israel a week after their take off from Athens.

Five days after the raid on Entebbe, the Organization of African Unity (OAU) submitted a complaint to the United Nations Security Council charging "an act of aggression" by Israel against Uganda. The Foreign Minister of Uganda, Juma Oris Abdalla, and the representative of Mauritania, Monlaye El Hassen, speaking on behalf of the African group, argued that the Israeli raid constituted aggression under article 2(4) of the United Nations Charter because it had violated the territorial sovereignty and political independence of a member of the UN.⁴²

In response, the Israeli ambassador to the UN, Chaim Herzog, refuted Uganda's version of the facts, repeatedly emphasizing evidence of Uganda's collaboration with the hijackers and of the imminent dangers to the Israeli hostages. Herzog defended the raid at Entebbe under principles of international law and contended that Uganda had violated a basic principle of customary international law by failing to protect foreign nationals on its territory. He further argued that Uganda's action constituted a "gross violation" of the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which both Israel and Uganda had signed and ratified. According to him, Uganda had violated the articles 6, 7, and 9 of the Hague Convention.⁴³

Herzog further contended that Israeli raid did not violate article 2(4) of the UN Charter because that provision does not "prohibit a use of force which is limited in intention and effect to

42. See, Murphy, *op. cit.*, p. 87.

43. For study of the articles, see, Murphy, *op. cit.*, pp. 87-88.

the protection of a state's own integrity and its nationals' vital interests, when the machinery envisaged by the United Nations Charter is ineffective in the situation."⁴⁴ He invoked the right of a state under the doctrine of self-defense to take military action to protect its nationals in mortal danger provided such action is limited to cases that present no other means to protect threatened nationals and secure their safe removal. However, after four days of debate, the Security Council failed to take any formal action about the incident.

ii) The US Rescue Attempt in the Iranian Hostage Crisis on April 24, 1980

On April 24, 1980, the US launched an airborne attempt to free the American hostages in Tehran, but the mission was called off after one of the helicopters involved in the operation developed engine trouble in a staging area in the Iranian desert. Eight Americans were reported to be killed and several injured in the collision of two planes during the subsequent withdrawal of the US force.⁴⁵

The US rescue attempt occurred five months after the seizure of the US embassy in Tehran and many efforts were undertaken by the United Nations as well as through other various intermediaries in order to secure release of the hostages. The International Court of Justice (ICJ) had issued an interim order demanding their release.⁴⁶ And, at the time of rescue attempt, the ICJ's decision on the merits was still pending.⁴⁷ Was the US justified in using the military force to rescue the hostages? In Schachter's words : "The conclusion, therefore, is that regardless of whether or not the hostages were actually in extreme danger, the

44. As cited in *Ibid.*, p. 71.

45. For details, see, Oliver Trager (ed.), *op. cit.*, p. 16.

46. As mentioned in Murphy, *op. cit.*, p. 97.

47. *Ibid.*, p. 97.

conditions were such as to lead the U.S. government to believe that they were. Faced with this fact and the not unrealistic conclusions at the time that peaceful means offered no promise of release, the United States had reasonable grounds to consider a military action as necessary to effect a rescue. On these premises, the action taken did not violate the Charter or international law. Whether or not the rescue action was wise in a political and military sense is of course a different matter."⁴⁸

The US application of military force in rescuing the American nationals in the wake of Iranian hostage crisis may have been justified on two grounds. First, the US took both diplomatic and economic measures to rescue the American nationals, which, however was not successful. Second, according to the article 2(4) of the UN Charter the US has the legal right to use military force in order to save the American nationals. A third ground can still be established in favour of the US. This is, an indefinite imprisonment of a state's nationals should be regarded as a continuing armed attack, which automatically establishes the right for a state to use force under article 51 of the UN Charter.

iii) The US Bombing Raid Against Libya on April 15, 1986

The bombing raid against Libya by the US on April 15, 1986, constitutes even till today as the only direct assault launched by a state against another state as an allegedly anti-terrorist measure.

The bombing raid incident can briefly be narrated as follows. After a period of mounting tension between Libya and the United States, during which the US Administration repeatedly accused Libya for supporting international terrorism, US aircrafts on April 15, 1986, conducted bombing raids on targets in Tripoli,

48. See, Schachter, "Self-Help in International Law : US Action in the Iranian Hostages Crisis," *Journal of International Affairs*, 1984, p. 231, as cited in Murphy, *op. cit.*, p. 98.

the Libyan capital, and Benghazi, its second city. The three targets attacked in Tripoli by the F-111s were (i) the El Azziziya barracks compound, which included Col. Qadhafi's home and headquarters. (ii) the Sidi Bilal port, described by the US as a "training site for terrorists" and (iii) military installations at Tripoli airport. Raids on El Azziziya barracks injured Col. Qadhafi's wife and two of his sons and killed his adopted baby daughter. Although US officials stated publicly that the raid had not been intended to kill the Libyan leader, they acknowledged privately that his death would have been a welcome consequence of the action. The raid, however, resulted in about 100 fatal casualties in Tripoli and about 30 in Benghazi.⁴⁹

After the bombing raids against Libya took place, The *Evening Gazette* commented: "Having promised to retaliate if evidence of anti-American terrorism by Moammar Qadhafy was established, the United States had no choice but to carry out the threat. The alternative would have been to show America as a muscle bound giant—all talk and no action. The appearance of such weakness would only encourage more terrorism."⁵⁰

By contrast, the raids drew widespread condemnation from Arab, socialist, and Third World countries, and were also criticized by many Western governments. A Soviet statement on April 15, condemned the raid as "a brutal violation of international law."⁵¹ The statement added that "the Soviet leadership has warned that such actions cannot but affect relations between the Soviet Union and the USA. Unfortunately, . . . this warning was not heeded by Washington. In effect, the US administration itself has made

49. For details see, *Keesing's Contemporary Archives : Record of World Events* (Vol. XXXII, No. 1), Longman, London, 1986, p. 34456; Oliver Trager (ed.), *op. cit.*, p. 112; and James D. Sidaway, *op. cit.*, pp. 38-46.

50. The *Evening Gazette*, Worcester, MA, April 15, 1986 as compiled in Oliver Trager (ed.), *op. cit.*, p. 112.

51. *Keesing's Contemporary Archives* (1986), *op. cit.*, p. 34459.

impossible at this stage the planned meeting on the level of ministers of foreign affairs of our two countries."⁵²

However, President Reagan justified the US bombing raid against Libya as an act of "self-defense" against terrorism. Referring to the raid, the President said: "Today we have done what we had to do. If necessary, we shall do it again For us to ignore, by inaction, the slaughter of American civilians and American soldiers . . . is simply not in the American tradition Self-defence is the purpose behind the mission undertaken tonight, a mission fully consistent with Article 51 of the UN Charter. . . . This pre-emptive action . . . will not only diminish Col. Qadhafi's capacity to export terror, it will provide him with incentives and reasons to change his criminal behaviour We tried quite diplomacy, public condemnation, economic sanctions and demonstrations of military force. None succeeded" ⁵³

On the other hand, it was argued by many observers that a bombing raid against the territory of a state constituted a *prima facie* violation of article 2(4) of the UN Charter. The allegation made by Seymour Hersh, in the *New York Times Magazine*, was that the intent of the Reagan Administration in the bombing of Libya was to kill Muammar Qadhafi.⁵⁴ Moreover, assassination of a state's leader undertaken at the direction of another state clearly violates a number of international law, norms, and doctrines.⁵⁵

Two issues are pertinent here. The *first* one is concerned with the way the attack was carried out. According to US official statements, only military facilities and terrorist training camps

52. As cited in *Ibid.*, p. 34459.

53. *Ibid.*, p. 34459.

54. The *New York Times Magazine*, February 22, 1987, as referred in Murphy, *op. cit.*, p. 106.

55. *Ibid.*, p. 106.

were targeted, nonetheless the fact remains that the bombing resulted in the destruction of civilian residence and loss of civilian lives including the adopted baby daughter of Qadhafi. And, the *second* one concerns the question whether the US had fulfilled its obligations under the UN Charter to exhaust all means for the peaceful resolution of disputes. It is difficult to provide a clear answer to the second question. In the four months prior to attack, the US took a number of both diplomatic and economic measures to settle the score with Libya in connection with its support for world terrorism. Nevertheless, the way the attack was launched was a clear manifestation of an *a priori* US intention of punishing an unpredictable Third World leader. In case of Libya too, Washington's allies, of course, with a few exceptions, refused⁵⁶ to join the United States in peaceful retaliation against Libya for its alleged support for world terrorism.

iv) Interception of the Egyptian Airliner, Boeing 737 by the US on October 10, 1985

On October 7, 1985, an Italian cruise ship *Achille Lauro* with more than 400 passengers and crew was hijacked by four Palestinian terrorists who demanded that Israel free 50 Palestinian prisoners. The terrorists warned that they would blow up the ship if a rescue mission was attempted. On October 8, the hijackers shot and brutally killed a disabled, 69-year-old New York City resident, named Leon Klinghoffer, and then dumped his body overboard along with his armchair. On October 9, the ship anchored in Port Said where the hijackers surrendered after

56. The *Evening Gazette* reflected Washington's allies' reluctant mood to join with the US thus : "President Reagan said the raid gives him no pleasure. Indeed no responsible individual likes to see destruction and casualties. Quiet diplomacy or economic boycott would have been much preferable to bombs. Unfortunately, not all of our European allies were willing to join us in peaceful retaliation. The United States has tried everything to avoid force, " . . . The *Evening Gazette*, Worcester MA, April 15, 1986, as compiled in Oliver Trager (ed.), *op. cit.*, p. 112.

negotiations with two Palestinian Liberation Organization (PLO) officials—Hani el-Hassan, an Arafat Adviser, and Mohammed Abdul Abbas, leader of the pro-Arafat faction of the Palestine Liberation Front (PLF)—and the ambassadors of Italy and West Germany. However, when the terrorists were released they did not turn over to the appropriate Egyptian authorities for prosecution. Instead of that, on October 10, an Egyptian Boeing 737 took off carrying the four hijackers, the ten Palestinian negotiators and armed Egyptian security men. On the order of President Reagan, four US Navy F-14 fighter aircrafts intercepted the Egyptian Jet and forced to land it at the Sinonella, North Atlantic Treaty Organization's air base in Sicily.

The US action in intercepting the Egyptian aircraft was praised by Israel and by the United Kingdom but criticized by many Arab states. It provoked further anti-American demonstrations throughout the Arab world. President Mubarak of Egypt called it an act of "piracy", although some observers suggested that the Egyptian pilot had colluded with the interception. The Soviet official news agency *Tass* commented that while US anger at the death of Mr. Klinghoffer was "understandable" and "just" it had shown "double standards" in its act of interception.⁵⁷ However, the trial of the four hijackers, together with a Syrian alleged to be their accomplice, on charges of illegal possession of arms and explosives, took place in Genoa, Italy, the *Achille Lauro's* home port, on November 18, 1985. On October 19, the state prosecutor announced that a total of 16 people had been charged with further offences, including kidnappings and the murder of Mr. Klinghoffer. The 16 included the five already convicted, another two who had been arrested following the hijacking, and nine others (reportedly including Mr. Abbas) whose whereabouts were unknown.⁵⁸

57. *Keesing's Contemporary Archives : Record of World Events* (Vol. XXXI, No. 1) Longman, London, 1985, pp. 34077-34079.

58. *Ibid.*, p. 34078.

As far as the justification of the interception of the Egyptian plane by the US is concerned, it did not offer any legal basis for its act. The following points are, however, important here. *First*, it is clear that the force that was applied by the US was not committed against Egyptian territory. *Second*, force was resorted to in order to ensure that the terrorists could not escape. *Third*, the US adopted the extreme measures because Egypt instead of showing willingness⁵⁹ to extradite or prosecute the terrorists had become a party to their attempt to escape. *Fourth*, Italy displayed its reluctance to get entangled with the issue and projected an attitude as if the issue was the lone concern of Washington. *Fifth*, domestic public opinion of America was in favour of President Reagan. It should be noted that Jimmy Carter had to lose his presidency in the wake of his inept handling of the Iranian hostage crisis. President-elect Ronald Reagan did not want to follow the footsteps of Carter.

III. CONCLUDING OBSERVATION

Analysis made in this paper has examined three main types of states' response toward international terrorism ranging from diplomacy to economic sanctions and military actions. It shows that states neither follow any given format of response nor any particular established norms to combat terrorism. It appears that states mainly hinge on three approaches to fight terrorism: a) *individual*, b) *bilateral* and c) *multilateral*. It further appears that the nature and the type of incidence of terrorism determine the nature and the type of states' responses. For instance, in the cases of the

59. Egypt and Italy as well were unwilling to join the US as laconically reflected in the *Post-Tribune* which asserts: ". . . Another reality is that America's relations with Italy and Egypt are strained because of the events—an acceptable price to pay for doing what is right, but still no small matter . . . Leaders of Egypt and Italy both tried to dodge responsibility and stay free of involvement, and both were dead wrong. Their explanations are mushy pieces of diplomatic doubletalk." . . . The *Post Tribune*, Gary, IN, October 15, 1985 as compiled in Oliver Trager (ed.), *op. cit.*, p. 87.

Israeli rescue attempt at Entebbe, Uganda, and the interception of the Egyptian Airliner, Boeing 737 by the US both Israel and the United States directly resorted to military actions. On the other hand, in the cases of the US rescue attempt in the Iranian hostage crisis and the US bombing raids against Libya the United States did not immediately resort to use of military force, rather, it first applied both diplomacy and economic sanctions and then it resorted to military force. The use of military force is, however, not a solution to eradicate terrorism. Rather, it strains relations among concerned states and raises a set of legal complications.

Our analysis further reveals that states sometimes try to respond collectively, as in case of international and regional conventions for combatting terrorism. Collective response is likely to be most effective in facing this growing menace, particularly at global level. But as experience has shown such collective efforts often run into complications due to divergences of opinion, differences of perception, lack of commonality of national interest, and gap of attitude of the concerned states. Despite such limitations, collective approach to this pressing problem appears to be potentially more effective than individual ones. Unilateral action may often tend to be counterproductive in an action-reaction process of further proliferation of terrorism while greater degree of international understanding, cooperation and a shared approach may be effective not only in handling the acts of terrorism, but also in preventing the occurrences of such incidents. Terrorism is not only a political problem but also moral and social one. It is indeed like a disease, and it can be fought more effectively by eradicating its roots than its syndromes.