

CHAPTER 19

INTERNATIONALLY PROTECTED PERSONS

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CHAPTER 19

INTERNATIONALLY PROTECTED PERSONS

An Act to provide for the prevention and punishment of crimes against internationally protected persons and related matters. 1980—22.

[10th November 1980] S.I. 1980/
163.
Commence-
ment.

1. This Act may be cited as the *Internationally Protected Persons Act*. Short title.

2. For the purposes of this Act,

Definitions.

“head of state” includes

- (a) any member of a collegial body performing the functions of a head of state under the constitution of the state concerned;
- (b) any head of a government of a state; and
- (c) a minister of foreign affairs of a government of a state;

“international organisation” means an international organisation of a governmental character;

“internationally protected person” means

- (a) a head of state whenever he is in a state other than the one in which he holds that position or office;
- (b) a member of the family of a person described in paragraph (a) who accompanies him in a state other than the one in which he is a head of state;
- (c) a representative or official of a state or an official or agent of an international organisation who, at a time when and

at the place where an act referred to in section 3(2) or an offence under section 4 or 5 is committed against his person or upon his official premises, private accommodation or means of transport, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity; or

- (d) a member of the family of a representative official or agent described in paragraph (c) who forms part of his household if, at the time when and at the place where an offence mentioned in that paragraph is committed against the member of his family or any property referred to in that paragraph that is used by the member of his family, the representative, official or agent is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity;

“Minister” means the Minister responsible for Foreign Affairs.

Act committed against internationally protected person.

3. (1) Any person who, outside Barbados, commits against the person of an internationally protected person or against any property used by him an act that would be an offence if committed in Barbados, shall be deemed to commit that act in Barbados if

- (a) the act is committed on a ship registered in Barbados;
- (b) the act is committed on
- (i) an aircraft registered in Barbados, or
 - (ii) an aircraft leased without crew and operated by a person qualified to operate an aircraft in Barbados; or
- (c) the person who commits the act is a citizen of Barbados or is subsequently found in Barbados.

(2) This section applies in respect of an act that would, if committed in Barbados be an offence under

Cap. 141.

- (a) section 2, 8, 9, 12, 13, 17 or 40 of the *Offences against the Person Act*; or

Cap. 149.

- (b) section 3, 4, (in so far as it relates to a house or office) or 11 of the *Malicious Injury to Property Act*.

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4. (1) Any person who commits an attack on the person of an internationally protected person in a manner likely to endanger his life or liberty is guilty of an offence and is liable on conviction on indictment to imprisonment for life and, if such attack results in the death of the internationally protected person, is liable to such punishment as may be imposed for that offence under the law of Barbados.

Attacks on person, premises etc.

(2) Any person who commits an attack on the official premises, private accommodation or means of transport, of an internationally protected person that is likely to endanger the life or liberty of the internationally protected person is guilty of an offence and is liable on conviction on indictment to imprisonment for a term of 2 years.

5. (1) A person who, while in Barbados commits any act amounting to an offence of conspiracy or incitement to commit, in a place outside Barbados, an offence mentioned in section 4, is triable in Barbados in respect of such incitement or conspiracy, as the case may be.

Conspiracy and incitement.

(2) An offence of conspiracy or incitement referred to in subsection (1) is triable on indictment and is punishable in like manner as if the offence had been in fact committed.

6. Any person who threatens to commit an offence against an internationally protected person is guilty of an offence and is liable on conviction on indictment to a fine of \$10,000 or imprisonment for a term of 2 years.

Threatened offences.

7. Where a person commits an act referred to in section 3, he is triable and punishable by a court in Barbados if he is found in Barbados.

Jurisdiction.

8. Where, as a result of committing an act referred to in section 3, a person has been tried and convicted or acquitted outside Barbados in respect of that act, he shall be deemed to have been tried and convicted or acquitted, as the case may be, in Barbados.

Autrefois convict or acquit.

9. Where, in any proceedings under this act, a question arises as to whether a person is a person entitled pursuant to international law to special protection from an attack on his

Evidence.

person, freedom or dignity, a certificate issued by or under the authority of the Minister that contains a statement of fact relevant to that question is admissible in evidence in the proceedings; and, in the absence of evidence to the contrary, is proof of the statements contained in the certificate.

Consent of
Director of
Public Prosecutions.

10. Subject to section 79 of the *Constitution*, no prosecution under this Act may be instituted without the consent of the Director of Public Prosecutions.

Arrest without warrant.

11. A person who commits an act referred to in section 3 or an offence under section 4 or 5 may be arrested without a warrant by a member of the Police Force.

Notification of foreign State or international organisation.

12. Where a person who commits an act referred to in section 3 is found in Barbados, the Minister must take all reasonable steps to inform

- (a) the state where the offence was committed;
- (b) the state of which that person is a national, or if that person is stateless, the state in which he permanently resides;
- (c) any state that has an interest in the prosecution of that person; and
- (d) the international organisation, if any, of which the internationally protected person is an official or agent, that that person has been found in Barbados.

Saving.

13. Nothing in this Act affects any remedy available at Common Law against a person who commits an offence under section 4.

Recovery of damages.

14. Where the Government of Barbados reimburses the government of another state for any loss of or damage done to property of that state that is situated in Barbados and the loss or damage is the result of an act committed by a citizen of Barbados, a permanent resident or an immigrant within the

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meaning of the *Immigration Act*, the amount of expense that the Government of Barbados has incurred in reimbursing that other state is recoverable from the person who committed the act as a debt due to the Crown. Cap. 190.

15. A person who, having the status of permanent resident, permitted entrant or immigrant within the meaning of those expressions in the *Immigration Act*, commits an act referred to in section 3 or an offence under section 4 or 5 is liable, in addition to any punishment that is imposed on him, Loss of status in certain cases.
Cap. 190.

(a) to have his status revoked and to be deported from Barbados if he is present in Barbados; or

(b) if he is not present in Barbados, to have his status revoked and to be declared a *persona non grata*.

16. (1) Where a Commonwealth Country has not been designated under the *Extradition Act*, as a Commonwealth Country to which Part I of that Act applies, the Commonwealth Country shall, nevertheless, be deemed to be a designated Commonwealth Country for the purpose of extradition proceedings under that Act in respect of an act referred to in section 3 of this Act or any offence under section 4 or 5 of this Act. Extradition.
Cap. 189.

(2) Where no extradition treaty within the meaning of the *Extradition Act*, exists between Barbados and a foreign state, the foreign state shall, nevertheless, be deemed, for the purpose of extradition proceedings under that Act in respect of an act referred to in section 3 of this Act or any offence under section 4 or 5 of this Act, to be a foreign state to which Part I of that Act applies. Cap. 189.

17. This Act is remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of the purposes of the Convention the text of which is contained in the *Schedule*. Proposes and construction.
Schedule.

SCHEDULE

(Section 18)

**CONVENTION ON THE PREVENTION AND PUNISHMENT OF
CRIMES AGAINST INTERNATIONALLY PROTECTED
PERSONS, INCLUDING DIPLOMATIC AGENTS***The General Assembly*

Considering that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Recalling that in response to the request made in General Assembly resolution 2780 (XXVI) of 3 December 1971, the International Law Commission, at its twenty-fourth session, studied the question of the protection and inviolability of diplomatic agents and other persons entitled to special protection under international law and prepared draft articles on the prevention and punishment of crimes against such persons,

Having considered the draft articles and also the comments and observations thereon submitted by States, specialized agencies and other intergovernmental organizations in response to the invitation extended by the General Assembly in its resolution 2926 (XXVII) of 28 November 1972,

Convinced of the importance of securing international agreement on appropriate and effective measures for the prevention and punishment of crimes against diplomatic agents and other internationally protected persons in view of the serious threat to the maintenance and promotion of friendly relations and co-operation among States created by the commission of such crimes,

Having elaborated for that purpose the provisions contained in the Convention annexed hereto,

1. *Adopts* the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, annexed to the present resolution;

2. *Re-emphasizes* the great importance of the rules of international law concerning the inviolability of and special protection to be afforded to internationally protected persons and the obligations of States in relation thereto;

3. *Considers* that the annexed Convention will enable States to carry out their obligations more effectively;

4. *Recognizes* also that the provisions of the annexed Convention could not in any way prejudice the exercise of the legitimate right to self-determination

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and independence, in accordance with the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and *apartheid*:

5. *Invites* States to become parties to the annexed Convention;
6. *Decides* that the present resolution, whose provisions are related to the annexed Convention, shall always be published together with it.

ANNEX

CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and co-operation among States,

Considering that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for co-operation among States,

Believing that the commission of such crimes is a matter of grave concern to the international community,

Convinced that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "Internationally protected person" means:

- (a) A Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) Any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household.

2. "Alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in Article 2.

Article 2

1. The international commission of:

(a) A murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) A violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;

(c) A threat to commit any such attack;

(d) An attempt to commit any such attack; and

(e) An act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this Article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

Article 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in Article 2 in the following cases:

(a) When the crime is committed in the territory of that state or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the crime is committed against an internationally protected person as defined in Article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

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2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 4

States Parties shall co-operate in the prevention of the crimes set forth in Article 2, particularly by:

- (a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;
- (b) Exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

Article 5

1. The State Party in which any of the crimes set forth in Article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set forth in Article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

Article 6

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

- (a) The State where the crime was committed;
 - (b) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;
 - (c) The State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;
 - (d) All other States concerned; and
 - (e) The international organization of which the internationally protected person concerned is an official or an agent.
2. Any person regarding whom the measures referred to in paragraph 1 of this Article are being taken shall be entitled:
- (a) To communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and
 - (b) To be visited by a representative of that State.

Article 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 8

1. To the extent that the crimes set forth in Article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences

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between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of Article 3.

Article 9

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in Article 2 shall be guaranteed fair treatment at all stages of the proceedings.

Article 10

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in Article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this Article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 11

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 12

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

Article 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable

to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this Article. The other States Parties shall not be bound by paragraph 1 of this Article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this Article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 14

This Convention shall be open for signature by all States, until 31 December 1974 at United Nations Headquarters in New York.

Article 15

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 16

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 17

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 18

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

Article 19

The Secretary-General of the United Nations shall inform all States, *inter alia*:

- (a) Of signatures to this Convention, of the deposit of instruments of ratification or accession in accordance with Articles 14, 15 and 16 and of notifications made under Article 18;
- (b) Of the date on which this Convention will enter into force in accordance with Article 17.

Article 20

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.