

THE ISRAELIS IN ENTEBBE – RESCUE OR AGGRESSION?

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1. INTRODUCTION

The daring activities of Israeli troops in Entebbe Airport over a period of 90 minutes during the night of 3–4 July 1976 was characterised by the Ugandan Foreign Minister, speaking at the United Nations Security Council, as “aggression of Zionist Israel against the sovereignty and territorial integrity of Uganda¹.” The representative for Somalia described the Israeli action as a “naked act of aggression”². On the other hand, the Israeli Ambassador to the U. N. maintained that Israel had both a right and a duty to do what it did. He argued that Israel was motivated exclusively by “humanitarian consideration” and that the weight of International Law and precedence were on the side of Israel³. *Newsweek Magazine* of 19 July 1976 described it as a brilliant mission accomplished. These two kinds of views, in general, represent, on the one hand that of the supporters, and on the other hand, the opponents of Israel.

2. THE FACTUAL SITUATION

Let us, first of all, recount the events. An Air France Jumbo Jet with 256 passengers and 12 crew, Flight 139, was on 27 June 1976 flying from Tel Aviv to Paris and made a stop-over in Athens. There, it was boarded by a team of 4 Palestinian Liberation Organisation sympathisers – a German man and woman and two Arabs. Five minutes after the take-off from Athens, the plane was taken over by the group which ordered a change in the flight course. The plane landed in Benghazi in Libya where it released an English pregnant woman threatened with premature delivery. Having refuelled, the next stop was Entebbe in Uganda where the hostages were to spend the next six days. Shortly after the plane landed, President Idi Amin appeared and spoke to the hostages. He undertook, along with the Somali Ambassador, the most senior Arab diplomat in Kampala, to act as go-between for the hijackers and Israel. On the 29th June, the hijackers announced their demands and these were the release of their supporters held in prisons in several places, 40 of them in Israel, 6 in West Germany, 5 in Kenya, 1 in Switzerland and 1 in France. They threatened to blow up the plane and the hostages if the prisoners were not released by 2 p.m. on 1 July, 1976⁴. Three Palestinians had on 18 January, 1976, tried to shoot down an El Al (Israeli) plane about to land in Nairobi but were arrested by Kenyan security agents. A few days later, two Germans

1 UN Doc. S/PV 1939 of 9 July 1976.

2 *Ibid.*

3 *Ibid.* The statement of the Israeli Delegate, but not that of the Ugandan is reported, in *International Legal Materials* (1976), Vol. XV, p. 1228–1231. See also D. J. Harris, *Cases and Materials on International Law*, p. 683–687.

4 Details of their demands were as follows: First: all the fifty-three persons named in the list were to be flown by special plane to Entebbe, and this craft would be used to fly out the hijackers. Second: Air France to be responsible for flying to Entebbe those who were jailed in Israel. It would have to check that the freed prisoners were actually on the plane together with the aircrew, and no one else. Third: the other countries would have to make their own arrangements to fly the released terrorists for Uganda. Fourth: the representative of the popular Front for the Liberation of Palestine in the talks with the French Government would be Hashi Abdallah, Somali Ambassador in Kampala. The hijackers were not prepared to recognise anyone else except him. Fifth: France must appoint a special envoy to conduct negotiations with the hijackers. See Yehuda Ofer, *Operation Thunder: The Entebbe Raid*, 1976, p. 28.

believed to belong to the terrorist group arrived in Nairobi and were arrested. The five were imprisoned in Nairobi and were allowed to be interrogated by Israeli agents.

The hijackers were reinforced in Entebbe by about 6 Palestinians who also took their turn in guarding the hostages and their weapons were replenished by Uganda. Forty-seven non-Israeli hostages were subsequently released. Meanwhile, Israel worked on two options: the diplomatic and the military. A crisis management committee of 5 ministers and the chief of staff was set up to coordinate the double-edged policy. An official Israeli statement feigned a willingness to release the Israeli-held prisoners. Various studies were conducted, one of this was a study of the Ugandan President in an effort to forecast what he was likely to do in the circumstances. Israelis who had worked in Uganda played an important part. Israeli officers who had taken part in training the Ugandan Airforce, the Israeli construction company-Sole Boneh-which had built the Entebbe Airport, the French Direction de la Surveillance du Territoire (DST), the British Scotland Yard, the American CIA and FBI and the Canadian Royal Mounted Police, fed the Israelis with information. Aerial photographs of Entebbe Airport obtained from satellite and from a reconnaissance plane were supplied by the U.S. One Colonel Baruch Bar-Lav, former Chief of Israeli mission in Uganda and an intimate friend of President Idi Amin, a shop-keeper in Israel, was detailed to be speaking to Amin over the telephone and gauge his feelings.

The idea that General Mosha Dayan might visit President Amin was even considered for his name had been mentioned in the Bar-Lev-Amin telephone conversations. There was, however, the fear that he might be killed or at least be humiliated as was the British General, sent by Queen Elizabeth of Britain to negotiate the release of a Briton held in Uganda. The emissary was made to kneel in public as a price for the release. The remaining non-Israelis were released leaving 105 hostages, all Israelis. With this separation, the military option was intensified especially as information obtained from the released hostages and from other sources pointed to the certainty of the hostages being executed by the new date-line that had been set for 4 July 1976. As models of the airport were constructed and studied to the minutest degree, mock raids were for four days practised in the desert. When President Idi Amin flew to the meeting of the Organisation of African Unity held in Mauritius, a phantom jet shadowed him; the possibility of forcing Idi Amin's plane to land was considered. A spy ship off the East African coast joined in the watch. Israeli hypnotists worked on some of the hostages that had been released to obtain more information. Invaluable help was also obtained from the British R.A.F. which retains the right to use air-ports in Kenya.

The Israelis continued to give the impression of their readiness to negotiate. In fact in 1968, sixteen Palestinians were released in secret negotiations in exchange for Israelis in an El Al plane hijacked to Algeria. In 1969, there was an exchange of 2 Israeli hostages in return for two Syrian airmen and eleven other prisoners of war. A hundred Arab prisoners were exchanged for the bodies of a few Israelis killed in the 1967 war.

In their final preparations, the Israelis earmarked specific units to carry out specific objectives – to release the hostages, to shoot down or neutralise Ugandan soldiers, to destroy the Russian-built jet fighters stationed at the airport; there was a unit to protect the Israeli planes; the medical team; the communications experts; the intelligence officers and the air support that was to cricle the airfield. The movements of scheduled planes into Entebbe were studied to find out the most propitious moment for the raid. A white Mercedes-Benz car was procured and painted black to dissimulate Idi Amin's car and 6 soldiers had their faces painted black like Ugandans. They had a specific role to play and were armed with pistols fixed with silencers. Two Boeing 707 planes belonging to the Israeli airforce and bearing the civilian markings of the El Al preceded the invasion squadron. They landed in Nairobi with

the Commander of the Israeli airforce and some of the medical team including 23 doctors. The main invasion fleet consisting of 4 Hercules planes Lockheed C-130 carried the invaders. Their load included light armoured personnel carriers, jeeps and a fuel pumping engine; phantom jets flew high above the transport planes to provide cover a third of the distance from Israel against possible Arab fighter planes. President Idi Amin returned earlier in the evening of 3 June. At about 11.00 p.m. two Hercules planes landed in the old runway and two in the new runway, the two being separated by a slight rise in the ground. As the black Mercedes-Benz car rolled off and approached the tower, its doors opened and Ugandan soldiers saluted. They were killed with silent pistols. Others that surged forward were cut down with gun-fire. In the swift operation that followed, 7 of the 10 Palestinians and their sympathizers were killed, probably 3 were taken away alive for questioning. About 45 Ugandans were killed while the Israelis lost the leader of the commando team and 3 hostages who died in cross-fire. The others were escorted to safety in waiting planes.

After the operation the planes took off and landed in Nairobi where they were all refuelled. The wounded were treated at the airport reception hall which was turned into a temporary hospital. Ten of the more seriously wounded persons were taken to Kenyatta State Hospital for blood transfusion. The Israelis received hospitality and protection at Nairobi Airport from where they flew off to Israel⁵.

3. THE LEGAL ISSUES

The major legal problems raised by Israeli action in Entebbe relate to hijacking and the use of force for the protection or release of nationals overseas. These will be taken seriatim.

a) Aircraft Hijacking

The orderly development of air transportation as an important means of modern communications has been adversely affected by the hijacking of planes. This operation was started by individuals in the early sixties for purely private aims such as escaping from justice or from oppressive regimes. Planes were also hijacked as a means of extorting money. The first group that used hijacking as political blackmail was the Popular Front for the Liberation of Palestine which in July 1968 took control of an Israeli plane and ordered it to land in Algeria. Its crew and passengers: were released after 40 days in exchange for the release of 16 Arab guerrillas imprisoned in Israel. Other groups such as the Eritrean Liberation Front and the Japanese Red Army were later to follow the example.⁶ Because of the large number of lives usually endangered and the huge sums of money involved in hijacking, it has been relatively easy to conclude international treaties declaring the act a crime and punishing offenders. Thus the Tokyo Convention on Offences and certain Acts Committed on Board Aircraft 1963,⁷ the Hague Convention for the Suppression of Unlawful Seizure of Aircraft 1970⁸ and the Montreal Convention for the Suppression of Unlawful Acts against Safety of Civil Aviation 1971⁹ seek to punish or extradite offenders and facilitate the continuation of the journey by the crew and passengers. The Hague Convention is particularly important for both Israel and Uganda have ratified it.

5 For a full narrative, see W. Stevenson, *90 Minutes in Entebbe*, 1976, Y. Ofer, *Operation Thunder*, 1976.

6 A. E. Evans, *Aircraft Hijacking: What is being done*, *American Journal of International Law* (1973), Vol. 67, p. 641-671.

7 20 United States Treaties 2941; *AJIL* (1964), Vol. 58, p. 566.

8 75 Stat. 466 (1961).

9 66 Stat. 589 (1952).

Under Article 6 of the Hague Convention, a state in which an offender is present shall take him into custody if satisfied that the circumstances so warrant pending the commencement of criminal or extradition proceedings. Article 9 prescribes action for just the situation created by the landing of Flight 139 Air France at Entebbe Airport. A contracting State shall take steps to restore the aircraft to its lawful commander or preserve his control thereon. The party shall facilitate the continuation of the journey by the crew and passengers and return the aircraft and cargo to their lawful owners. Far from treating the hijackers as criminals, President Idi Amin hailed them as heroes. He held intimate discussions with them whenever he came to the airport. The hijackers initially had small weapons which were hidden but at Entebbe they were supplied with more grenades and automatic rifles. The President helped them by negotiating on their behalf and pressing that Israel should accept the demands. He did not facilitate the continuation of the journey by the crew and passengers nor did he return the plane and cargo to their rightful owners. In fact Ugandan troops joined in the guard although they were stationed some 200 yards from the terminal building where the hostages were detained. Others lounged in the first floor of the building.

Uganda therefore acted in breach of the Hague Convention on the Suppression of Unlawful Seizure of Aircraft. It will also be recalled that the OAU Council of Foreign Ministers in 1970 condemned aircraft hijackers and recommended that they should be apprehended and punished in order to ensure the safety of international air travel.

b) The Use of Force in International Law

The main issue in this episode is the legal status of force used by Israel at Entebbe Airport on the night of 3 - 4 July 1976. Taking the charter of the UN as a starting point, the occasions for the legitimate use of force are limited to actions authorised by the Security Council and under its direction in Article 39;

actions directed against the Axis powers during the second world war under Article 107 or collective action by a group of states against the same powers under Article 53; self-defence either by individual states or by a collection of states under Article 51.

The charter of the UN aims at outlawing the use of force in international relations and restricting its use to the common interest of states: „All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.“ (Art. 2 No. 4).

Self-Defence: Protection of Nationals

The permissible use of force under X and Y Categories above is inapplicable in the Entebbe situation. It remains to examine if Israeli action falls under self-defence. Traditionally the western states have claimed the right to defend their nationals or their property abroad if they were endangered and the territorial authority was unable or unwilling to protect them. The rights of the nationals were considered to be an extension of the rights of their states. Defending them was therefore considered to be part of their states' right to self-defence.

United Kingdom, France, Japan, Spain and Belgium have in the past intervened in foreign countries and gave as their reason the protection of their nationals and their property. The

USA is the undisputed holder of the record on interventions. A writer notes that the USA intervened on at least 70 occasions in foreign countries between 1813 and 1927.¹⁰

There have been interventions in Africa more recently for the protection of nationals and their property. The Anglo-French interventionists in Egypt in 1956 claimed they were protecting their nationals as well as the navigating installations in the Suez Canal. A principal motive was to tilt the balance in the fighting between Israel and Arab states in favour of the former. The threat of USSR to intervene and the refusal of USA to back the interventionists compelled them to pull out. A few days after the independence of the Congo (now Zaire) on 30 June 1960 the army mutinied against the presence of European officers. Whites, the erst-while colonialists, were molested in parts of the country. Belgium intervened to save their lives and their property. The secession of Katange under Moïse Tshombe was encouraged and supported by the presence of white troops and the Union Minière du Haut Katanga which in concert with its international connections supplied the rebels with the sinews of war during the two and a half years of secession.

The next humanitarian intervention, again in the Congo, came on November 24 1964 as the Central government was fighting rebels in eastern Congo. Two hundred and fifty out of a white population of 1,300 in Stanley-Ville were held hostages and as a shield against bombing and attacks from planes flown on behalf of Leopoldville (now Kinshasha) by Americans. Some 600 Belgian paratroopers flown in American transport planes with British supporting facilities in Ascension Island dropped in Stanleyville. The para-drop coincided with the movement of ground troops a substantial number of which were white mercenaries. All but 60 whites were rescued and the military balance was definitely tilted in favour of the central government and for a United Congo.¹¹ This intervention was condemned by the fourth Extraordinary Session of the Council of Ministers of the OAU held in New York on 16 - 20 December 1964¹²

A number of Western writers favour intervention by a state to protect its nationals. Oppenheim writes: "The right of protection over citizens abroad, which a State holds, may cause any intervention by right to which other party is legally bound to submit. And it matters not whether protection of the life, security, honour, or property of a citizen abroad is concerned¹³." Even if the protection of nationals with the use of force is conceded, the protection of property is seriously doubted and is indefensible under the strict restriction of the use of force under the UN Charter. A powerful state cannot be required to submit itself to what it considers to be intervention. Thus Uganda could legitimately have shot down the invading troops and wiped out the invading forces. No self-respecting state could allow foreign military operations on its territory if it could prevent or crush them.

Another Western writer, Bowett, states: "In certain cases, where diplomatic protection in the sense of diplomatic interposition or of the presentation of a claim on behalf of a national by his state has either failed or is inadequate to prevent an immediate danger to life or property which would otherwise be irremedial, states, have resorted to the threat or use of force as a means of protection¹⁴."

The word "interposition" is used here much in the same manner as the American delegate Hughes, used at the Havana Conference of 1928 to distinguish interventions that are permis-

10 Milton Offut, *Protection of Citizens Abroad by the Armed Forces of the United States*, 1928, chaps. 2, 3, and 4. See generally I. Brownlie, *International Law and the Use of Force by States*, 1963, p. 289-301.

11 See further Catherine Hoskyns, *Case Studies in African Diplomacy: I, The Organisation of African Unity and the Congo Crisis 1964-65, 1969*, p. 33-44.

12 OAU Doc. ECM/Res. 7 (IV).

13 Oppenheim, *International Law*, 1967, 8th Edition, Vol. 1, p. 309.

14 D. W. Bowett, *Self-Defence in International Law*, 1958, p. 88.

sible from others that are not – “I would call it interposition of a temporary character¹⁵.” The US did not however persist in this distinction in later conferences that lead to the Montevideo Convention on the Rights and Duties of States 1933 and the Additional Protocol Relative to Non-Intervention, Buenos Aires 1936.

Judge Huber said in the Spanish – Moroccan claims: “However, it cannot be denied that at a certain point the interest of a State in exercising protection, over its nationals and their property can take precedence over territorial sovereignty, despite the absence of any conventional provisions. This right of intervention has been claimed by all states; only its limits are disputed¹⁶.”

Conceding the right of intervention to protect property as Judge Huber, Oppenheim and Bowett have done will validate the action of capital exporting countries intervening whenever their investments are threatened. The provision of Article 2 (3) of the UN Charter is directed to such situations: “All members shall settle their International disputes by peaceful means in such a manner that international peace and security, and justice are not endangered.”

While denying the legality of foreign intervention especially in the protection of foreign interest because the right can be readily abused, Brownlie maintains that “the protection of nationals presents particular difficulties and that a government faced with a deliberate massacre of a considerable number of nationals in a foreign country would have cogent reasons of humanity for acting, and would also be under very great political pressure¹⁷”

Humanitarian Intervention

The question of intervention on humanitarian principle now falls to be considered. Bowett submits that the inclusion of the right to protect nationals within the concept of self-defence is better founded than the controversial premiss of fundamental (human) right¹⁸. In the South-West Africa (Namibia) Cases 1966¹⁹ the international Court of Justice held that humanitarian considerations alone do not create rules of law. This obiter dictum is not regarded as authoritative for the much criticised judgement was obtained through the casting vote of the Australian president of the court²⁰. The modern emphasis on fundamental human rights which were included in the UN Charter and elaborated in the Universal Declaration of Human Rights 1948 and further still in the Covenants on Civil and Political Rights and on Social and Cultural Rights 1966 and other conventions and resolutions of the UN support the view that humanitarianism is now an independent source of legal rights²¹. In the Corfu Channel Case²² the court held that Albania was liable for the destruction of British warships

15 Report of the Delegates of the United States of America to the sixth International Conference of American States, Washington 1928, pp. 14–15; quoted in I. Brownlie, p. 293.

16 Anglo-Spanish Arbitrations, Beni-Madan, Rzini Claim, (1925), UNRIAA, Vol. 2, p. 616.

17 Brownlie, p. 301, Fenwick, Intervention: Individual and Collective, 39 AJIL (1945) 645; Thomas and Thomas, Non-Intervention, 1956; O. Wright, The Legality of Intervention Under the United Nations Charter, Proceedings of American Society of International Law (1957), p. 88; C. H. M. Waldock, The Regulation of the Use of Force by Individual States in International Law, Recueil des Cours, 1952, Vol. 81 II, p. 467–68.

18 Bowett p. 94.

19 ICJ Rep. 1966.

20 See inter alia E. A. Gross, The South-West Africa Cases; What Happened, Foreign Affairs, October 1966; P. C. Rao, South – West Africa Cases, Inconsistent Judgement from the ICJ, Indian Journal of International Law (1966), Vol. 6; Khan and Kaur, The Deadlock over South-West-Africa, IJIL (1968), Vol. 8; U. O. Umozurike, The Namibia (South-West-Africa) Cases 1950–1971, Proceedings of the 4th, 5th and 6th Annual conference of the Nigerian Soc. of International Law (1978), p. 99–111.

21 Others are the Genocide Convention 1948; the International Convention on the Elimination of all Forms of Racial Discrimination 1965; the Convention on the Political Rights of Women 1952; the Declaration on the Granting of Independence to Colonial Countries and Peoples 1960; the Declaration on the Rights of the Child 1959.

22 ICJ Rep. (1949).

and lives through the failure to notify the presence of mines. It held that the obligation to notify was based “on certain general principles” *inter alia*, “elementary consideration of humanity, even more exacting in peace than in war²³ while Brownlie is doubtful as to the legality of humanitarian intervention construed as an exception to the general prohibition against resort to force in the Charter²⁴, Oppenheim favours it and after a review of ancient authorities concludes: “But there is a substantial body of opinion and of practice in support of the view that there are limits to that discretion (a state’s power to treat its nationals according to its discretion) and that when a state renders itself guilty of cruelties against and persecution of its own nationals in such a way as to deny their fundamental human rights and to shock the conscience of mankind, intervention, in the interest of humanity, is legally permissible²⁵.”

The present emphasis on fundamental human rights, now a matter of international concern, supports humanitarian principle which along with self-defence constitute a formidable legal bulwark for action in appropriate cases.

PROPORTIONALITY

Closely connected with self-defence and the right of humanitarian intervention is the question of proportionality. A state cannot justifiably intervene with armed forces in order to protect a single or a few nationals. The greater the number the easier the justification for intervention. The limits set to self-defence in the Webster – Ashburton formula in the Caroline Incident²⁶ is very relevant. There must be “a necessity of self-defence, instant, overwhelming, leaving no choice of means and no moment for deliberation”. The action taken must involve “nothing unreasonable or excessive, since the act justified by the necessity of self-defence must be limited by that necessity and kept clearly within it”.

THE LEGAL STATUS OF ISRAELI INTERVENTION

The present problem does not end with the enunciation of principles which are controversial. There is the additional problem of assessing the factual situation in order to rationalize the application of principles. The number of Israeli nationals definitely warranted vigorous action. The Israeli Government had a choice of releasing Palestinian prisoners and bringing pressure to bear on states holding other prisoners in exchange for the release of the hostages. From the beginning, it worked on two options – the diplomatic and the military, the higher it rated the chances of the latter the less importance it attached to the other. Were the hostages in imminent danger to their lives? It seemed clear that the hostages would have been liquidated if the prisoners were not released. Could President Amin be trusted to release the hostages even if the Palestinian prisoners were free and brought, as demanded, to Entebbe? In prognosticating the future, events in Uganda since the advent of President Idi Amin had to be seriously considered. The Israelis had helped him to seize power but the period of honeymoon with the West was short for he soon fell out with them. After accusing about 40,000 British Asians of economic sabotage, he confiscated their property and brutally expelled

23 *Ibid.* 22.

24 Brownlie, p. 342.

25 Oppenheim, p. 312.

26 Moore, *Digest of International Law*, Vol. 2, p. 412.

them with three months notice²⁷. Amin was later to declare himself “conqueror of the British Empire”. He even got British nationals to carry him in a hammock, a reversal of the situation in early colonial days when British administrators were carried in hammocks by subjected Africans through bush paths.

Israel claimed that Amin’s anti-Semitism was fuelled by Israeli refusal to help him bomb Dar es Salaam in a war he nurtured against Tanzania and the liberal supply of arm by the Libyan regime that seemed carried away by religious sentiments and the hatred of Jews. The persecution of Ugandan nationals under the regime exhibited wanton disregard of fundamental human rights. Thousands of citizens were casually killed or spirited away by Amin’s agents. The casualties included a chief justice of the country, a university vice-chancellor who appeared to Amin to be reluctant to award him a doctorate degree and members of certain ethnic groups²⁸. With all these events, singling out Jewish nationals for political manoeuvring was most foreboding Amin had praised Hitler and proclaimed that Israel should not exist as a state. It could have been wishful thinking to hope that Amin could spare the lives of Israeli citizens. In these peculiar circumstances one is bound to conclude that the circumstances justified that the principles of sovereignty and territorial integrity should yield temporarily to the principles of fundamental human rights and self-defence which were gravely and irremediably threatened.

A legal right must exist for the benefit of all states, great and small. The question may be asked – How can a small state exercise the right of self-defence against a stronger state in whose territory the lives of its nationals are in imminent danger and whom the territorial state is unwilling or unable to protect? The answer is that the inability to exercise a right does not necessarily obliterate it. In theory, the essence of an international right is that the international community will help to secure it and refrain from denying it. It will also, as a minimum, condemn its abuse. Common measures under the Charter should be employed to secure or protect such right. Unfortunately the world is divided along racial, economic, ideological, cultural and other lines and one or the other standard may be prominent in a particular dispute. It is because the common measures may not be forthcoming and may be unpredictable in content and style that powerful states are tempted to act on their own in the protection of what they construe to be their interest. Waldock writes that any law that “prohibits resort to force without providing a legitimate claimant with adequate alternative means of obtaining redress, contains the seeds of trouble²⁹”. The task and hope of the international lawyer is to work for a world order in which the relative military and economic power of states do not substantially affect their enjoyment of legal rights.

Was the force excessive?

If Israel had a legal right to intervene, only the necessary loss to lives and damages to property would be covered by the right of self-defence. The killing of the Palestinians and their supporters and of Ugandan troops, the destruction of the airport tower from which came gun shots and of eighteen Mig fighters on the ground for fear of pursuit seem reasonable in

27 F. Wooldridge & V. V. Sharma, *Expulsion of Ugandan Asians*, *International Lawyer* (1975), Vol. 9, p. 30; K. C. Kotecha, ‘The shortchanged: Ugandan Citizenship Laws and How They were applied to its Asian Minority’, *International Lawyer* (1975), Vol. 9, p. 1–29; J. C. Bonee III, *Caesar Augustus and the Flight of the Asians – the International Legal Implications of the Asian Expulsion from Uganda during 1972*, *International Lawyer* (1974), Vol. 8, p. 136–159.

28 See e.g. the revelations made by Amin’s former Minister for Health, Henry Kyemba, *State of Blood*, 1977; D. Martin, *General Amin* 1978.

29 Waldock, *Receuil des Cours* (1952), Vol. II, p. 455.

effecting the release of the hostages. However the destruction of the radar system and the removal of expensive Russian – made equipments went beyond the limit and for these Israel incurs international liability. The general principle is that whatever action was reasonably necessary to exercise a legal right is justifiable while those beyond it ground liability³⁰.

3. CONCLUSIONS

One hundred and five Israeli citizens were in great danger of losing their lives in the hands of Palestinians and their supporters. In view of President Amin's disdain for Israel, it is difficult to predict what he would have done even if Palestinian prisoners were released in exchange for the hostages. The right of a state to self-defence extends to protect its citizens in great jeopardy in a foreign state. One prerequisite for the exercise of this right is the proportionality of the risk in terms of imminent danger and the number of citizens involved to the infringement of territorial sovereignty. Another prerequisite is that the foreign state must be the offender or must be either incapable or unwilling to safeguard the lives of the foreigners. The principle of respect for fundamental human rights supports the right of intervention to rescue nationals mortally endangered in a foreign land.

Israel was legally right to intervene. In doing so, it would be legally covered for actions that were strictly necessary for the rescue but liable for any excess. The destruction of the radar system and the removal of expensive military equipments went beyond the requirements for the rescue. Israel is therefore liable to pay compensation for them.

There are other aspects of the operation that must not escape mention. The major western powers, principally USA, UK, Canada and France, gave Israel the useful informations that made the action possible. It is the type of collaboration that can always be expected when a western power is involved in a conflict with a power outside their fold. This collaboration should be emulated.

Respect for human rights has reached a high stage of development in the west. Israel was ready to risk a lot in order to save its citizens. On the other hand, a number of African states have displayed abject disregard for the fundamental human rights of their citizens. African states must go beyond the condemnation of the denial of human rights to Africans by white minority regimes in Southern African. They must themselves respect human rights and condemn the denial of these rights in African countries. The doctrine of domestic jurisdiction had in the past been quoted out of context to justify levity when human rights were grossly abused. Information now coming out of Uganda discloses a barbaric contravention of the human rights of the people. This should never be condoned by African states.

Although Kenya denied it, it collaborated with Israel in the rescue operation. The visit of the editor of Kenya's newspaper Daily Nation to Israel a few days before the operation lends weight to the suspicion that Kenya must have had prior knowledge. Relations between Uganda and Kenya had deteriorated for the former claimed that parts of its territory had been added to the latter by the colonial masters. Kenya may not have acted out of any regard for African solidarity but it cannot be blamed for helping another state to exercise its legitimate right.

The lightning operation in Entebbe exposed the weakness of Ugandan national security. This is true of many African states. Groups of foreign adventures have in the past harassed

³⁰ D. J. Gorden, Use of Force For the Protection of Nationals Abroad: The Entebbe Incident. *Case Western Reserve Journal of International Law* (1977), Vol. 9, No. 1, p. 117-134, L. M. Salter, *Commande Coup at Entebbe. Humanitarian Intervention or Barbaric Aggression?* *International Lawyer* (1977), Vol. II, No. 2.

African States. The Congo suffered from white mercenaries in 1967–68; the Republic of Benin was invaded in 1970 by Portuguese – hired mercenaries; Benin was attacked in 1977 by an assortment of European mercenaries. The Israelis were officially commanded and so belong to a different category of invaders. Nevertheless African states should improve their security and collaborate among themselves, in defence matters. The historical African hospitality has often been abused by foreigners. In its planning and operation, Israel made maximum use of those of its nationals that had knowledge of Uganda. An Israeli retired officer – Bar-lev – had succeeded in warming himself into Amin’s family while serving in Uganda. He kept his pulse on the president over the telephone while Israel perfected its strategy. Contact between foreigners and high government functionaries should be watched as it could turn against national interests in time of crisis.

One cannot but admire the precision with which the operation was carried out. Surrounded by hostile neighbours and having powerful friends abroad, Israel is apt to display valour and determination in its struggle to survive. It is to be hoped that the success of Entebbe will not fuel its arrogance and intransigence over the evacuation of occupied Arab lands.

tries, was economically drained, its moral values were ignored by the colonial ruler, its social system including agriculture was destroyed. India entered international life, almost 100 years later than Japan, with a twofold, i.e. economic and psycho-sociological, deficit. – The Japanese epoch of seclusion was followed by a period of expansion. Japan won victories in wars with consequential gains of colonial territory and financial means as well as international political recognition and privileges. Although annoying the established world powers by “dumping” and “imitation”, Japan as a single country could expand without changing the international economic frame. If India together with the other developing countries would create the same favourable international trade conditions for themselves now as Europa and Japan had at the start of their industrial development, the existing economic world system would necessarily change. – Before joining world trade under modern conditions, India would have to restore its autochthonic structure beginning with agriculture which was the given base at the start of industrialization in Europe and in Japan. Whether a period of expansion can follow like in case of Japan is doubtful.

Concepts of development of local government administration in Nigeria

BY C. E. EMEZI

The paper notes the importance attached to local government administration in Nigeria and briefly examines the traditional instruments of local administration in pre-colonial Nigeria. Thereafter, it attempts an overview of the concepts in the development of local government administration through four major epochs in Nigerian political history namely the colonial period, the period of decolonization, post-independence and post-civil war periods. One of the main thrust of local government reforms in Nigeria has been the swing of the pendulum from an attachment to traditional patterns of authority to a swing to elected representative councils.

The Federal Military Government, as a prelude to handing over power to civilians in Nigeria, gave the country a reformed uniform system of local government. There is the feeling that the reformed system may result in a conflict of roles between the traditional and modern instrumentalities of local government.

The Israelis in Entebbe – Rescue or aggression?

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One hundred and five Israeli citizens in a plane hijacked to Entebbe were in great danger of losing their lives in the hands of Palestinians and their supporters. In view of President Amin’s disdain for Israel, it was difficult to predict what he would have done even if Palestinian prisoners were released in exchange for the hostages. The right of a state to self-defence extends to the protection of citizens in great jeopardy in a foreign land. One prerequisite for the exercise of the right is that the imminent danger and the number of citizens must be proportional to the infringement of territorial sovereignty. Another prerequisite is that the foreign state must be either unwilling or incapable of protecting the foreigners. The principle of respect for fundamental human rights supports the right of humanitarian intervention to rescue national mortally endangered in a foreign land.

Israel was legally right to intervene an actions reasonably necessary for the exercise are justified but not actions in excess. The destruction of the radar system at Entebbe and the removal of expensive military equipments went beyond the requirements for the rescue and therefore ground liability for compensation.