

1978

Assassination as a Means of Intervention--The Death of Lumumba--The Rule of Amin

Christian M. Sternat

Follow this and additional works at: <https://scholarlycommons.law.case.edu/jil>



Part of the [International Law Commons](#)

Recommended Citation

Christian M. Sternat, *Assassination as a Means of Intervention--The Death of Lumumba--The Rule of Amin*, 10 Case W. Res. J. Int'l L. 197 (1978)

Available at: <https://scholarlycommons.law.case.edu/jil/vol10/iss1/11>

This Note is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Journal of International Law by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

Assassination As A Means Of Intervention
The Death of Lumumba—The Rule of Amin

The Utopians have only one aim in war—to gain that object which would have prevented them from going to war if they had previously won it. . . . Yet they are more concerned with avoiding danger than with winning praise and glory. So, as soon as they have declared war, they have many proclamations set up secretly all at the same time in the most conspicuous parts of the enemy territory, signed with their public seal. In these they promise huge rewards if anyone kills the enemy leader. Then they announce smaller, but not inconsiderable, rewards for the head of each man whose name is contained in that same notice. These are the people they consider responsible, after the leader, for the hostile action against them. Whatever reward they announce for a killer is doubled if he brings any of the proscribed to them alive.¹

THOMAS MOORE prescribed assassination as a primary means of carrying on war in the ideal commonwealth. Although Utopia does not exist, assassination is used as a means of waging war and as a means of political change as well. According to St. Thomas Aquinas, an individual has a right based on “natural law” to resist tyranny, even to the point of assassination.² The limitation put upon the assassin acting under Aquinas’ doctrine is simply that his action must be committed in the interest of the public welfare. Moore legitimizes assassination in the context of a declared war and Aquinas does the same in a context of intranational tyranny, but neither extends the right of assassination to those wishing to use it as a means of effecting foreign policy, or as a valid means of international intervention in the absence of a declared war. Indeed, neither of these two scholars considers assassination for this purpose.

¹T. MOORE, *UTOPIA* ch. 8, *On Warfare* (London 1946) (1st ed. London 1516). The key phrase is “as soon as they have declared war. . . .” This contingency eliminates the possibility of legitimizing assassination as a means of carrying on foreign policy without the sanctions of war.

²E. HYAMS, *KILLING NO MURDER* 17 (1969). Hyams justifies assassination as a means of avoiding war, but fails to distinguish between assassination of a tyrant by his own people without the interference of foreign nationals (as discussed by Aquinas), and the assassination of a foreign leader for political or humanitarian advantage of another government.

The purpose of this note is to examine political assassination in the context of international intervention, in the absence of a state of war. The two principal characters to be examined are Patrice Emery Lumumba and Idi Amin Dada. Although Lumumba was apparently killed by members of a rival political faction of his native Republic of the Congo, there is evidence of an assassination plot which involved the United States. There were also Belgian nationals involved in the actual killing of Lumumba. Idi Amin, on the other hand, is still alive despite numerous attempts on his life. Lumumba was killed in the turmoil following the declaration of independence of the Republic of the Congo and the withdrawal of the Belgian colonial government. The reasons for his death were purely political. Although the many attempts on the life of Idi Amin have been politically motivated, the humanitarian rationalizations for these acts are myriad, considering the brutal history of Amin's rule.

In analyzing the consequences of foreign assassination in international law, there are two factors which must be evaluated: morality and practicality. The act which requires the taking of a human life can not be legitimized purely on a basis of expediency. However, practicality can not be overlooked since it is possible that assassination may not provide the desired ends of political change or the correction of human injustice. An assassination can not be found morally justifiable if it fails to provide a benefit for the common good.

I. PATRICE EMERY LUMUMBA

A. *Background of Events Prior to Assassination*

Lumumba was a prominent figure in the independence movement in the Republic of the Congo, later serving as its first prime minister. Belgium held the Congo as a colony until June 30, 1960, when independence was granted.³ Under colonial rule Lumumba had been an *evolué*, a black who had learned French, and he could therefore enjoy certain privileges such as access to European courts and rights to purchase real property and alcohol. He had worked as a postal clerk and as an editor of a magazine. He had been active in an organization of *evolués* and this association had led to his political leadership in the

³M. HAVENS, C. LEIDEN, & K. SCHMITT, *THE POLITICS OF ASSASSINATION* 127 (1970) [hereinafter cited as M. HAVENS]. See also R. LEMARCHAND, *POLITICAL AWAKENING IN THE BELGIAN CONGO* 198-205 (1964). Lemarchand gives an excellent account of Lumumba's life and political career and also describes the development of the *Mouvement National Congolais* in much greater detail.

Mouvement National Congolais (MNC). The MNC was certainly the largest political faction in the new Republic and Lumumba was the obvious choice as the first prime minister.⁴ The lack of political expertise of the new government, combined with tribal factionalism, brought about the immediate fragmentation of the MNC and the political rivalry which eventually led to Lumumba's assassination.

Joseph Kasavubu, president of the new Republic, dismissed Lumumba in an attempt to further his own political aspirations. Lumumba, trying to maintain his authority in the infant government, boldly dismissed Kasavubu. Colonel Joseph Mobutu, in command of the army, assumed control and suspended all operations of the government. Lumumba sought the protection of the United Nations forces which had been sent to the Congo to assist in the transition of the government from colonial rule. The United Nations troops set up a protective guard of armed troops around the palace where Lumumba was living while serving as prime minister in Leopoldville. Mobutu, then in nominal control of the country by virtue of his political dominance, placed Lumumba under house arrest. Lumumba was safe but he was also unable to reach his allies or the people necessary in order to gain support for his position. On November 27, 1960, Lumumba decided that he would stand a good chance of regaining his place in the government if he could muster support for his position in the MNC. In an effort to accomplish this goal he left the safety of the U.N. protection and tried to reach his supporters in Stanleyville. He was captured on December 1, and held in custody for a month and a half.⁵

Lumumba and the two companions captured with him, the former Vice-President of the Senate, Joseph Okito, and the former Minister of Youth, Maurice Mpolo, were placed on board a plane to be flown to an unknown destination. The plane landed in Elisabethville, the capital of Katanga Province. At this early stage of the new Republic, Katanga was attempting to assert its own independence.⁶ Lumumba had opposed any secession from the new nation and the Katangan authorities were the most determined enemies of Lumumba and his

⁴M. HAVENS, *supra* note 3, at 132.

⁵*Id.* at 127. The original destination is not known. It may have been intended that the plane land in Bakwanga of South Kasai. At the time of the assassination, the province of Katanga was preparing for a secession from the Republic of the Congo and the leaders of the province, particularly Tshombe, a pro-Belgian secessionist, were bitter enemies of Lumumba. Elisabethville is the capital of Katanga Province.

⁶R. LEMARCHAND, *supra* note 3, at 245-47.

followers.⁷ There seems to be no clear reason for the plane to have landed in Elisabethville. Perhaps Kasavubu, who seems to have given the order for the transfer of the prisoners, hoped that the Katanganese would kill Lumumba and thus eliminate his political rival, without causing the total alienation of Lumumba's supporters.

Regardless of the reasons for the act, Lumumba was delivered into the hands of his enemies and was killed.⁸ The two prisoners with Lumumba were also killed. Present at the time of the killings were two Belgian mercenaries, Colonel Huyghe and Captain Gat. It appears very likely that one of these two men participated in the killings.⁹ One witness claimed that Lumumba had been beaten so badly that it was doubtful that he could have survived had he not been shot.

The involvement of the United States in the Lumumba affair was not made clear until several years after the assassination. Although the United States did not participate in the assassination, there is evidence that the Central Intelligence Agency (CIA), operating in the Republic of the Congo, was plotting to assassinate Lumumba shortly before his death.¹⁰ There does not appear to have been any Belgian involvement other than the presence of the mercenaries at the place of the killings. The actions of foreign nationals operating without direction from their native government can not be considered as a foreign political involvement in an assassination.¹¹ The CIA plans for the assassination of Lumumba, however, are a blatant example of international intervention in the absence of a state of war.

B. *United States Assassination Plans*

In a National Security Council meeting on August 18, 1960, President Eisenhower expressed strong concern about Lumuba. This statement was interpreted by Allen Dulles, the Director of the CIA, as authority for an assassination attempt.¹² Lumumba was recognized as

⁷M. HAVENS, *supra* note 3, at 128 n.4.

⁸*Id.*

⁹*Id.* at 128 n.4 & 129. The authors do not state who actually pulled the trigger of the gun, merely that one of the Belgian mercenaries "very probably" shot at least one of the three prisoners in the presence of high officials of the Katangan provincial government.

¹⁰AN INTERIM REPORT OF THE SELECT COMMITTEE TO STUDY GOVERNMENT OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES, ALLEGED ASSASSINATION PLOTS INVOLVING FOREIGN LEADERS. S. REP. NO. 465, 94th Cong., 1st Sess. 13 (1975).

¹¹8 M. WHITEMAN, *DIGEST OF INTERNATIONAL LAW* 819 (1967).

¹²SENATE REPORT, *supra* note 10. The record shows testimony supporting all possible interpretations of the presidential statement. Some of the testimony indicates a

having a very strong public appeal, and leaning toward the Soviet Union. Lumumba had used various methods of coercion and threats to expedite the withdrawal of Belgian troops from the Congo. He intended that the Congo acquire sovereignty as soon as possible.¹³ To hasten the Belgian withdrawal, Lumumba had threatened to enlist the assistance of Soviet troops. When the difficulties of Belgian troop withdrawal began, the United Nations sent a peace-keeping force to maintain order.¹⁴ After Lumumba was dismissed by Kasavubu, and after Mobutu had seized control of the government, Lumumba asked for and was granted the protection of this peace-keeping force.

Eisenhower's statement expressing concern about the strength of Lumumba in the Congo occurred at a National Security Council meeting about a month prior to Lumumba's dismissal. However, once the assassination plot had begun, there was no attempt to terminate the plans until after Lumumba's death was revealed by the Congolese.

The Interim Report of the Select Committee to Study Governmental Operations with respect to Intelligence Activities was published November 20, 1975, and titled *Alleged Assassination Plots Involving Foreign Leaders*.¹⁵ The Committee studied five CIA assassination plots: those against Fidel Castro, Rafael Trujillo, General Rene Schneider, Ngo Dinh Diem, and Patrice Lumumba. The majority of information obtained in the study of the plot against Lumumba came from direct testimony of CIA officers and executive staff officials involved in the planning of the assassination. The vast majority of the documented evidence presented consisted of the interpretation of the instructions and orders cabled to and from the Station Office in Leopoldville.

The day after the National Security Council meeting Allen Dulles called a CIA operative and explained that the "removal" of Lumumba was an "urgent and prime objective," the directions for which came from "high quarters."¹⁶ The Senate Report noted that "it is clear that the Director of Central Intelligence, Allen Dulles, authorized an assassination plot."¹⁷ There was, however, no conclusion by the Committee that President Eisenhower did actually order or authorize the plot.

presidential assassination order, other testimony is contradictory, and much is vague as to interpretation of the statement or as to recollection of the statement.

¹³M. HAVENS, *supra* note 3, at 132.

¹⁴SENATE REPORT, *supra* note 10, at 14.

¹⁵*Id.* at 1-7.

¹⁶*Id.* at 13.

¹⁷*Id.* at 52.

One of the early cables from a CIA Station Officer reported that Kasavubu had been approached with a plan of assassination and that he had refused to accept the plan because he was reluctant to resort to violence.¹⁸ Two days later, Dulles signed a cable to the Station Officer authorizing "wider authority" in dealing with the "removal" of Lumumba.¹⁹ The first means of removing Lumumba explored by the CIA operatives in the Congo seems to have been to encourage Congolese nationals to carry out the assassination plans.²⁰ An unnamed Congolese Senator requested arms for the purpose of equipping a strike force whose orders included the assassination of Lumumba.²¹ The assistance of the CIA in the planned intranational assassination continued in spite of the fact that Lumumba was in the protective custody of the United Nations.

The Director of the CIA's covert activities at this time was Richard Bissel. Bissel asked Chief of the Africa Division, Bronson Tweedy, to "explore the feasibility of assassinating Lumumba."²² Joseph Scheider, under the direction of Bissel, obtained a poison which was to be used in the plot.²³ The Station Officer in Leopoldville, Victor Hedgman, was to arrange for the assassin to use the poison to kill Lumumba. The poison would leave no clues as to the plot, but rather would give the impression that Lumumba had died of natural causes. The purpose of the appearance of a natural death was to enable the United States to deny any participation in the event.²⁴

There was a secondary plan to bring about the death of Lumumba developed in the CIA by Michael Mulroney, a senior officer in the Directorate for Plans.²⁵ Mulroney testified before the Committee that he had been requested to carry out the assassination of Lumumba, but that had refused to do so on moral grounds. Mulroney did, however, agree to go to the Congo with the intention of luring Lumumba away

¹⁸*Id.* at 15. This meeting with Kasavubu appears to be the only actual attempt made to have Lumumba killed by a political rival. After this failure, the CIA resorted to a plan of more direct means to have Lumumba assassinated.

¹⁹*Id.* at 16.

²⁰*Id.* at 17. The Committee found no evidence that any arms supplied to the Congolese were ever used in the actual killing of Lumumba, or in any attempt on his life.

²¹*Id.*

²²*Id.* at 19.

²³*Id.* The Station Officer, Victor Hedgman, testified that Scheider had told him the assassination was being carried out by presidential order.

²⁴*Id.* at 11-12, 16.

²⁵*Id.* at 37.

from U.N. custody in order that Congolese authorities might apprehend him, thereby minimizing direct involvement by the United States. When asked if the subject of Lumumba's death at the hand of the Congolese then in power was discussed with Bissel, Mulronev replied:

It was I think considered. . .not to have him killed, but then it would have been a Congolese being judged by Congolese for Congolese crimes. Yes, I think it was discussed.²⁶

Although Mulronev's plans to lure Lumumba away from his U.N. sanctuary renders the act less than that of political murder by persons working for the United States, the end result is the same and only the degree of direct involvement is altered. There is no evidence that Mulronev's plans had any effect in the actual event of Lumumba's leaving U.N. custody. Apparently, the abandonment of his safety was a calculated risk taken by Lumumba in an effort to reach his stronghold in Stanleyville.

The Senate Report determined that there was no CIA involvement in the death of Lumumba in Katanga Province.²⁷ The United Nations authorized an investigation to determine the precise circumstances of Lumumba's death after officials in Katanga reported that Lumumba had escaped their custody and was killed by Katanganese tribesmen on February 12, 1961. The United Nations Commission of Investigation determined that Lumumba had actually been killed on January 17, within a very short time after leaving the plane that had flown them to Elisabethville from Leopoldville.²⁸

C. Moral Action and Practical Rationalization

In the context of world order there can be no doubt that the killing of Lumumba was a morally reprehensible act. The U.N. Commission of Investigation reported that:

The Commission wishes to put on record its view that President Kasavubu and his aides, on the one hand, and the provincial government headed by Mr. Tshombe on the other, should not escape responsibility for the death of Mr. Lumumba, Mr. Okito, and Mr.

²⁶*Id.* at 39. Mulronev arrived in Leopoldville on November 3, 1960. At that time he had no clear plan for luring Lumumba away from U.N. custody. Lumumba left the palace where he was guarded by U.N. troops and attempted to reach Stanleyville on November 27. Mulronev had not at that time completed his plans.

²⁷*Id.* at 48.

²⁸16 U.N. SCOR, Supp. (Oct.-Dec. 1961) 118, U.N. Doc. S/4976 (1961).

Mpolo. For Mr. Kasavubu and his aides had handed over Mr. Lumumba and his colleagues to the Katanga authorities knowing full well, in doing so, that they were throwing them into the hands of their bitterest enemies. The government of the province of Katanga in turn not only failed to safeguard the lives of the three prisoners but also had, by its action, contributed directly or indirectly, to the murder of the prisoners.²⁹

If the action of Kasavubu was deserving of such rebuke from the United Nations, then could the operations of the United States CIA be any less wrong, since the plans of their operation called for the leading of Lumumba into the hands of his enemies at the least, and for the outright assassination of the man at the worst. The evidence shows that the CIA did not abandon the assassination plot until after the Congolese announced his death.³⁰ The CIA Base Chief in Elisabethville sent a cable to headquarters shortly after Lumumba arrived there on January 17. It read "Thanks for Patrice. If we had known he was coming we would have baked a snake." The cable also explained that they had no advance warning of Lumumba's arrival and the fate of the former prime minister was not known.³¹ The subsequent cable traffic dealt with attempts to discover where Lumumba was being kept prisoner. The CIA was not sure whether Lumumba was alive, but this lack of knowledge supports the contention that they were not involved in the killings. This explanation is not intended to exonerate the United States nor to excuse the operations of the CIA, but merely to give an analysis of the facts.

Bronson Tweedy, Chief of Africa Division, testified that he believed the operations and planning for the assassination were merely "exploratory", or an operation which never advanced beyond the planning stage.³² Tweedy adhered to the claim that the operation was never intended to be completed despite the evidence presented that the toxic substance brought to the Congo to be used in the assassination had a limited period of lethality. Tweedy explained that the poison was sent in order that the plans would be ready for implementation at any moment.³³ The fact that there were claims that the plans were never

²⁹*Id.*

³⁰SENATE REPORT, *supra* note 10, at 51.

³¹*Id.* The cable added that the CIA operative believed that the Congolese central government did not plan to "liquidate" Lumumba.

³²*Id.* at 35.

³³*Id.*

ordered into operation does not lessen the severity of the actions taken to prepare for the assassination.

When Victor Hedgman concluded his testimony, he was offered an opportunity to give his opinion of the assassination plot. He responded that he was not convinced of the righteousness of the act. However, since he believed that the order was issued "from an authorized authority," he felt that it would have been his duty to carry out that order.³⁴

The purpose of the poison which would create a circumstance resembling a natural death was to enable the United States plausibly to deny any involvement in the assassination. The concept of "plausible denial" deserves special attention. The original purpose and use of the doctrine of plausible denial was to avoid attribution to the United States for covert operations. The intent of this practice was both to protect the operatives abroad, often operating under assumed personalities for the purpose of carrying on espionage activities, as well as to maintain United States government integrity. The Senate Committee on Alleged Assassination Plots found that this concept

has been expanded to mask decisions of the President and his senior staff members. A further consequence of the expansion of this doctrine is that subordinates, in an effort to permit their superiors to "plausibly deny" operations, fail to fully inform them about these operations. "Plausible denial" can also lead to the use of euphemism and circumlocution, which are designed to allow the President and other senior officials to deny knowledge of an operation should it be disclosed. The converse may also occur; a President could communicate his desire for a sensitive operation in an indirect, circumlocutious manner. An additional possibility is that the President may, in fact, not be fully and accurately informed about a sensitive operation because he failed to receive the "circumlocutious" message.³⁵

The Committee further concludes that the problems of extended license taken by the CIA operatives in the assassination attempts described in the report, may well have been caused by the extended use of the doctrine of plausible denial.

The overall conclusions of the Senate Committee were that political assassination is not an acceptable means of causing political change,

³⁴*Id.* at 70. This was the last paragraph of the Senate Committee's account of their investigation into the death of Lumumba.

³⁵*Id.* at 11-12.

and that there should be a law in effect to prevent the practice of assassination. President Ford had asked the committee to examine the issue of assassination and in a press conference of June 9, 1975, he said, "I am opposed to political assassination. This administration has not and will not use such means as instruments of national policy." The Committee made the following recommendation:

The Committee recommends a statute which would make it a criminal offense for persons subject to the jurisdiction of the United States (1) to conspire, within or outside the United States, to assassinate a foreign official; (2) to attempt to assassinate a foreign official, or (3) to assassinate a foreign official.³⁶

In response to allegations in the press, Richard Helms, then Director of Central Intelligence, issued a directive in 1972 ordering that no person in his organization would be permitted to carry on any assassination operation or assist or suggest such an operation to others. In 1973, William Colby issued a similar order after he had assumed the position of Director.³⁷ The Committee obviously did not feel that the CIA directives were sufficient for the prevention of future operations which would violate the guidelines they felt necessary to contain covert operations. The recommendation for a statute making it a federal crime to engage in assassination makes it evident that the Committee found a need for stronger controls on covert activity.

Helms testified that his reasons for issuing the directive disallowing assassination were not limited to moral principles. He explained that it is nearly impossible to conceal an assassination plot operating under a democracy. A leak would develop through the press or through an operative who reports to a Congressman. The second practical reason for his ban on assassination, Helms explained, was the replacement of the target victim. Who would assume power after the death of the foreign leader at the hands of the assassin? It is quite likely that the United States would not stand in any better position than it had prior to the assassination.³⁸ Considering the possibility that, should the plot be discovered, the succeeding leader might destroy any political gains

³⁶*Id.* at 283. It was the Committee's intention to close off all possibilities of an assassination involving the United States without a criminal sanction. The only incidence of assassination not considered by the Committee, nor disallowed by the proposed law, was an assassination under the permissible laws of organized warfare.

³⁷*Id.* at 282.

³⁸*Id.*

the United States might have hoped to achieve, even in the light of plausible denial, such operations may be disadvantageous.

D. *Assassination and International Law*

Concerning the legality of a foreign assault on a national leader, there is no specific treaty or agreement between nations disallowing assassination by a foreign power in the absence of a state war. The act of one state interfering in the domestic affairs of another, without regard to the will of the latter, for the purpose of maintaining or altering the conditions within it, constitutes an act of intervention.³⁹ According to Moore's *International Law Digest*, "[r]egarded from the point of view of the state intruded upon [intervention] must always remain an act which, if not consented to, is an act of war."⁴⁰ It would appear that the act of assassination could be interpreted as the commencement of a war and that an assassination in the absence of a war could not, by definition, exist. However, intervention is not always classed as political. Non-political intervention occurs when one nation acts to protect its citizens in a foreign country.⁴¹ The United States was one of the nations represented at the Convention of 1933 held in Montevideo. The agreement signed by the American republics on December 26, provides that no state shall have the right to intervene in the internal or external affairs of another signatory state.⁴² The fact that the governments which signed this agreement saw fit to include a provision disallowing intervention implies that there are circumstances which would allow the action without violation of international law. The presence of the provision, however, does not determine the legality of intervention in international law though it does tend to show that situations may exist where the action would not be illegal.

At the time of the assassination of Patrice Lumumba, the Republic of the Congo was only six months old. The assassination plan perpetrated by the CIA began before the new Republic was two mon-

³⁹6 J. MOORE, *INTERNATIONAL LAW DIGEST* 2 (1943). The general principles of this section of the digest, which defines intervention, state, "Prima facie intervention is a hostile act, because it constitutes an attack upon the independence of the state subjected to it."

⁴⁰*Id.*

⁴¹*Id.* at 247-48. Non-political intervention is an exception to the previous statement that intervention constitutes an act of war.

⁴²1 G. HACKWORTH, *DIGEST OF INTERNATIONAL LAW* 98 (1963). The purpose of the Montevideo Conference was to establish the sovereignty of the several American nations.

ths old. The new nation did not sever itself from Belgium by means of revolution, nor did it abandon the laws imposed by the Belgian colonialists. Although it may be inconceivable that the Republic of the Congo would maintain the colonial laws which created the class system placing the *evolués* in a privileged status, it is quite possible that the new government had every intention of complying with all of the international agreements by which it was bound a few months earlier. The new Republic may have been bound by the treaties and international agreements established during its colonial rule.

The question of the assumption of an imperial agreement applying to a newly independent colony is answered in two parts. First, it is necessary to determine whether the treaty was applicable to the colony before independence, and second, whether the treaty rights and obligations continue to apply to the independent nation and the nations with which the agreement was made. According to Vattel, the territory of a nation includes its colonies.⁴³ Whenever one nation makes an agreement with another, the agreement shall apply to "all the possessions of a nation, in whatever place they may be situated and whatever may be the distance that separates them."⁴⁴ According to Hackworth, the international agreements of a state are applicable to its colonies.

As a general rule territory of the annexed or incorporated state becomes impressed with the treaties of the acquiring state, so far as they are not locally inapplicable. This matter is usually the subject of an understanding between the annexing state and other treaty states at the time of the annexation, or of an affirmative declaration by the annexing state acquiesced in by other treaty countries.⁴⁵

It appears that since Belgium acquired the Belgian Congo as a colony, the Congo acquired the treaty agreements of Belgium.

When the Republic of Congo (Brazzaville) attained its independence, the United States requested the new government to disclose its intentions regarding the treaty agreements between the United States and the Republic. The Republic of Congo (Brazzaville) had acquired its independence from France by peaceful settlement similar in manner to the Republic of the Congo (Leopoldville). In a

⁴³1 J. MOORE, *supra* note 39, at 18. Vattel is quoted in this digest as the authority for the statement that a colony is subject to all of the treaties and international agreements of the ruling power.

⁴⁴*Id.*

⁴⁵5 G. HACKWORTH, *supra* note 42, at 376-77.

reply of August 5, 1961, the Foreign Affairs Ministry explained the understanding of the new government:

In accordance with the practices of international law and because of the circumstances under which the Republic of Congo attained international sovereignty, the latter considers itself to be a party to the treaties and agreements signed prior to its independence by the French Republic and extended by the latter to its former overseas territories, provided that such treaties or agreements have not been expressly denounced by it or tacitly abrogated by a text replacing them.⁴⁶

The operation of a newly independent territory in acquiring the international agreements of its former ruling power is a practice of state succession. If, as stated by the Ministry of the Republic of Congo (Brazzaville), the succession of colonial treaties by the newly independent state is a practice of international law, then it can be assumed that the Republic of the Congo (Leopoldville) likewise assumed the responsibilities and rights of international agreements which were applicable to the territory during its colonial rule. This situation leads to an examination of the agreements between the United States and Belgium prior to the independence of the Republic.

D. *Applicability of Belgium—United States Treaties*

In 1882 the United States entered into a treaty with Belgium whereby the two countries agreed that fugitives from either nation who were suspected of acts of "murder, assassination, or poisoning" against the heads of either country or against any member of a leader's family, would not be considered immune from extradition as would be a person accused of having committed a political offense.⁴⁷ This agreement was reiterated in a 1901 treaty between these same two countries. Naturally, if either government condoned or conspired in a plot of assassination, this act would be equivalent to the granting of asylum to the assassin in the very least. As a colony of Belgium, the Congo was entitled to the same cooperation from the United States as was

⁴⁶T.I.A.S. No. 5161; 13 U.S.T. 2065. This statement by the Foreign Affairs Ministry could probably not be controlling in the creation of an international agreement if it were not merely an affirmation of an intent to comply with general practice of international law.

⁴⁷4 J. MOORE, *supra* note 39, at 352. The treaties made between the United States and Belgium were not unique. The United States signed similar treaties for extradition with Russia and Luxembourg. These treaties were concluded shortly after the assassination of President Garfield in 1871.

Belgium. The assassination plot against Lumumba originated in the National Security Council meeting on August 18, 1960.⁴⁸ At this time Lumumba was still serving as Prime Minister. He was not dismissed by Kasavubu until September.⁴⁹ Thus the United States was plotting to assassinate a political head of state, which plot was a violation of the 1901 treaty in the sense that the Republic of the Congo assumed the treaty rights of Belgium by means of state succession.

The treaties with Belgium, in which the United States agreed to deny the privileges of a political fugitive to assassins, were not unique. Similar agreements were made between the United States and the governments of Luxembourg, Russia, and Denmark.⁵⁰ However, this arrangement is not universally held between the United States and all other nations.

In 1897 and 1898, the United States signed treaties of extradition with Brazil in which acts of assassination were considered political crimes and therefore not applicable to national extradition unless the assassination is "unconnected with political movements and is such as to constitute murder. . . ."⁵¹ This restriction on the rights and obligations of the two countries in the surrendering of fugitive assassins applies to acts committed against the president or vice-president of the United States and against the governor or lieutenant-governor of any state and to acts committed against the Brazilian counterparts to such American officeholders.⁵² In effect, this restriction gives either the United States or Brazil the power to grant refuge to an assassin from the other country. Whether either government would grant asylum to an assassin is academic; the laws between the two nations permit such action.

The extradition of a fugitive is not always performed as a legal obligation. In 1866, the government of Egypt assisted in the capture of John H. Surratt in Alexandria, and placed him aboard an American man-of-war.⁵³ Surratt was charged with complicity in the assassination of President Lincoln. At the time Surratt was extradited, there existed no treaty, formal or informal, between the United States and Egypt for

⁴⁸SENATE REPORT, *supra* note 10, at 13.

⁴⁹*Id.* at 14.

⁵⁰4 J. MOORE, *supra* note 39, at 352.

⁵¹*Id.* at 353.

⁵²*Id.*

⁵³*Id.* Egypt was under no obligation to surrender Surratt to American authorities. The action of the Egyptian government was carried out as a matter of discretion.

the refusal of asylum to political fugitives accused of assassination. Extradition of a political assassin exists, therefore, even in the absence of a written treaty between nations requiring it.

E. Conclusions of Legality in the Assassination Plot Against Patrice Lumumba

There are three factors applicable to a determination of the legality of the assassination plot perpetrated by the CIA against Lumumba. A first concern is whether any treaty obligations exist by virtue of the state succession of Belgian international agreements applicable to the Congo after independence. Next, one should weigh the influence of contrary agreements existing between the United States and other national governments on the effectiveness of the old Belgian treaties. A final concern is the effect of precedential acts of extradition such as that of Surratt by Egypt.

The Republic of the Congo did not abrogate the treaties applicable to it under Belgian colonial rule. Therefore, if the treaty between the United States and Belgium was not inapplicable to the Congo, the treaty continued in force between the United States and the new Republic of the Congo.⁵⁴ If this treaty was effective after the independence of the Belgian Congo, through the operation of state succession under international law, then the United States was in violation of that treaty when the CIA plotted to assassinate Lumumba.

The existence of treaties and agreements contrary to that between the United States and Belgium, does not serve to negate the effectiveness of the treaty succeeded to by the Republic of the Congo. The existence of treaties serves only to establish a general rule of international law where no agreement between nations has been formalized. If the Republic succeeded to the treaty rights that existed between the United States and Belgium, the rights and obligations between the United States and Brazil would not have any effect on a determination of the international law involving the Congo.

Egypt's extradition of John Surratt did not increase the efficacy of the Belgian treaty. Egypt had no obligation to grant asylum to an American accused of assassination, nor was the Egyptian government obligated to assist in the apprehension of a fugitive assassin. Egypt assisted the United States government as a matter of comity and as an effort to maintain good relations between the two countries. Such acts

⁵⁴T.I.A.S. No. 5161, *supra* note 46.

can not be considered as controlling precedents when agreements to operate in a contrary manner exist.

Of the three factors, only the first is controlling. It is most likely that if the U.S.-Belgium treaty was not inapplicable to the Republic of the Congo, then the Republic succeeded to that treaty, and the United States was in violation of the treaty when plotting the assassination of Patrice Lumumba.

II. IDI AMIN DADA

A. Background

In the first week of February, 1971, President Apolo Milton Obote attempted a purge of his military staff in the central African nation of Uganda. Major General Idi Amin Dada directed an assault against Obote and successfully carried off the twenty-seventh *coup d'état* in black Africa since Patrice Lumumba's assassination.⁵⁵ The revolution lasted a little more than sixteen hours, at the end of which time Idi Amin announced himself the new President of Uganda.⁵⁶ Amin was able to defeat Obote by organizing the army and centralizing authority over the military in himself. When Obote lost control of the military he also lost control of the government. The attempted purge of the military high command came too late.

Idi (Big Daddy) Amin Dada was a career soldier, signing into the British colonial army as a young man. He held the Uganda heavyweight boxing championship while serving as a colonial soldier, and retired undefeated in 1960.⁵⁷ Amin had served in a British command but the military training for his troops was provided by the Israeli government.⁵⁸ Amin rose through the ranks of the British military and then, much more rapidly, through the Ugandan army when in 1966 he was made armed forces chief of staff.

Obote had gained power prior to the independence of Uganda in 1963 by promising to maintain the identity of the four kingdoms.⁵⁹

⁵⁵*Uganda: Big Daddy Takes Charge*, TIME, Feb. 8, 1971, at 38.

⁵⁶*Id.*

⁵⁷*Uganda: Big Daddy*, TIME, Feb. 14, 1972, at 30.

⁵⁸TIME, *supra* note 55.

⁵⁹*Id.* Sir Edward Mutesa II was the Kabaka (King) of Buganda, the largest of the four kingdoms that comprise Uganda. Mutesa desired to maintain his sovereignty as Kabaka. Obote first allied himself to Mutesa, serving as Prime Minister during Mutesa's Presidency. However, in 1966, Obote took command of the government, dismissing Mutesa, and established a central governmental control. Mutesa was forced into exile and later died in England.

When independence from Britain was granted, Sir Edward Mutesa II, the Kabaka (king) of Buganda, became president of the new government and Obote became Prime Minister. However, Obote centralized his authority and Mutesa was forced into exile.⁶⁰ Obote continued to increase his control over the country by use of emergency powers. His last attempt to strengthen his position was the failure which brought Amin to the head of the government.

The new leader of the Ugandan government was seen initially as a welcome relief from tyranny. Time magazine reported on the *coup d'état* and pictured Idi Amin with the caption "More amicable than ambitious."⁶¹ There were promises of new elections, greater freedoms, and a return of Mutesa's body to his native soil, but there was to be no return to the autonomy of the four kingdoms. Amin was retaining the centralized government control.

The hopes of personal freedom and peaceful government did not last long in Uganda. In March 1972, Amin ordered all of his Israeli military advisers out of the country on the grounds that they were plotting sabotage against his country. Then in August of 1972, Amin ordered the eighty thousand Asians then living in Uganda to leave the country.⁶² There were few exceptions to the Asian banishment and at least fifty thousand people were compelled to leave the country within three months. Amin claimed the order of expulsion came to him in a dream: "God was directing me to act immediately to save the situation. . . ."⁶³ The more apparent reason for the order was the plight of the economy. Since coming to power in 1971, Amin had spent lavishly on the military budget⁶⁴ and as a result Uganda was now on the verge of bankruptcy. The Asians held the majority of the skilled and professional jobs in Uganda and comprised the vast majority of the Ugandan

⁶⁰*Id.*

⁶¹*Id.* Idi Amin was an obscure figure in 1971 when he took over the government, and anyone was thought to be an improvement over the deposed Obote.

⁶²*Uganda: Men Without a Country*, NEWSWEEK, Aug. 21, 1972, at 27-28. The order of expulsion varied from one moment to the next, as Amin changed his mind to allow those Asians with Ugandan citizenship to remain and then denied them that right. Amin did permit certain trained professionals to remain in the country, but the atmosphere was not pleasant.

⁶³*Id.* at 28.

⁶⁴*Amin's Uganda: From Dreams to Brutality*, THE NATION, Nov. 13, 1972, at 464-65. A full three-quarters of the capital budget was spent for arms and supplies for the military. Most of this money had been set aside for schools, roads, and other similar projects.

middle class. It is quite likely that Amin hoped to gain some capital for his national debt through the confiscation of the Asians' property. At the very least, the expulsion order would distract the attention of the people away from the starving economy. Asians were told to sell their possessions and their businesses, but there was simply no market for anything the Asians had to sell. The black Ugandans soon were able to collect whatever was left behind. The Asians were permitted to take only the equivalent of \$140 per family, and the balance of their savings was expropriated by the government.⁶⁵ Although an extension for the exodus was permitted, and permission granted to twenty thousand Asians to stay (these were mostly professionals and irreplaceable skilled technicians), the order was enforced and approximately fifty-two thousand Asians left Uganda.

Amin did not assist the banished thousands in the compliance of his order but, on the contrary, took actions which hindered the emigration. Although Britain did not want to accept thousands of Asian immigrants, many of them held British passports and many were British citizens. Prime Minister Edward Heath declared that Britain would not deny the Asians a refuge and would live up to its obligations, but that he hoped that other countries would take some of the homeless.⁶⁶ British-owned air lines began to airlift the refugees out of Uganda, but in mid-September Amin ordered that the Asians should be removed by East Africa Airways, a company partly owned by Uganda. The airline was too small for such an enormous job, and to make matters worse, Amin raised the fares to an amount equal to \$106 more per passenger than the British airlines had charged.⁶⁷ The army which Amin pampered and kept well armed, was set loose on the country to do as they pleased. Ugandan soldiers have reportedly robbed, beaten, and murdered thousands of Ugandan residents. During the exodus the troops harassed and often robbed the exiled Asians.

The injustices associated with the expulsion order were overshadowed in the last week of September 1972 by the activities of a revolutionary force calling themselves the Uganda People's Militia. Well-armed and

⁶⁵*Uganda: The Outcast's Story*, NEWSWEEK, Sept. 25, 1972, at 61.

⁶⁶*Uganda: Flight of the Asians*, TIME, Sept. 11, 1972, at 27. Canada did agree to accept five thousand of the homeless Asians and the United States took in about one thousand.

⁶⁷*Id.* at 27-28. The fare charged by the British airlines was approximately \$168. After Amin ordered that only East Africa Airways would be allowed to remove the unwanted Asians, he demanded that a fare of \$274 per passenger be charged.

trained, the small army, only about eight hundred strong, entered Uganda across the Tanzanian border.⁶⁸ The rebel band, comprised mostly of former soldiers and police from the Obote regime, gained a stronghold but were hopelessly outnumbered when the loyalist troops returned. Most of the rebels were killed in the battle and the invasion plan was a complete failure.

The foreign reaction to Ida Amin's injustices has been one of economic retaliation. The United States withdrew a three million dollar agricultural assistance loan,⁶⁹ and Britain canceled a twenty-four million dollar loan to Uganda.⁷⁰ This tactic of using economic influence to condemn the outrageous behavior of exile and brutality has not been successful in securing the safety of foreign nationals in Uganda. The economic club wielded against Amin has certainly accomplished little when used as a weapon to insure the human rights of the Ugandan citizens.

Amin has been able to cement his power through a series of purges, which have been arbitrarily directed against the different tribal factions in the country. At first, Amin began by removing members of Obote's tribe, the Langi, from positions of command in the military. The vacancies were filled by members of Amin's own tribe, the Kakwa, and also by members of the Lugbara.⁷¹ In April 1974, three years after assuming power, Amin's purges had cost the lives of between twenty and ninety thousand people.⁷² The Lugbara, suspecting that they in turn might not be safe from the madness of the tyrant, feared that they might become the target of the next purge. The highest ranking officer of the Lugbara tribe was murdered and the Lugbara retaliated.⁷³ The plot included an assassination strike against

⁶⁸*Uganda: The Black Hole of Kampala*, TIME, Oct. 2, 1972, at 32.

⁶⁹*Amin: Shades of Hitler*, NEWSWEEK, Sept. 25, 1972, at 61.

⁷⁰*Uganda: A Genuinely Black State*, TIME, Dec. 18, 1972, at 40.

⁷¹*Uganda: Threnody for the Rebels*, TIME, Apr. 8, 1974, at 40. There were purges aimed at the Baganda tribe of Kabaka Mutesa under the dictatorship of Obote. Amin then turned the same vengeance against Obote's Langi and the once favored Acholi, and eventually the Lugbara. It would be difficult for Amin to engage in an actual tribal genocide against these three tribes since these are three of the four largest tribes in Uganda and comprise well over half of the population of the country. However, Amin has caused the deaths of thousands of his own countrymen and permitted his troops to murder tens of thousands more.

⁷²*Id.*

⁷³*Id.* The officer, Lieutenant Colonel Michael Ondoga, was serving as Foreign Minister at the time of his death.

Amin which failed. It was hypothesized that the murder of the Lugbara officer was a machination calculated by Amin to incite the revolt, thereby justifying the purge of all Lugbara soldiers.⁷⁴ The coup was smashed and Amin began the reprisals, killing both soldiers and civilians for suspected participation in the revolt. Amin is reported to have said shortly after this coup attempt: "If you are unhappy with me, then kill me or make me resign and don't disturb the people at night by running about shooting."⁷⁵

The question to be asked is, whether Amin's removal practicably can be accomplished by either of the two methods. It is certainly doubtful that Idi Amin would ever resign. He has declared himself the President for Life of Uganda, and if his death is the only means of his retirement, it may be that assassination is the only means of bringing about that retirement.

B. *Signs of Misrule: Rationale for Elimination*

Idi Amin has produced a long series of outrages since he took power in 1971. He has often surprised the world with his comments, which he makes under the guise of giving advice to the leaders of other nations. In 1972, during the expulsion of the Asians, Amin charged that he had uncovered a British plot to assassinate him, and then sent a message to Kurt Waldheim, Secretary-General of the United Nations, and Golda Meir, Prime Minister of Israel, defending the terrorist attack at the Munich Olympics. Amin also praised Adolph Hitler for his persecution of the Jews.

Germany is the right place, where Hitler was Prime Minister and supreme commander, he burnt over 6 million Jews This is because Hitler and all German people knew that the Israelis are not people who are working in the interest of the people of the world, and that is why they burnt the Israelis alive with gas in the soil of Germany⁷⁶

It was at this time that the United States decided to withhold the three million dollar agricultural assistance loan.

In January of 1975, Amin declared that he planned to make a visit to Great Britain, where he would like to meet with the fifty thousand Asians whom he had "booted out" of Uganda.⁷⁷ By this time five

⁷⁴*Id.*

⁷⁵*Id.*

⁷⁶NEWSWEEK, *supra* note 69.

⁷⁷*Uganda: Murderous Anarchy*, TIME, Feb. 10, 1975, at 37.

African heads of state had leaked information that they would support a coup against Amin, and at least three other African national heads had let it be known they were not opposed to an anti-Amin *coup d'état*.⁷⁸ Later in 1975, Amin had a British writer imprisoned for writing that Amin was a "village tyrant." The author, Dennis Hills, was ordered to be executed. Britain sent Major General Iain Grahame and Lieutenant General Sir Chandos Blair to deliver a plea from Queen Elizabeth for the life of Hills. The two officers had been Amin's commanding officers during the period of Britain's colonial rule in Uganda. At first, Amin seemed willing to cancel the execution but then announced that Hills would die on July 4 unless the British Foreign Secretary came to Uganda. Amin was enraged when Blair walked out of the meeting. Amin denounced the British and their two messengers and ordered his army to a full alert to prepare for a British invasion. When the British attempted to calm the situation with promises of a fresh start in Anglo-Ugandan relations, Amin announced that more than seven hundred British citizens living in Uganda had been arrested and charged with espionage.⁷⁹ In September 1972, when there were seven thousand Britons living in Uganda, Amin had ordered that all of them be placed under surveillance, explaining that the "British crooks" were trying to assassinate him. He also accused Great Britain of planning an invasion of Uganda by "land, sea, and air."⁸⁰ It is doubtful that anyone would correct or contradict the dictator, but when it was pointed out that Uganda is about five hundred miles from the nearest seaport, Amin declared that British Foreign Secretary Sir Alec Douglas-Home had betrayed his "ignorance about Africa" by his foolish military tactics.⁸¹

With the numerous purges in the military, there is still no lack of personnel. Amin continues to fill the vacancies he creates with ap-

⁷⁸*Id.* Two nations most likely to have been so opposed to Amin as to allow their opposition to become known are South Africa and Rhodesia. Amin has threatened war against these two nations and has even staged a mock invasion of an island in Lake Victoria, supposedly a simulation and preparation for the invasion of Cape Town, South Africa.

⁷⁹*Uganda: Trick or Treat*, NEWSWEEK, July 7, 1975, at 35. Prime Minister Harold Wilson later agreed to send the Foreign Secretary to negotiate the new "fresh start" in international affairs. Amin released Hills almost immediately after Callaghan arrived. In the presence of both Hills and Callaghan, Amin declared that "This proves I am not mad."

⁸⁰*Uganda: God Help the People*, TIME, Sept. 25, 1972, at 32.

⁸¹*Id.* at 33.

pointments of officers and staff, often from his own Kakwa tribe, but always with the qualification that the new appointees be loyal to their leader. The problem arising from the new appointments is that there is no longer any source of training for the new soldiers and the growing army. Before the coup which brought Amin to power, the Ugandan army was trained by Israeli troops and advisers, and supplied by Great Britain.⁸² Since Amin expelled the Israelis, there has been no qualified training for the army. The new recruits are poorly trained and there is no discipline.⁸³ The officers are likewise unfit for their positions. Amin has not let the lack of quality in his military stop him from lavishing a huge portion of his overstretched budget on it.

When Amin expelled the Israelis from Uganda, he began the purge of all the Langi officers in the army.⁸⁴ The Langi is the native tribe of Amin's predecessor, Obote. Obote had also favored the Acholi tribe and Amin set about removing them also. To replace the missing officers, Amin promoted a few sergeants to the rank of colonel. One reason for the removal of the Langi and Acholi is Amin's religious zeal. Amin is a devout, perhaps fanatical, Moslem and the Langi and Acholi are predominantly Christian.⁸⁵

With the army in such a state of untrained, undisciplined savagery, there have been continual attacks on civilians by the military. An estimate of between fifty thousand and two hundred fifty thousand deaths have been attributed to Amin and his army during the first four years after his coup.⁸⁶ Many of the Asians who were expelled in 1972 told tales of being beaten and robbed by soldiers. Apparently, a free license to loot and kill innocent civilians is a reward to the troops in return for their loyalty to Amin. The only fear a soldier need have is the fear that Amin, at any time, may decide that his particular tribe is no longer loyal.

⁸²*Uganda: Emperor Amin*, NEWSWEEK, Oct. 16, 1972, at 51. On his military tunic, Amin still continued to wear a British campaign ribbon and an Israeli paratrooper's wings after those two nations had been ordered to remove all of their military personnel and advisers from Uganda.

⁸³THE NATION, *supra* note 64, at 463.

⁸⁴*Id.*

⁸⁵TIME, *supra* note 71, at 40.

⁸⁶*Is Africa Ready for Amin?*, NEWSWEEK, Aug. 4, 1975, at 41. The report of the death tolls is derived from the International Commission of Jurists, who investigated the violence in Uganda and published their findings in 1975. The officers rule as petty tyrants, answerable only to Amin. Persons offending soldiers may be shot immediately. The Commission was quoted as saying that Amin has "ushered in a reign of terror worse than anything in recent African history."

All of the rages, accusations, and threats would seem to indicate that Amin is imbalanced; he certainly is not rational. There have been suggestions that Amin may be suffering from the prolonged effects of syphilitic infection, but Henry Kyemba, Uganda's former Minister of Health, claims that Amin stages his fits of rage purely for effect.⁸⁷

For all of the death and brutality that has been wrought in Uganda under the dictatorship of Idi Amin, it is not inconceivable that his assassination might be a humanitarian act. However, if Amin is not deposed from power by his own people, who would have a right to remove him by assassination or any other means?

C. *Legality of an Assassination of Idi Amin by a Foreign Government*

Assassination is an accepted method of carrying on war between nations.⁸⁸ Grotius describes the act of assassination, performed by an enemy who has no ties of faith to the leader, as a lawful act.⁸⁹ He draws a distinction, however, between this form of assassin and the assassin who is bound to the leader by a tie of faith such as a guest of the leader, a soldier in the army acting for hire in the interest of the enemy, or a subject of the murdered king.⁹⁰ Vattel clarifies the position taken by Grotius and agrees with him. According to Vattel, the killing of an enemy leader, by an opposing soldier, is a lawful act.⁹¹ However, the act of poisoning, or the treacherous killing of a leader by a servant or vassal is in violation of the laws of nations.⁹² Of course, both of the authors agree that the legality of the act of assassination depends on the existence of a state of war.

There are much more recent, and more authoritative, laws dealing with the practice of assassination in wartime. Article Three of the Geneva Convention of 1949 prohibits the murder of persons taking no

⁸⁷*Uganda: Big Daddy in Books*, TIME, Sept. 19, 1977, at 46. There is a theory that the trouble started in Uganda when Amin made his 1971 pilgrimage to Mecca. When he arrived, it rained in the holy city for the first time in over half a year. Amin believed that this was a sign of his divine appointment. Kyemba, in his book, explains that Amin's ruthlessness has a long history, going back in his military career as far as the colonial service. See H. KYEMBA, A STATE OF BLOOD (1977).

⁸⁸There are a number of examples cited by authorities such as Grotius and Vattel for "honorable assassination" in war, e.g., Theodotus' attempt on the life of Ptolemy, and Scaevola's attempt to kill an enemy leader.

⁸⁹H. GROTIUS, DE JURE BELLII ET PACIS 88-90 (Amsterdam 1632).

⁹⁰*Id.* at 89.

⁹¹E. VATTEL, THE LAW OF NATIONS 359 (London 1797).

⁹²*Id.* at 358-60.

active part in the hostilities of a civil war.⁹³ Of course there are generally national laws against murder as well as international accords.⁹⁴ This statement of international law was not adhered to during the Vietnamese War, in which the murder of minor officials was practiced as a means of terrorizing the villagers and undermining the confidence in the government.⁹⁵ Guerilla warfare and terrorist tactics have become a common means of attempting to achieve a political end, but practice does not necessarily imply legality. The current status of permissible assassination in wartime appears to allow the killing of a leader contributing to the hostilities by either uniformed personnel of a specific strike force, or non-uniformed personnel, even if these persons should include individuals who are subject to the rule of the victim of the assassination.⁹⁶ The problem with the permissible forms of assassination in international law is that these are premised on the condition of an active state of war.

A foreign government which authorizes or assists in the assassination of Idi Amin would commit an act of intervention. Such intervention, absent a valid non-political purpose, would constitute an act of war.⁹⁷ The most common form of non-political intervention is the protection of a nation's citizens against the wrongs and injustices of a foreign power.⁹⁸ In the first two years of his rule Amin's troops mistreated American residents far worse than any other group of foreigners with the possible exception of the banished Asians.⁹⁹ This injustice and persecution could give rise to American intervention in defense of its citizens. If Amin is the cause of the wrongs committed against American citizens, could his assassination be construed as a non-political intervention?

If the assassination were treated as a non-political act for the defense of American citizens, four problems arise. The first issue is the difficulty of convincing the new President of Uganda to accept the assassination as non-political. It is likely that anyone who might

⁹³J. Kelly, *Assassination in War Time*, 30 MIL. L. REV. 109 (1965). The author details the laws and treaties between nations dealing with assassination in time of war only. However, he states that even in this context the law is unclear.

⁹⁴*Id.*

⁹⁵*Id.* "It has been estimated that over ten thousand village officials were killed by the Viet Cong between 1956 and 1960." *Id.* at 109 n.22.

⁹⁶*Id.* at 111.

⁹⁷J. MOORE, *supra* note 39.

⁹⁸*Id.* at 247-48.

⁹⁹THE NATION, *supra* note 64, at 465-66.

replace Amin would follow his example, since all of Amin's cabinet and military personnel have achieved their positions through their loyalty to Amin. The second problem is the lack of control over the army. Soldiers in Uganda are undisciplined and a new commander probably could not restrain their acts of violence, even if he should desire to do so. The third difficulty is that the assassination of Amin could very likely cause reprisals against those persons the United States sought to protect. It does not seem to be a viable method of defending American interests, when the action simply provokes the injustice. Lastly, the prestige of the United States would be greatly diminished if the world community found out that it helped assassinate a foreign leader.¹⁰⁰ Considering these practical arguments against assassination, the act appears to be counter-productive. Therefore, if the assassination can not be shown to be a viable means of protecting the interests and safeguarding the lives of citizens in a foreign land, then the act would appear to be political, rather than non-political intervention.

Of course, the primary reason for the inability of the United States to assassinate a foreign leader is that such action would violate the rule promulgated by the Senate Committee which investigated and condemned assassination plots in foreign policy.¹⁰¹

III. CONCLUSIONS

The assassination plot perpetrated by the CIA was an act of political intervention, and as such was a violation of international law. By operation of state succession, the Republic of the Congo inherited the treaty rights of Belgium, and the plot against Patrice Lumumba, Prime Minister of the Republic, was a violation of the U.S.-Belgian agreements for the extradition of political assassins.

An attempt on the life of Idi Amin would be an act of political intervention, and thus would constitute an act of war. If a foreign power were to desire the removal of Amin by assassination, the possibility of war with Uganda must be considered as a consequence.

CHRISTIAN M. STERNAT*

*J.D. Candidate, Case Western Reserve University, 1979.

¹⁰⁰*CIA Murder Plots: Weighing the Damage to the U.S.*, U.S. NEWS & WORLD REP., Dec. 1, 1975, at 13-16.

¹⁰¹SENATE REPORT, *supra* note 10, at 281.

