

No. 14 of 1993. *The Internationally Protected Persons Act, 1993.*

ANTIGUA
AND
BARBUDA

[L. S.]

I Assent,

B. T. Carrott,
Governor-General's Deputy.

26th May, 1993.

ANTIGUA AND BARBUDA

No. 14 of 1993.

AN ACT to give effect to the Convention on the Prevention of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly in 1973 and for matters incidental to that Convention.

[10th June, 1993]

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. This Act may be cited as the Internationally Protected Persons Act, 1993. Short title.

2. (1) In this Act — Interpretation.

"the Convention" means the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly in 1973;

"protected person" in relation to alleged act or omission that constitutes a crime by virtue of or against any of sections 3 to 6 means —

(a) a person who, at the time of the time of the alleged act or omission is —

(i) a Head of State; or

(ii) a member of a body that performs the functions of a Head of State under that Constitution of the State; or

(iii) a Head of Government; or

(iv) a Minister of Foreign Affairs,

and is outside the territory of the State in which he holds office;

(b) a member of the family of any person referred to in paragraph (a) who is accompanying that person;

(c) a person who, at the time of the act or omission, is —

(i) a representative or an official of a State; or

(ii) an official or agent of an international organisation of an inter-governmental character,

and is entitled under international law to special protection from attack on his person, freedom or dignity;

(d) a member of the family of any person referred to in paragraph (c) who is a member of that person's household;

"relevant premises" means premises at which a protected person resides or is staying or which a protected person uses for the purpose of carrying out his functions as such a person; and

"vehicle" includes any means of conveyance.

(2) In sub-paragraph (1) (a) (i), the term "Head of State" includes, in relation to any Commonwealth country of which Her Majesty the Queen is Head of State, the Governor-General

or other person who performs the functions of the Head of State as Her Majesty's representative.

3. (1) Without prejudice to the provisions of any law every one commits an offence who, **whether** in or outside Antigua and Barbuda, does or omits to do any act to, in relation to, any person who he knows to be a protected person if that act or omission constitutes, or would, if done or omitted to be done in Antigua and Barbuda, constitute —

Offences against
persons.

(a) a crime referred to or described in the First Schedule; or

(b) an attempt to commit any such offence (where the offence is not itself constituted by a mere attempt).

(2) Everyone who commits an offence under this section is liable on conviction on indictment to the same penalty to which he would have been liable had he been charged with an offence under the offences against the Persons Act (Cap. 58).

4. (1) Without prejudice to the provisions of any other enactment, everyone commits an offence who, **whether** in or **whether** in or out of Antigua and Barbuda **does** or **omits** to do any act —

Offences against
premises or
vehicles.

(a) to or in relation to —

(i) any relevant premises; or

(ii) any vehicle that is used by a protected person,

while a protected person is present in those premises or that residence or vehicle; and

(b) which constitutes or would, if done or omitted to be done in Antigua and Barbuda constitute —

(i) a crime referred to or described in the First Schedule; or

(ii) an attempt to commit any such offence (where the offence is **not** itself constituted by a mere attempt).

(2) Everyone who commits an offence under this section is liable on conviction on indictment to the same penalty to which he would have been liable had he been charged with an offence under the Offences against the Persons Act (Cap. 58) or any enactment relating to an offence against property.

Threats against person.

5. (1) Everyone commits an offence who whether in or outside Antigua and Barbuda threatens to do any act —

(a) to, or in relation to, any person whom he knows to be a protected person; and

(b) which constitutes an offence under section 3.

(2) Everyone who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of seven years.

Threats against premises or vehicles.

6. (1) Everyone commits an offence who, whether in or outside Antigua and Barbuda, threatens to do any act —

(a) to, or in relation to —

(i) any relevant premises; or

(ii) any vehicle that he knows is used by a protected person; and

(b) which constitutes an offence under section 4.

(2) Everyone who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of five years.

Prosecution need not prove certain matters.

7. Notwithstanding anything in sections 3 to 6, in any proceedings brought under any of those sections, it shall not be necessary for the prosecution to prove any of the following matters —

(a) in respect to any protected person to whom section 2(1)(a) or (c) of the definition of that term applies, that the accused knew that at the time of the alleged offence, the identity of that person or the capacity in which he was a protected person;

(b) in respect of any protected person to whom section 2(1) (b) of that definition applies, that the accused knew, at the time of the alleged offence, that the protected person to whom section 2(1) (a) of that definition applies;

(c) in respect of any protected person to whom section 2(1) (c) of that definition applies, that the accused knew at the time of the alleged offence, that the protected person was entitled under international law to special protection from attack on his person, freedom or dignity;

(d) in respect of any protected person to whom section 2(1) (d) of that definition applies, that the accused knew, at the time of the alleged offence, that the protected person was a member of the household of any other person referred to in section 2(1) (c) of that definition.

8.(1) Subject to subsection (2), no proceedings for the trial and punishment of any person charged with an offence under any of the provisions of sections 3 to 6 shall be instituted in any court except with the consent of the Director of Public Prosecutions.

Consent of
Director of Public
Prosecutions.

(2) A person charged with an offence under any of those provisions may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or bail, notwithstanding that the consent of the Director of Public Prosecutions to the institution of a prosecution for the offence shall be taken until that consent has been obtained.

9. For any purpose in connection with this Act, a certificate given by the Minister charged with responsibility for Foreign Affairs certifying —

Evidence.

(a) any fact relevant to the questions of whether a person was or was not a protected person at any material time; or

(b) that any country is or is not, or was not at any material time, a party to the Convention; or

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(c) that the Government of any country is or is not, or was or was not at any material time, responsible for the international relations of any territory,

shall be sufficient evidence of that fact.

Purposes and
construction.

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

Second Schedule.

FIRST SCHEDULE

Section 3

DESCRIPTION OF OFFENCES

1. Culpable homicide, including murder, manslaughter and causing death by criminal negligence.
2. Maliciously or wilfully wounding or inflicting grievous bodily harm.
3. Assault occasioning actual bodily harm.
4. Rape and attempt to commit rape.
5. Kidnapping, abduction or false imprisonment.
6. Arson.
7. Malicious or wilful damage to property.

SECOND SCHEDULE

(Section 10)

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

The General Assembly

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

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

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

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

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

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

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

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

4. Recognizes that the provisions of the annexed Convention could not in any way prejudice the exercise of the legitimate right to **self-determination** and independence, in accordance with the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and apartheid;

5. Invites States to become parties to the annexed Convention;

6. Decides that the present resolution, whose provisions are related to the annexed Convention, shall always be published together with it.

ANNEX

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

The States Parties to this Convention,

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

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

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

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

Article 1

For the purposes of this Convention:

1. "Internationally protected person " means:

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

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

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

Article 2

1. The international commission of:

- (a) A murder, kidnapping or other attack upon the person or liberty of an internationally protected person;
- (b) A violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;
- (c) A threat to commit any such attack;
- (d) An attempt to commit any such attack; and
- (e) An act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.

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

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

Article 3

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

- (a) When the crime is committed in the territory of that state or on board a ship or aircraft registered in that State;
- (b) When the alleged offender is a national of that State;
- (c) When the crime is committed against an internationally protected person as defined in Article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

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

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

Article 4

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

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

Article 5

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

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

Article 6

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

- (a) The State where the crime was committed;
- (b) The *State* or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;

- (c) The State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his function;
- (d) All other States concerned; and
- (e) The international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this Article are being taken shall be entitled:

- (a) To communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and
- (b) To be visited by a representative of that State.

Article 7

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

Article 8

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

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

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

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

Article 9

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

Article 10

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

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

Article 11

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

Article 12

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

Article 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

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

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

Article 14

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

Article 15

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

Article 16

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

Article 17

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

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

Article 18

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

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

Article 19

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

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

Article 20

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

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

Passed the House of Representatives
this 26th day of April, 1993.

C. L. Murray,
Speaker.

L. A. Dowe,
Clerk to the House of Representatives.

Passed the Senate this 14th
day of May, 1993.

William A. Robinson,
Vice-President.

L. A. Dowe,
Clerk to the Senate.

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