

International Law Won't Shield Libyan Agents

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To the Editor:

Anthony Lewis incorrectly states an important point of international law in his "Alarm in Cairo" (column, Feb. 9), regarding the two Libyan agents suspected of planting the bomb that destroyed Pan Am Flight 103 over Lockerbie, Scotland, in 1988. He refers to unnamed international lawyers who assert that "there is no basis in international law for the demand that Libya turn over citizens suspected of crimes to another country." But international terrorism — especially involving unlawful acts against the safety of civil aviation — is now a recognized crime under international customary law.

It follows that Libya cannot lawfully shield terrorists against international criminal prosecution.

Libya has several choices under the norms set forth in numerous conventions that have attained the status of customary law. Libya can prosecute the agents under its own law and must accept assistance from other states (evidence, witnesses) in the prosecution. Or Libya can turn over

the suspects to an outside tribunal under stipulations protecting the full procedural rights of the accused.

None of this has anything to do with extradition. Mr. Lewis writes that the authority for turning over the agents "must rest on an extradition treaty, and Libya has none with the United States or Britain." But even if there were such an extradition treaty, it would not likely provide for extraditing one's own nationals to the other party.

Nor would such a treaty — if it existed — protect the Libyan agents under the "political offense" exception. Relevant international conventions such as the European Convention on the Suppression of Terrorism of 1976 make it clear that air piracy and aircraft bombing are exceptions to the political offense exception.

This last consideration strips away any possible claim that Libya might make that harboring such terrorists constitutes a justifiable act of political asylum.

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