

INTERNATIONAL RESPONSIBILITY FOR HOSTILE ACTS OF PRIVATE PERSONS
AGAINST FOREIGN STATES. By Manuel R. Garcia-Mora. [The Hague:
Martinus Nijhoff. 1962. xvii + 207 pp. D.fl. 20]

Professor Garcia-Mora invokes three principles on which to base this study: that the interest of the world community as a whole in its own peace and progress must always, in international relations, be paramount; that individuals as well as the States which they compose, have a duty to serve that interest, and there must be an end to “the glaring paradox....that certain activities, in which the State cannot engage, the individual can carry on with impunity”; and that the State must be held responsible for any act of individuals under its jurisdiction, which are hostile to other countries and so disturb the peace and good order of the world community for the Grotian Doctrine that State responsibility in such cases depends on *fault* is “palpably self-contradictory, since it contributes to the denial of the very sense of community that his natural law doctrines were intended to cover.”

Professor Garcia-Mora would be the first to agree that these principles are not yet established as accepted rules of international law, and there is much broad argument in the book *de lege ferenda* — there is at one point an invocation of “modern morality”, whatever that may be — but he adduces much evidence from State practice that these principles are converging in the form in which he casts them. The central part of the book is directed to some forms of hostile action by private persons against foreign states. While this is a valuable and well-documented survey of typical instances, it suffers a little from the adoption of such conventional descriptions as “hostile military expeditions”, “recruitment of volunteers”, “revolutionary activities”, and “invasion by armed bands”, descriptions which overlap in practice and confuse doctrine. What is needed, it is suggested, in this field, is an analysis of

the various forms of the use of force across frontiers, other than action by regular armed services of the State or by United Nations contingents, in terms of their scale, origin and purpose: in this way standards could be more easily established by which delictual liability could, in a given case, be imputed to a government, or to the individuals engaged in the hostile action, or to both: thus to take recent examples, the Chinese People's Volunteers in Korea would stand at one end of the scale, the Cuban exiles in their motor-boats at the other, and the Castro activist somewhere between. Of the Chinese People's Volunteers Professor Garcia-Mora observes that "behind the legal niceties the fact still remains that they were subordinated to and supplied by the Chinese Communist Government, and he poses in that rarely asked but puzzling question, who is now accountable in and to the United Nations for the observance by China, as a member, of the UN Charter? There is an interesting discussion of the hot pursuit of 'armed bands', valuable if only to remind us that it is not only a maritime concept. This Part of the book ends with an account of the archetyped offence of counterfeiting national currency: an examination of its subtler counterpart, competitive currency devaluation, would have been a useful addition here. The third and last Part is devoted to questions of jurisdiction over private persons for hostile acts of international concern. In examining allegiance as a basis of exercising criminal jurisdiction over aliens in 'British Law', as he describes the Laws of the Commonwealth Countries, Professor Garcia-Mora does not properly distinguish between the international concept of local allegiance and the constitutional doctrine of allegiance to the Crown: Jameson, de Jager, Casement, Christian and Joyce were not all in the same boat. He argues finally that the principle of 'protective' jurisdiction should, if it is not to get out of hand, be united by international convention, but he is sceptical of the practicability or value of an international criminal court.