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## Plane Hijackings between Cuba and the United States and the Opportunity for Diplomacy (1958–1973)

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### Abstract

Between 1958 and 1973, hijackings between Cuba and the US surged, prompting Cuban officials in the early 1960s to propose an extradition agreement for hijackers. However, the US, leveraging its superpower status, dismissed these initiatives, viewing hijackers as political asylum seekers rather than criminals. By the late 1960s, as hijackings escalated from the US to Cuba, the American approach shifted, seeking a bilateral agreement to address air piracy, only to be rebuffed by Cuba, which refused to accept the US's categorization of specific hijackers as political asylum seekers while classifying others as criminals. Meanwhile, the US pressed its extradition stance through international bodies like the International Civil Aviation Organization. These diplomatic efforts underscored broader challenges in US–Cuban relations, with negotiations repeatedly missing opportunities for enhanced co-operation. A pivotal shift occurred after a significant incident threatened both nations, leading to a more balanced perspective between the US and Cuba. This change culminated in the 1973 signing of a ‘Memorandum of understanding’, marking a turning point that significantly curbed hijacking incidents and hinted at potential future improvements in bilateral relations.

On 1 May 1961, National Airlines Flight 317 took off from Miami en route to Key West. The small plane, with its eight passengers, did not reach its destination. As the aircraft departed from a stopover at Marathon, a passenger entered the cockpit with a drawn weapon and uttered a phrase that would become familiar to many Americans in the coming years: ‘Let’s go to Havana.’ Hijacking was nothing new to the American people and its government. The United States had grown accustomed to welcoming planes hijacked out of Cuba and diverted to American soil. But now, officials faced an unprecedented challenge: what to do with a plane travelling in the opposite direction, from the United States to Cuba?

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This article focuses on plane hijackings, specifically those that crossed national borders between Cuba and the United States from the late 1950s to the early 1970s, and their impact on diplomatic relations between the two countries. From this unique vantage point, we come to see how diplomatic tensions surrounding the treatment of hijackers, the return of planes and passengers, and the need to secure the skies from an increasingly violent new era of air terror extend beyond these core topics to wider issues concerning the two countries.<sup>1</sup>

Both Cuba and the United States had an interest in ending the practice of plane hijacking, which compelled the two nations to seek a dialogue. Hijackers operated outside the realm of traditional state actors, and their actions introduced the threat of violence and the potential hazards associated with deviating from planned flight routes. The absence of diplomatic relations between the two countries could not justify ignoring the issue at hand, especially as the rate and intensity of hijackings escalated. Yet, it would take more than a decade and require numerous attempts before Cuba and the United States could establish a 'Memorandum of understanding' (MoU) in 1973.<sup>2</sup>

In approaching this topic, we should not take a simplified view of hijackers as either mere 'outlaws' or solely 'political actors' committing terrorist acts. Teishan Latner paints a multifaceted portrait of hijackers as individuals carrying out actions framed by broader economic, social, and political forces that, in the case of the US–Cuba hijackings, helped shape relations between the countries. The moment these individuals crossed national borders and landed either in the United States or Cuba, Latner shows, their title changed from that of 'criminal' to 'political dissidents' or 'refugees'. These hijackers, he continues, introduced an untraditional, 'non-state' force into relations between the countries.<sup>3</sup>

<sup>1</sup> Teishan Latner, *Cuban revolution in America: Havana and the making of a United States left, 1968–1992* (Chapel Hill, NC, 2018), p. 125. Some literature on diplomatic relations between Cuba and the United States avoids any discussion or reference to these hijackings. Others make only a glancing reference and point to hijackings as an example of a deepening crisis in relations. Esteban Morales Dominguez and Gary Prevost refer to an anti-hijacking agreement between the two countries in their book, but write only that on 'February 15, 1973: the United States and Cuba signed their first agreement on air piracy. The Department of State, however, announced it would not take any reconciliatory steps toward improving US–Cuba relations.' Esteban Morales Dominguez and Gary Prevost, *United States–Cuba relations: a critical history* (Lanham, MD, 2008), p. 76. Richard Gott, *Cuba: a new history* (New Haven, CT, 2004); Marifeli Perez-Stable, *The United States and Cuba: intimate enemies* (New York, NY, 2010), pp. 12–16; Lars Schoultz, *That infernal little Cuban Republic: the United States and the Cuban revolution* (Chapel Hill, NC, 2009), pp. 256–60; William Leogrande and Peter Kornbluh, *Back channel to Cuba: the hidden history of negotiations between Washington and Havana* (Chapel Hill, NC, 2016), pp. 123–6.

<sup>2</sup> David Rososal, 'Balancing power: plane hijackings & Cuban–US détente 1961–1976' (Master Thesis, City College of the City of New York, 2013), p. 23.

<sup>3</sup> Latner, *Cuban revolution*, pp. 125–7, 143, 151; see also Teishan Latner, 'Take me to Havana! Airline hijacking, US–Cuba relations, and political protest in late sixties' America', *Diplomatic History*, 39 (2015), p. 19. Scholarship in the fields of air policy, security studies, and counter terrorism has focused on hijacking with the goal of identifying key causes with the aim to help stop or reduce these acts. One social psychologist examined hijackings during their peak between 1968 and 1972 to see if the events represented a case of social contagion, and if so, under what conditions. See Robert Holden, 'The contagiousness of aircraft hijacking', *American Journal of Sociology*, 91 (1986), pp. 874–904; Karen Feste, 'Reducing international terrorism: negotiation dynamics in the US–Cuba

In the early 1960s, hijackers compelled Cuba to seek an extradition agreement with the United States, in the hopes it would help curb the phenomenon. The United States declined, only to recognize by the late 1960s the gravity of hijackings. It was at this juncture that the US government aimed to globally dictate its approach to the issue. As a dominant superpower, the United States frequently asserted its perspectives and definitions onto other nations, shaping outcomes in its favour. Rather than the empires of old, which physically occupied distant territories, the United States advanced its objectives by propagating its norms as global standards. In aviation, for example, the United States championed English as the industry's lingua franca, along with specific technical prerequisites, and even endeavoured to dictate the terms of international treaties on hijacking, such as The Hague Convention ('The Convention for the Suppression of Unlawful Seizure of Aircraft').<sup>4</sup>

Conversely, the Cubans remained steadfast, resisting American impositions, refusing unequal negotiations, and insisting on parity. Only when the United States acknowledged these demands did meaningful negotiations unfold, culminating in a bilateral agreement.<sup>5</sup>

The American pivot to seek an extradition agreement for hijackers also stemmed from the evolving global dynamics of the early 1970s. Amid the Vietnam War, both President Nixon and National Security Adviser Henry Kissinger prioritized recalibrating the global order, repositioning relations with the Soviet Union and China. Nixon's resolve to mend ties with these powers meant sidelining potential disruptions from countries such as Cuba. Given past confrontations like the 1962 missile crisis, Nixon and Kissinger recognized the imperative to address peripheral issues such as hijacking, which could jeopardize broader diplomatic goals.<sup>6</sup>

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skyjack crisis', paper presented at the 19th Annual Conference of the International Association for Conflict Management, Montreal, Canada, 25–8 June 2006, pp. 4–5. For other examples, see Jin-Tai Choi, *Aviation terrorism: historical survey, perspectives and responses* (New York, NY, 1994); Yannick Veilleux-Lepage, *How terror evolves: the emergence and spread of terrorist techniques*, e-book (London, 2020).

<sup>4</sup> Daniel Immerwahr, *How to hide an empire: a history of the Greater United States*, e-book (New York, NY, 2019), Introduction and ch. 18; Dominguez and Prevost, *United States-Cuba Relations*, p. 75; Rososal, *Balancing power*, p. 45. As pointed out by Daniel Sargent, while the term globalization gained widespread usage in the 1990s the ideas behind it had already begun to circulate in the 1970s. Daniel Sargent, *A superpower transformed: the remaking of American foreign relations in the 1970s* (Oxford, 2014), pp. 1–3, 5–6.

<sup>5</sup> Silke Zoller, *To deter and punish: global collaboration against terrorism in the 1970s* (New York, NY, 2021), pp. 24–6; Latner, 'Take me to Havana!', p. 43; For a detailed discussion of attempts at negotiation between the Cubans and the Americans under the Kennedy administration, see Piero Gleijeses, 'Cuba and the Cold War, 1959–1980', in Melvyn P. Leffler and Odd Arne Westad, eds., *The Cambridge history of the Cold War*, II (Cambridge, 2010), p. 328; Christopher Ingalls Haugh, 'Cocktail diplomacy: the United States and Cuba discuss rapprochement, 1961–1964', *Journal of Politics & Society* (Spring 2012), pp. 9–39. For a list of scholars, led by Piero Gleijeses, who have argued that the Cubans never truly intended to come to an agreement with the United States and that Castro never had pure intentions in his offers to negotiate, see *ibid.*, p. 11 n. 28.

<sup>6</sup> Sargent, *A superpower transformed*, pp. 1–11; Warren Cohen, *The new Cambridge history of American foreign relations*, IV (Cambridge, 2013), pp. 174–208; Mark Atwood Lawrence, 'Containing globalism: the United States and the developing world in the 1970s', in Niall Ferguson, Charles

Simultaneously, in the late 1960s and early 1970s, Cuba reoriented its foreign policy, distancing itself from championing revolutions in Latin America. Instead, aligning more closely with Soviet foreign policy, which also sought a *détente* with the United States, Cuba cultivated ties within Latin America and steered clear of controversies. Recognizing Cuba's new alignment, the United States engaged in earnest negotiations, leading to the 1973 agreement. This MoU set the stage for a prospective mild *détente*, particularly evident during the Carter administration.<sup>7</sup>

To explore negotiation efforts during the hijacking crisis, this article utilizes sources such as US government documents, newspaper articles, and memoirs of pivotal figures. Primarily emphasizing the American government's stance, the article first outlines hijacking's origins, particularly from Cuba to the United States, then examines peak periods in the early 1960s and between 1968 and 1972, illustrating power struggles between the two countries before reaching an agreement that would help mitigate hijackings.

## I

The world's first plane hijackings did not occur in the airspace between Florida and Havana. Beginning in July of 1947, a series of plane hijackings took place aboard flights departing from Eastern European countries. Most hijackers were citizens of these countries, which included Romania, Czechoslovakia, and Bulgaria, and they ordered the pilots to travel to destinations such as Austria, West Germany, and Italy. With communists solidifying their grasp on power across Eastern Europe, many individuals felt desperate to escape these oppressive regimes and reach freedom in the West. Some sneaked through forests, others swam across rivers or still others jumped over borders. Some fled through the air.<sup>8</sup>

The Americans, as well as other Western countries, willingly granted asylum. The way in which these men, women, and children had arrived in the West did not matter. The Americans believed that it was 'clear that these

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Maier, Erez Manela, and Daniel Sargent, eds., *The shock of the global: the 1970s in perspective* (Cambridge, MA, 2011), pp. 207–10.

<sup>7</sup> Tanya Harmer, 'Two, three, many revolutions? Cuba and the prospects for revolutionary change in Latin America, 1967–1975', *Journal of Latin American Studies*, 45 (2013), pp. 64–5; Anna Samson, 'A history of the Soviet–Cuban alliance (1960–1991)', *Politeja*, 10 (2008), pp. 89–108; Perez-Stable, *The United States and Cuba*, p. 12. Despite the MoU established in 1973, the United States persisted in adopting a paternalistic stance toward Cuba. This was particularly evident in Nixon's and Rogers's assertion that the agreement solely pertained to hijacking issues, emphasizing that their broader policy toward Cuba remained unchanged. Such a stance might have served as a defensive strategy for the administration, aiming to deflect criticisms regarding its engagement with Cuba. See LeoGrande and Kornbluh, *Back channel*, p. 126; Schultz, *That infernal*, p. 260.

<sup>8</sup> Department of Transportation, FAA, 'Aircraft hijackings and other criminal acts against civil aviation statistical and narrative reports', [www.ojp.gov/ncjrs/virtual-library/abstracts/aircraft-hijackings-and-other-criminal-acts-against-civil-aviation](http://www.ojp.gov/ncjrs/virtual-library/abstracts/aircraft-hijackings-and-other-criminal-acts-against-civil-aviation) (Washington, DC, 1983) (last accessed on 10 Aug. 2022). In February 1931, a Pan-American Airways plane that flew the mail route from Lima, Peru, landed in Arequipa. Military rebels surrounded the plane to prevent it from taking off. They held on to the aircraft and the pilot to use later to escape capture. This is considered by some to be the first plane hijacking, although it did not take place in the air and no passengers were present (*Philadelphia Inquirer*, 24 Feb. 1931, p. 3; *Kansas City Star*, 19 Mar. 1931, p. 24).

individuals fled...for political reasons by whatever means they could find to escape'. Hijacking was, in the eyes of Western forces, a legitimate means to reach freedom, a result of political repression.<sup>9</sup>

The Americans rebuffed requests to extradite hijackers, having made clear they viewed the act as a legitimate means of escape. For example, in response to a request from Czechoslovakia to return a hijacker, they wrote that 'The Czech Foreign Office will doubtless realize that no basis in law exists under existing treaties or in international law for such extradition.' The letter went on to state that these individuals fled Czechoslovakia as political dissidents 'with whatever means they could find to escape'. Referencing their policy, the Americans asserted their practice was never to take any criminal action against 'political offenders', and this would remain their position in the late 1950s and early 1960s in response to demands from Cuba to extradite the hijackers of planes landing in the United States.<sup>10</sup>

## II

In the Western Hemisphere, hijackings would start only a decade after they began in Europe, and they, too, resulted from political instability and the wish of hijackers to flee to a politically stable country. The first hijackings from Cuba to the United States began in 1958, while the country was still under the rule of the Batista government. Following a declaration by rebel leader Fidel Castro of an 'all-out war' against Batista rule, rebels shot at planes flying over the territory they controlled. Despite the risk to planes and passengers, the Batista government ordered pilots to continue to fly over rebel territory, and it drafted commercial pilots into the Air Force to fly in weapons from the Dominican Republic. As a result, more than two dozen pilots sought to find asylum in the United States through hijacking. In one incident, on 13 April 1958, a Cubana de Aviacion domestic flight from Havana to Santa Clara landed, unbeknownst to the passengers, in Miami. Upon arriving, the pilot, Captain Charles Villamar, explained that he and his crew members had taken their passengers to the United States because the Cuban authorities had forced him once to fly over rebel territory, and the experience had shaken him. The twelve passengers on Villamar's plane returned to Cuba, while the United States granted the pilot and the two crew members asylum. The media described the event as crew members who 'stole their own plane'.<sup>11</sup>

Castro's rebel forces had also been targeting Cubana de Aviacion flights as a tactic to undermine the power of the government. In addition to shooting at

<sup>9</sup> *New York Times* (NYT), 7 Apr. 1950 pp. 1, 3.

<sup>10</sup> *Ibid.*; see also, NYT, 26 Apr. 1950, p. 9.

<sup>11</sup> Choi, *Aviation terrorism*, pp. 12–13; *Chicago Daily Tribune*, 14 Apr. 1958, p. 1; *Miami Herald* (MH), 9 Apr. 1958, p. 1; MH, 14 Apr. 1958, p. 4; NYT, 14 Apr. 1958, p. 11; *Chicago Tribune*, 14 Apr. 1958, p. 1. In the case of hijackings from Eastern Europe, *The New York Times* and *The Guardian*, for example, described those who overtook planes as 'political refugees' who 'seize control' and 'force' pilots to divert the aircraft's route. The editors removed any blame from the Eastern European men who used violence to divert planes to the West, describing their act as an 'escape' or as the 'borrowing' of a plane. *Guardian*, 9 Apr. 1948, p. 5; NYT, 9 Apr. 1948, pp. 1, 14; NYT, 20 May 1948, p. 2.

planes flying over rebel territory, rebels boarded planes as passengers and hijacked a quarter of the airline's planes, landing the planes on rebel-held airstrips. Taking control of a quarter of the airline's planes demonstrated to the public the growing power of Castro's forces to paralyse an important component of Cuba's transportation system, along with the weakness of the Batista government to prevent it.<sup>12</sup>

Following Castro's rise to power, the wave of hijackings from Cuba to the United States intensified, yet while previous hijackings often occurred with the intention of avoiding risks to both the aircraft and its passengers, as well as to prevent the Cuban government from gaining control of a transportation asset, the motivations behind these plane hijackings had evolved. In this surge, which lasted from April of 1959 until the summer of 1961, it was often former Batista agents taking over planes as a means to flee the new revolutionary government out of fear for their safety. Hijackers seized control of twelve planes and redirected them mostly to Miami, but also to New York, Key West, and Jamaica.<sup>13</sup>

To thwart these hijackings, the Cuban government placed armed soldiers on deck, one of the first-ever attempts to implement a sky marshal programme, though it largely failed. In some instances, the hijackers were able to disarm the soldiers without hurting anyone, but in other cases, gunshot battles erupted while the planes were thousands of feet in the air. Even after a case in which hijackers murdered a guard, the American authorities did not extradite the nine hijackers responsible for taking control of the flight, nor did they try them in court. Instead, the Americans offered the group asylum. Even when it came at the cost of someone else's life, American officials viewed those fleeing Castro's government first and foremost as political refugees.<sup>14</sup>

In another case, on the eve of 4 July 1961, a hijacked Cubana de Aviacion plane landed in Miami. A soldier placed on the plane to guard against hijackings, Calvate Castro, lay onboard seriously wounded. In Havana, the Cuban radio station described the hijacking as 'a monstrous crime', and 'a new act of international piracy in which it can be supposed the bloody hands of the C.I.A....are involved'. Just like the Americans who in the years to come would suspect Castro's agents of orchestrating hijackings, so, too, did the Cubans believe nefarious forces in the United States stood behind the hijackings of their planes. The fact that the Americans did not try any of the hijackers, even those who had wounded or killed passengers, gave these theories credibility.<sup>15</sup>

Then hijackers inverted the trend, taking planes from the United States to Cuba. This switch would ultimately change the American view of hijackings.

<sup>12</sup> Veilleux-Lepage, *How terror evolves*, ch. 3; *NYT*, 2 Nov. 1958, p. 10; *NYT*, 3 Nov. 1958, pp. 1, 4; *Chicago Tribune*, 3 Nov. 1958, pp. 1, 4; *Los Angeles Times (LAT)*, 3 Nov. 1958, pp. 1, 12; *Guardian*, 3 Nov. 1958, p. 1.

<sup>13</sup> Department of Transportation, FAA, Office of Civil Aviation Security, 'US and foreign registered aircraft hijackings', 1 Jan. 1983, pp. 4–6, [www.ojp.gov/pdffiles1/Digitization/91941NCJRS.pdf](http://www.ojp.gov/pdffiles1/Digitization/91941NCJRS.pdf) (last accessed on 17 Feb. 2023).

<sup>14</sup> *NYT*, 30 Oct., 1960, pp. 1, 5; *Boston Globe (BG)*, 30 Oct. 1960, pp. 1, 8; *Washington Post (WP)*, 30 Oct. 1960, p. A1; *MH*, 1 Nov. 1960, p. 18.

<sup>15</sup> *WP*, 4 July 1961, p. A3; *BG*, 4 July 1961, p. 28.

The first hijacking of planes departing from the United States and redirected to Cuba followed the April 1961 Bay of Pigs debacle. Four such attempted hijackings took place between 1 May and 9 August 1961, and three were successful. The first two occurred on symbolic dates for Cuba: 1 May, Workers Day, and 24 July, the eve of National Rebellion Day (25–7 July). The next two attempts followed within two weeks of the 24 July hijacking. While they did not take place on national holidays, these hijackers, like previous actors, highlighted opposition to the West as the key motivating factor in their attacks.

The first two hijackers registered for their flights using pseudonyms. Antulio Ortiz Ramirez, the 1 May hijacker, listed himself as ‘Elpir Crofirisi Ata’, a name meant to reference an early nineteenth-century Puerto Rican buccaneer, El Pirata Cofresi, who had sailed the Caribbean and West Indies and acquired a Robin Hood-like reputation in his homeland. A few years before the hijacking, Ramirez, a native of Puerto Rico, had travelled to Cuba to join Castro’s rebel forces, but instead was arrested and jailed by the Cuban authorities.<sup>16</sup> The hijacker of the 24 July flight listed himself as Jose Marin, a clear reference to the Cuban national hero José Martí. The true name of the hijacker was Wilfredo Roman Oquendo, a Cuban-born American naturalized citizen, member of the 26 July Movement, night-club waiter, and ardent supporter of Castro.<sup>17</sup>

In explaining their motivations for the hijackings, the three successful hijackers justified their actions in political terms. Yet, most if not all suffered from some mental health issues. It seems plausible that the political tensions following the Bay of Pigs failure had animated them to act in support of Cuba. Unlike earlier hijackings that were undertaken to escape from Cuba, these were primarily driven by an attraction to the country. Ramirez falsely told the pilot of National Airlines, Francis Riley, that he was one of Castro’s secret agents operating in the United States. He also told Riley a fantastic story that he had an urgent message to pass on to Fidel. The Dominican dictator Rafael Trujillo, Ramirez said, had offered him \$100,000 to assassinate Fidel, and he had to reach Cuba urgently to spill the beans.<sup>18</sup>

Oquendo, who had hijacked a Super Electra plane on 24 July 1961, was reported to have told the Cuban secret service, the G-2, that the Americans ‘took six of our planes so here is one of theirs’. These words referenced ten small planes and vessels hijacked from Cuba to the United States that had been seized by a Florida court order in favour of a local Castro government creditor. The Cubans held on to the \$3.5 million Super Electra plane, which was powered by cutting-edge technology, and awaited the American return of their planes and vessels in response. In the end, the seizure of the Electra would lead to the first material agreement related to hijackings between the

<sup>16</sup> FBI – House Select Committee on Assassinations (HSCA), Subject File: Antulio Ramirez Ortiz, file #36 and 233, The Mary Ferrell Foundation, [www.maryferrell.org/php/showlist.php?docset=1805](http://www.maryferrell.org/php/showlist.php?docset=1805) (last accessed on 20 Dec. 2023).

<sup>17</sup> Memorandum of conversation, Department of State, 26 July 1961, National Archive Record Administration (NARA), College Park, MD, Record Group (RG) 59, General Records of the Department of State, Central Decimal File, 1960–3 911.723/1-460-911.723/9-161, box 2963.

<sup>18</sup> BG, 2 May 1961, pp. 1–2; HSCA, Ramirez, file #201 and 217.

United States and Cuba, an agreement to return hijacked planes and passengers. No agreement, however, was reached on the fate of hijackers.<sup>19</sup>

As the two countries were working toward this agreement, several American politicians made their position known. Some focused little on concerns for security, either with regard to air safety or sky terror. Instead, these politicians accused Castro and the Cuban government of orchestrating the series of hijackings. Republican Representative Edgar Hiestand wrote President Kennedy to advise him that the United States 'should quit playing patsy to a pipsqueak and call a halt to continuing disgraces by Communist Cuba'. In his own letter, Democratic Representative Emanuel Celler urged the United States to 'quarantine Cuba and throw a naval and air blockade around her until Castro purges himself and gives proof that he will not permit recurrence of such excesses'. Republican Senator Homer Capehart also warned of a lack of reaction to the hijackings, which he believed were orchestrated by Castro: 'I urge that we take action, because, if we do not, there will be more planes hijacked and Mr. Castro will further humiliate the United States in the eyes of the people of the world.'<sup>20</sup>

Some media outlets joined in the attack on the Cuban government for serving as a safe haven for the hijackers. In an editorial titled 'We must act in Cuba!' *The Los Angeles Times* wrote that:

Communist Cuba is a modern Caribbean pirate nest. Its rulers encourage by example all the Communist conspirators, criminals and crackpots of the Islands and the adjacent continent. They have shown they can threaten American lives and property, and injure the prestige of the United States government at a critical time in international affairs. So the United States has got to destroy this pirate nest...The United States ought to move now and move with all necessary military strength.<sup>21</sup>

President Kennedy did not take these statements seriously. As *The Washington Post* reported, he 'told the Nation's lawmakers to keep their shirts on and not get "overexcited" about airplane hijackings when they don't have the facts'.<sup>22</sup>

Several outlets refused to see the hijacking as resulting from a Cuban conspiracy. Some liberal-leaning newspapers viewed the spate of attacks as stemming from mental issues. In an editorial, *The New York Times* wrote that 'The menace of hijacking should be treated as something apart from Cuba', explaining, 'this crime is a contagion of madness that requires a number of remedies and time to work itself out'. *The Christian Science Monitor* urged the public 'to deal with these as ordinary crimes or an effect of mental aberration'. In their call to treat hijacking as 'an ordinary crime', the editors of *The*

<sup>19</sup> Note to Mr Woodward, 26 July 1961, NARA, RG 59, General Records of the Department of State, Bureau of Inter-American Affairs Office of Coordinator of Cuban Affairs, Subject Files, 1960-3, box 18; *WP*, 26 July 1961, p. A1.

<sup>20</sup> *NYT*, 4 Aug. 1961, p. 9; *Congressional Record*, 9 Aug. 1961, vol. 107, part 11, Senate pages, 15242.

<sup>21</sup> *LAT*, 10 Aug. 1961, p. 1.

<sup>22</sup> *WP*, 11 Aug. 1961, pp. A1, A4.



*Christian Science Monitor* seemed to have feared media attention caused contagion.<sup>23</sup>

The *New York Times* aviation reporter Richard Witkin cautioned against what some viewed as the one clear way to resolve the problem of hijackings. He warned that a blanket extradition of any plane hijacker to his country of origin would 'dilute the principle of political asylum'. Nevertheless, despite the rise in hijackings, taking a plane and its passengers by force to reach freedom continued to find mainstream support in the United States as a legitimate means of escaping authoritarianism.<sup>24</sup>

In the summer of 1961, as the first hijackings from the United States to Cuba unfolded, the Cubans reached out to the Americans in an effort to come to an agreement to stop the practice. On 3 August 1961, within hours of a shootout on the tarmac in El Paso in which security personnel foiled an attempt by a former convict and his sixteen-year-old son to hijack a plane to Cuba, officials in Havana sent a note via the Swiss embassy to US officials. It read in part, 'If the Government of the United States guarantees the right of immunity and sovereignty of boats and planes belonging to the Cuban people...the Government of Cuba will adopt a reciprocal treatment regarding North American boats and planes in a similar situation.' The Americans, who also wished to de-escalate tensions, agreed to this offer.<sup>25</sup>

The Cubans also sought to expand the agreement beyond the exchange of vessels to include the extradition of the hijackers. In a confidential note sent from Havana to Washington, they wrote:

The Government of Cuba considers that one of the most appropriate measures that both governments should adopt immediately by mutual agreement is to commit themselves to the immediate return of persons responsible for those acts to the territory of the country to which the seized ship or airplane may belong...The Government of Cuba believes that this is the most effective method of suppressing these piratical actions and of avoiding their repetition.<sup>26</sup>

The Kennedy administration refused to include the mutual extradition of hijackers in their agreement with the Cubans, likely because US officials did not wish to commit to returning Cuban hijackers viewed as individuals seeking freedom. To the question posed by *The Times of London* – 'Is a political refugee to be considered as a pirate if this [hijacking] was his only means of escape?' – the Kennedy administration seemed resolutely to answer: if one hijacked a plane to travel

<sup>23</sup> NYT, 11 Aug. 1961, p. 22; *Christian Science Monitor* (CSM), 11 Aug. 1961, p. 16. On the contagion of plane hijackings, see Holden, 'The contagiousness', pp. 874–6.

<sup>24</sup> NYT, 13 Aug. 1961, p. 6.

<sup>25</sup> No title, no date, NARA, RG 59, General Records of the Department of State, Bureau of Inter-American Affairs Office of Coordinator of Cuban Affairs, Subject Files, 1960–3, box 18.

<sup>26</sup> Cuban note of 11 Aug. 1961, NARA, RG 59, Bureau of Inter-American Affairs, Office of Coordinator of Cuba Affairs, Guantanamo, 1 of 3 Isle of Pines, 1961, box 18.

to the United States, one was a political refugee; if one hijacked a plane to flee to Cuba, one was a criminal.<sup>27</sup>

Cuba and the United States agreed to reciprocity in returning hijacked and stolen planes and boats but not in the case of hijackers. It was the first such agreement since President Eisenhower broke diplomatic relations between the two nations earlier that year. On 15 August 1961, a Cuban patrol vessel brought to Miami by three defectors sailed back to Havana, and on the following day, the Eastern Air Lines Super Electra hijacked by Oquendo three weeks earlier flew back from Cuba to the United States. US State Department spokesperson Joseph Reap insisted the exchange was ‘definitely not a swap’, but as one journalist pointed out, ‘The agreement had all the other appearances of a trade.’<sup>28</sup>

The Cubans, however, persisted in their efforts to reach an extradition agreement. On 8 August 1961, the Organization of American States (OAS) conference opened in the Uruguayan seaside city of Punta del Este. Despite hostility expressed by the Americans, the Cuban delegation, headed by Ernesto ‘Che’ Guevara, reached out to a US delegate, Richard Goodwin, assistant special counsel to President Kennedy, in an effort to arrange a discrete meeting between the two.<sup>29</sup>

After several attempts to convince Goodwin to meet, it was only on 17 August at 2 a.m., a day after the return of the Super Electra from Cuba to the United States, that the Brazilian and Argentinian delegation were able to orchestrate the meeting in a Montevideo suburb. At one point during the three-hour meeting that touched on several issues, Guevara raised the topic of plane hijacking. In a memo to President Kennedy, Goodwin wrote:

He said he didn’t know if I knew but they had not been responsible for any hijackings. The first plane was taken by a young fellow who was a good boy but a little wild and who is now in jail. They suspected that the last plane was taken by a provocateur (a CIA agent). He is afraid that if these thefts keep up it will be very dangerous.<sup>30</sup>

Both sides believed the other was conspiring against it in an orchestrated campaign of plane hijackings. In his opening speech at the conference, nine days earlier, Guevara turned to the president of the OAS conference and asserted that the

<sup>27</sup> *Times*, 11 Aug. 1961, p. 9; *WP*, 13 Aug. 1961, pp. A1, A14; *NYT*, 13 Aug. 1961, p. E6.

<sup>28</sup> Brooks Hays to Mr Boggs, 29 Aug. 1961, in NARA, RG 59, General Records of the Department of State, Central Decimal File, 1960–3 911.723/1-460-911.723/9-161, box 2963; *WP*, 26 July 1961, p. A1; *WP*, 11 Aug. 1961, pp. A1, A4; *WP*, 13 Aug. 1961, pp. A1, A14.

<sup>29</sup> Richard Goodwin, *Remembering America: a voice from the sixties* (New York, NY, 1989), p. 193; Ernesto ‘Che’ Guevara, ‘Economics cannot be separated from politics: speech at Punta del Este, August 8, 1961’, in Ernest Che Guevara, *Our America and theirs: Kennedy and the Alliance for Progress: the debate at Punta del Este*, ed. Maria del Carmen and Javier Salado (Melbourne, 2006), p. 24.

<sup>30</sup> ‘Memorandum from the president’s assistant special counsel (Goodwin) to President Kennedy’, 22 Aug. 1961, in *Foreign relations of the United States, 1961–1963*, X: Cuba, January 1961–September 1962, doc. 257, [history.state.gov/historicaldocuments/frus1961-63v10/d257](https://history.state.gov/historicaldocuments/frus1961-63v10/d257) (last accessed on 23 Feb. 2023).

hijacking of the planes was part of an American battle of 'political-economic nature'. 'Mr. President', Guevara began, 'that our air transport fleet is being brought, plane by plane, to the United States...and then the plane is confiscated'. Remaining calm, he appealed 'to the sense of fairness and justice of the US delegation, in order to normalize the situation with regard to the hijacking of our respective planes'. This request to negotiate a resolution to the hijackings, it would turn out, marked only the edge of a broader offer.<sup>31</sup>

The late-night Montevideo meeting was the first time an American government official heard directly from a top Cuban government official that Havana was not behind the plane thefts. The spate of hijackings had escalated existing tensions between the two countries, an animosity that the Cubans wished to de-escalate. They did not expect to reach an 'understanding' with the Americans, but they hoped to at least agree on a 'modus vivendi', which, Che indicated, would touch on a variety of topics, not only hijackings. These topics included expropriated properties, Cuba's relation with 'the East', free elections, a commitment by the Cubans not to attack Guantanamo, and 'the activities of the Cuban revolution in other countries'.<sup>32</sup>

Guevara understood that for the Americans it was politically impossible to agree publicly to a negotiation on these topics. Instead he suggested the two countries conduct discussions about hijackings, a topic the American public could accept. The subject, he said, could serve as a disguise for broader discussions on a variety of geo-political issues. The Americans, however, chose to reject the Cuban offer. No agreement was reached, not even on the extradition of the hijackers.<sup>33</sup>

The refusal to negotiate an extradition agreement meant the Americans lost out on a powerful tool to deter future hijackings. More importantly, rejecting negotiations meant a missed opportunity to relax tensions between the two countries following the Bay of Pigs invasion. Now, the United States would have to prevent hijackings on its own, and one of the US government's key strategies was pursuing new legislation. In 1961, the United States had no law on the books to address plane hijackings. As prosecutors deliberated over how to indict an American hijacker who had landed in Cuba, they ran through a list of potential crimes: kidnapping, interstate transportation of persons, assault with a deadly weapon, and assault with an intent to commit a felony. As of yet, they could not indict a person for hijacking an aircraft. The 'invention' of 'plane hijacking' required the passage of new laws with adequate and appropriate terms.<sup>34</sup>

In the aftermath of the August 1961 El Paso shootout, the Kennedy administration drafted an amendment to The Federal Aviation Act of 1958 that targeted the crime of hijacking. The original act, which led to the creation of the

<sup>31</sup> Guevara, 'Economics cannot be separated', pp. 32-3.

<sup>32</sup> 'Memorandum from the president's assistant special counsel (Goodwin)'.

<sup>33</sup> *Ibid.*

<sup>34</sup> Guevara, 'Economics cannot be separated', p. 24; 'Memorandum from the president's assistant special counsel (Goodwin)'; from Abram Chayes to secretary of state, 27 July 1961, NARA, RG 59, Office of Coordinator of Cuba Affairs, Guantanamo, 1 of 3 Isle of Pines, 1961, box 18.

Federal Aviation Agency (later named the Federal Aviation Administration, or the FAA), included subsections titled 'Organization of agency', 'Air carrier economic regulation', and 'Safety regulation of civil aeronautics'. Nothing in the original act addressed the kind of problem authorities faced in 1961: violent actions taken by passengers while flying in the skies. The newly drafted amendment, which drew from maritime piracy law, offered subsections such as 'Aircraft piracy', 'Interference with flight crew members or flight attendants', and 'Carrying weapons aboard aircraft', a statute that would, from that moment forward, prohibit passengers from boarding planes with a concealed weapon. After congressional approval, on 6 September 1961, President Kennedy signed the legislation into law. Finally, a statute was on the books prohibiting hijackings, an offence that carried punishments ranging from twenty years of imprisonment to death. Yet despite the passage of this resolute legislation to stop hijacking within and while flying out of the United States, the American policy towards hijackers entering the United States from Cuba remained as welcoming as before.<sup>35</sup>

Following the 1961 wave, only a small number of private plane hijackings occurred within US airspace, and the American government paid little attention. It took seven years for the next peak to occur, a trend that would, once again, significantly change US policy on hijackings.<sup>36</sup>

### III

On 7 February 1969, Secretary of State William Rogers submitted a classified memorandum to President Richard Nixon in which he made plain that the 'hijacking of aircraft to Cuba' had become 'an increasingly serious problem'. Indeed, the socially tumultuous year of 1968 saw nineteen attempts at hijacking American aircrafts worldwide. By the time Nixon read Rogers's memo, it had already become clear 1969 would be a record-breaking year. In the five weeks since New Year's Day, hijackers had tried eleven times to overtake American planes and fly them to Cuba. Just four days before submitting the memorandum, on 4 February, two hijacking attempts had occurred on the same day.<sup>37</sup>

These record-setting numbers were not limited to the United States. The year 1969 alone saw eighty-five planes hijacked worldwide, forty of them belonging to US airlines – a peak unsurpassed to this day. Colombia was second only to the United States, experiencing fourteen attempts, many undertaken by individuals influenced by Fidel's communist ideas and wishing to join Cuba's revolutionary experiment.<sup>38</sup>

<sup>35</sup> Public Law 85-726-23 Aug. 1958; Public Law 87-197-5 Sept. 1961; *NYT*, 29 July 1961, pp. 1, 9; 18 US Code § 2280 – Violence against maritime navigation; *NYT*, 11 Aug. 1961, p. 22; *NYT*, 22 Aug. 1961 p. 15; *NYT*, 6 Sept. 1961, p. 75.

<sup>36</sup> Choi, *Aviation terrorism*, p. 29.

<sup>37</sup> 'Attachment to memorandum from the president's assistant for national security affairs (Kissinger) to President Nixon', 6 Feb. 1969, *Foreign relations of the United States, 1969-1976, E-1: Documents on global issues, 1969-1972*, doc. 122, [history.state.gov/historicaldocuments/frus1969-76ve01/d122](https://history.state.gov/historicaldocuments/frus1969-76ve01/d122) (last accessed on 20 Dec. 2023); Feste, 'Reducing international terrorism', pp. 12–13.

<sup>38</sup> Gott, *Cuba: a new history*, p. 61.

The high rate of hijackings continued. From 1968 to 1972, pirates worldwide attempted to take over 326 flights, an average of one every 5.6 days, diverting a significant number to Cuba. Cuba served as a hub, with *The Washington Post* reporting: 'The arrival of hijacked planes has become almost a weekly occurrence here.' The 'pandemic of hijackings', as it was described at the time, affected, besides the United States, several Latin American countries, including Brazil, Chile, Costa Rica, Ecuador, Honduras, Mexico, Nicaragua, Peru, and Venezuela.<sup>39</sup>

Hijackings had become a growing concern also in countries within the Eastern Hemisphere. On 23 July 1968, three members of the Marxist–Leninist organization Popular Front for the Liberation of Palestine (PFLP), which used terrorist tactics, hijacked an El Al plane en route from Rome to Tel Aviv to Algiers. For a month, the PFLP held twelve Israeli men as hostages until Israel agreed to an exchange for Arab prisoners. This was the first instance in which a plane was hijacked not as a means of transportation but as an instigation of terror aimed at garnering public attention and causing a prisoner release, and with its success, a new era of international air terrorism had begun. Terrorists began to disseminate hijacking skills to other militant resistance movements, and hijackers now began targeting civilian transportation with the aim of instilling fear. For example, in a September 1970 hijacking orchestrated by the PFLP (discussed below), Rene Diaz, a member of the Sandinista National Liberation Front (Frente Sandinista de Liberacion nacional) participated alongside the infamous PFLP member Leila Khaled in a failed attempt to hijack an Israeli plane departing Amsterdam en route to New York.<sup>40</sup>

The United States had turned to the International Civil Aviation Organization (ICAO), a United Nations agency, after the first hijackings from the United States to Cuba in 1961 to formulate an international convention that would prohibit hijackings. Having no bilateral extradition agreement in place with Cuba, the thought among some members of the Kennedy administration was to have the ICAO include a paragraph dedicated to plane hijackings in a convention focused on tackling criminal acts in the air.<sup>41</sup>

An early American draft of the convention included an article requiring signatories to extradite and punish hijackers. But in its final formulation, the ICAO 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft included only Article 11 on 'Unlawful seizure of aircraft', focused on the restoration of the aircraft's control to its lawful commander, the expeditious continuation of the crew's and passengers' journey, but not the extradition and punishment of the perpetrators. The chief American negotiator at the Tokyo Convention stated in retrospect that 'It is obvious that the Tokyo

<sup>39</sup> Choi, *Aviation terrorism*, pp. 24–5; Feste, 'Reducing international terrorism', Table 1; Holden, 'The contagiousness', p. 874; *WP*, 23 Mar. 1968, p. A3.

<sup>40</sup> Dan Porat, 'The hijacking of El Al Flight 426: the advent of air terrorism', *Journal of Contemporary History*, 57 (2022), pp. 1072–88; I draw this definition of terrorism from Zoller, *To deter and punish*, p. 13.

<sup>41</sup> David MacKenzie, *ICAO: a history of the International Civil Aviation Organization* (Toronto, 2010), pp. 250–1.

convention left major gaps in the international legal system attempt to cope with the scope of aircraft hijacking.' Even so, this flawed convention went forward but did not go into effect until the next wave of hijackings began to intensify in December 1969.<sup>42</sup>

In response to this wave, the United States proposed a new multilateral convention that would supplement the Tokyo Convention and specifically focus on hijackings. In November 1968, Deputy Assistant Secretary of State Frank Loy travelled to Montreal to attend an ICAO meeting. Loy and his colleagues at the Department of State had concluded that 'the magnitude of this 20th century crime outweighed the right of political asylum which had come to us sacrosanct almost from the ages'. The very Americans who in the late 1940s and 1950s had turned down several petitions from countries in the Soviet Bloc demanding the return of hijackers, contending such citizens were eligible for political asylum, now sought to ban the granting of political asylum to anyone who hijacked a plane.<sup>43</sup>

In this and future ICAO meetings, the Americans proposed adding a Protocol to the 1963 Tokyo Convention text that would require signatures to deny from all hijackers political asylum while requiring participating countries to either place such hijackers on trial or extradite them to the country of their origin to face prosecution. To sweeten the measure, the hijackers, the Americans proposed, would receive immunity from all crimes other than hijacking.

Opposition to the Protocol was fierce. Countries with long traditions of respect for human rights, such as Denmark and Britain, resisted the measure, along with countries known for human rights violations, such as Algeria, which served as a safe haven for hijackers belonging to different terror groups. South American countries accustomed to granting asylum to political dissenters also withheld support. Despite the Protocol's failure, the Americans persisted. They continued to promote its ideas, and following the September 1970 simultaneous hijacking by the PFLP of several planes to Jordan, including planes from Britain, Switzerland, and the United States, the Protocol gained support, but only with a compromise added. In December 1970, the rule became the basis for The Hague Convention, stating that all signatory states 'obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution'. The hedge was in the words 'obliged...to submit', and not 'obliged to prosecute'. Still, following the convention, hijacking

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<sup>42</sup> Cited in R. I. R. Abeyratne, 'Attempts at ensuring peace and security in international aviation', *Transportation Law Journal*, 24 (1996-7), p. 32; Tokyo Convention, Article 11; Robert Turi, Charles Friel, Robert Sheldon, and John Matthews, *Criminal Justice Monograph*, III, no. 5 (1972), pp. 60-1; Alona Evans, 'Aircraft hijacking: its cause and cure', *American Journal of International Law*, 63 (1969), pp. 707-8; Knute Malmberg, 'International efforts to deter aerial hijacking', *American Bar Association. Section of Insurance, Negligence and Compensation Law* (1971), p. 130.

<sup>43</sup> H. L. Reighard and John Dalley, *Task force on deterrence of air piracy: final report* (Washington, DC, 1978), p. 106; Malmberg, 'International efforts', p. 130.

was no longer seen as a legitimate method of escape to freedom and political asylum, but rather as an act of terrorism that justified punishment.<sup>44</sup>

Cuba, however, refused to sign The Hague Convention, a decision it would take 9/11 to reverse. The Cuban government explained its refusal in a message issued by President Osvaldo Dorticos Torrado: 'We consider that the mere fact of Convention ratification would not prevent hijacking. The difficulty and roots of the problem is tyranny in the United States – the massacre of Negro people and the Vietnam War. Let that cease and then hijacking will cease.'<sup>45</sup> Hijacking was an inner American social problem, the statement proclaimed, while ignoring the aim of ratification – namely, to achieve deterrence through extradition and punishment, a result that was also in the interest of the Cubans.

A speech given by Major Claudio Rey Morina, head of the Delegation of the Republic of Cuba to the Montreal 1970 ICAO Assembly, offered a more candid explanation for Cuba's refusal to sign The Hague Convention. He repeated the argument that the US government 'did promote, organize, direct, encourage and finance to the detriment of Cuba well before any other country, the forced diversion of civil aircraft and vessels belonging to it, the hijacking of crews and passengers'. He then added that the only feasible way to stop hijacking was 'through sovereign State decisions in bilateral agreements based on principles of equality and reciprocity'. The Cuban government wanted a bilateral agreement that would place it on a par with the US government.<sup>46</sup>

In the early 1960s, many in Washington had suspected the Cubans of orchestrating, or at least of encouraging, the hijackings of American planes to Cuba. By late 1960, however, the official view had changed. A report issued by the House Subcommittee on Inter-American Affairs on 'Air piracy in the Caribbean area' made clear that 'None of the testimony indicated that the Cubans have promoted, urged, or supported the hijackings which have occurred.' To resolve the problem, then, one had to work in co-ordination with Havana.<sup>47</sup>

This report's assessment corresponds to a policy change in Cuba's treatment of its Latin American neighbours, which helps explain the evolving American position. In the early 1960s, the Cubans sought to disseminate militant revolution to Latin America, in Guevara's words, to have 'two, three or many Vietnams flourish throughout the world'. Promoting hijackings and refusing

<sup>44</sup> *Aviation Week and Space Technology*, 10 Feb. 1969, p. 27; *Times of London*, 12 Feb. 1969, p. 6; *Virginia Law Weekly*, 10 Feb. 1972, pp. 1, 3–4; 16 Dec. 1970, *FAA Historical Chronology, 1926–1996*, [www.faa.gov/sites/aa.gov/files/about/history/chronolog\\_history/b-chron.pdf](http://www.faa.gov/sites/aa.gov/files/about/history/chronolog_history/b-chron.pdf) (last accessed on 20 Dec. 2023); Malmberg, 'International efforts', p. 130; Mackenzie, *ICAO: a history*, pp. 259–60.

<sup>45</sup> 'Editorial note', *Foreign relations of the United States, 1964–1968, XXXIV: Energy diplomacy and global issues*, doc. 304, [history.state.gov/historicaldocuments/frus1964-68v34/d304](http://history.state.gov/historicaldocuments/frus1964-68v34/d304) (last accessed on 3 Apr. 2023); 'Telegram from the consulate in Montreal to the Department of State', 19 Oct. 1968, *Foreign relations of the United States, 1964–1968, XXXIV*, doc. 305, [history.state.gov/historicaldocuments/frus1964-68v34/d305](http://history.state.gov/historicaldocuments/frus1964-68v34/d305) (last accessed on 3 Apr. 2023).

<sup>46</sup> Ministry of Foreign Affairs, Republic of Cuba, *Hijacking of aircraft: a boomerang hurled at Cuba by the imperialist government of the United States of America* (no place and no date of publication), pp. 4–5.

<sup>47</sup> House Subcommittee on Inter-American Affairs, 'Air piracy in the Caribbean area' (10 Dec. 1968), p. 3.

to extradite hijackers matched this policy. Months after Guevara's death in Bolivia in 1967, however, Castro abandoned this approach of encouraging a militant revolution. Rather, he sought to re-establish diplomatic relations with his neighbours, which would enable him to promote the revolution in a long-term, non-violent way. The CIA noted this change in Cuban policy when its analysts reported that the Cuban government has taken 'a "more realistic" and "less violent approach that is more likely to diminish Cuba's isolation than continuation of support to guerrilla groups"'.<sup>48</sup>

The shift in Cuban policy and their stated interest in seeking a bilateral agreement convinced the Americans to co-operate. In his proposal to pursue such an agreement, National Security Adviser Henry Kissinger mentioned in a 1969 memorandum to President Nixon that:

In 1961, when there were several cases of ships and planes seized by Cubans escaping to the United States, we did not respond to a Cuban note proposing a mutual agreement to return the persons responsible for those actions to the country of registry of the ship or plane. In effect, we refused to consider essentially the same proposal we have now made to the Cubans.<sup>49</sup>

Yet, approaching the Cubans was not an easy task for President Nixon, who was known for his staunch support of an embargo on Cuba. During a discussion unrelated to hijacking, Nixon had ordered Kissinger never to bring up the possibility of any kind of compromise with the Cubans.<sup>50</sup>

The rise in the number of hijackings, however, created pressure on the US government to negotiate a resolution to the issue. Mike Mansfield, Democratic leader of the Senate, urged President Nixon to talk to the Cubans. George Aiken, the minority leader, joined with Mansfield to suggest negotiations could become a springboard to restoring diplomatic ties.<sup>51</sup>

Through the services of the Swiss embassy, the Americans secretly approached the Cubans with a few suggestions to minimize hijackings. They floated the idea of allowing discontented Cubans living in the United States to board the empty southbound Freedom Flights back to Varadero in Cuba (Freedom Flights were part of a joint American-Cuban operation to transport Cuban refugees safely to the United States). This, they hoped, would eliminate the motivation of hijackers who sought to overtake planes simply as a means of transportation. The Cubans hesitated at first but eventually allowed the repatriation of a limited number of Cubans, not through the Freedom Flights but rather via Mexico.<sup>52</sup>

<sup>48</sup> Harmer, 'Two, three, many revolutions?', pp. 63–76.

<sup>49</sup> 'Attachment to memorandum', 7 Feb. 1969, in *Foreign relations of the United States, 1969–1976*, E-1, doc. 122, [history.state.gov/historicaldocuments/frus1969-76ve01/d122](https://history.state.gov/historicaldocuments/frus1969-76ve01/d122) (last accessed on 9 Aug. 2022); Leogrande and Kornbluh, *Back channel*, p. 124.

<sup>50</sup> Leogrande and Kornbluh, *Back channel*, pp. 123–4.

<sup>51</sup> NYT, 2 Feb. 1969, p. 48.

<sup>52</sup> Reighard and Dalley, *Task force*, pp. 108–9; 'From embassy Bern to state', 11 Dec. 1968, NARA, RG 59, Av10-2 AV12, box 579/1613, General Records of the Department of State, Economic.



On 16 September 1969, President Dorticos, Prime Minister Fidel Castro, and Minister of Foreign Relations Raul Roa signed Law No. 1226. The law's second paragraph stipulated persons who had forced a plane to fly to Cuba 'may be returned to the State affected if they are claimed by that State'. The law also addressed the case of political asylum seekers. It stated that Cuba 'reserves the prerogative to grant the right of asylum, when it deems it to be justified, to persons who, for political reasons, come to our country, having found it necessary to employ that extreme means in order to escape a real danger of death or grave repression'.<sup>53</sup>

The law clearly expressed a desire by Fidel's government to put an end to air piracy:

The Cuban Revolutionary Government considers it necessary to adopt measures to put an end to the climate of insecurity created in air and ocean navigation by the diversion by force of ships and planes from their normal routes and activities, and to adapt the application of such measures to the attitude assumed by other States on [the] bases of equality and reciprocity.<sup>54</sup>

In an address to the United Nations General Assembly in New York just two days after Law 1226 went into effect, President Nixon also expressed an urgent need to find a resolution to the hijacking problem, asserting that, 'By any standards, aircraft hijackings are morally, politically, and legally indefensible.' To eliminate hijacking, Nixon, speaking more than a year before the signing of The Hague Convention, advocated for 'a new convention for the punishment of hijackers'. He emphasized, 'Sky piracy cannot be ended as long as the pirates receive asylum.' Yet, while Nixon's words may have seemed to some to respond directly to the new law, the president was focused instead on pushing for a multination convention, not only a bilateral agreement with Cuba.<sup>55</sup>

The State Department saw in the Cuban legislation, enacted more than half a year after the Americans first considered approaching the Cuban officials with a diplomatic request, a signal from the Cubans that they were ripe to enter into negotiations about a bilateral agreement. This might have been more wishful thinking on behalf of the Americans than a real hint from the Cubans. In a memorandum to National Security Adviser Kissinger, Viron Vaky of the National Security Council Staff wrote that: '[In addition] to respond[ing] to growing international criticism' and 'to undercut[ing] OAS policy of diplomatic isolation', the law's aim 'may have had a third purpose. It may

<sup>53</sup> 'Cuban Hijacking Law', *International Legal Materials*, 8, no. 6 (Nov. 1969), Articles 2 and 5, p. 1177; 'Telegram from the Department of State to the embassy in Switzerland', 10 July 1968, *Foreign relations of the United States 1964-1968*, XXXIV, doc. 298, [history.state.gov/historicaldocuments/frus1964-68v34/d298](https://history.state.gov/historicaldocuments/frus1964-68v34/d298) (last accessed on 3 Apr. 2023).

<sup>54</sup> 'Cuban Hijacking Law', *International Legal Materials*, p. 1176.

<sup>55</sup> 'Address by President Nixon to the UN General Assembly', US Department of State, 18 Sept. 1969, [2009-2017.state.gov/p/io/potusunga/207305.htm](https://2009-2017.state.gov/p/io/potusunga/207305.htm) (last accessed on 20 Dec. 2023); NYT, 20 Sept. 1969, pp. 1, 58.

have been aimed directly at us in an effort to use what is in effect an invitation to reach a negotiated agreement with them on something that bothers us a great deal to test our posture and see what can be developed.'

In the final paragraph of the memorandum, Vaky spoke in a more affirmative tone: 'Whatever is up the Cuban sleeve, it seems to me they have made a definite probe in our direction, and we must consider carefully how or whether to respond both in terms of hijacking and relations generally.' In the end, the Cubans wished, according to Vaky, to reach something bigger than hijacking. 'This now appears to be a major gambit by Cuba, not only with respect to the hijacking situation but perhaps in terms of relations with us as well.'<sup>56</sup> In fact, in a meeting with the Swiss ambassador to Cuba, Alfred Fischli, State Secretary Rogers hinted that the negotiations around hijacking could help reach a broader easing of tensions between the two countries. Just like Guevara's proposal years earlier to use hijacking as a cover to broach discussions aimed toward reaching a larger 'modus vivendi' (see above), the American ruse would use hijacking to open the door to broader negotiations.<sup>57</sup>

Regardless of whether or not the Americans were deceiving themselves or if, indeed, the Cubans were truly interested in talks, the Department of State took action and communicated via the Swiss a willingness to come to 'a mutually agreeable means of deterring the hijacking of commercial aircraft to Cuba'.<sup>58</sup> Via the Swiss, the Americans made clear their intentions:

The United States is prepared, on the basis of equality and reciprocity as specified in Cuban Law 1226 of September 16, 1969, upon the request of the Government of Cuba, to return to Cuba persons who by force or threat of force divert ships and planes of Cuban registry from their normal routes and activities and bring to the United States.<sup>59</sup>

Yet, American officials discounted a key obstacle. The 'equality and reciprocity' that the Cubans demanded required extraditing to Havana those whom the Americans embraced as political asylum seekers. The Americans were not prepared to return Cuba's political escapees. Secretary of State Rogers

<sup>56</sup> 'Memorandum from Viron Vaky of the National Security Council Staff to the president's assistant for national security affairs (Kissinger)', 23 Sept. 1969, *Foreign relations of the United States, 1969-1976*, E-1, doc. 123, [history.state.gov/historicaldocuments/frus1969-76ve01/d123](https://history.state.gov/historicaldocuments/frus1969-76ve01/d123) (last accessed on 1 Mar. 2023).

<sup>57</sup> 'Memorandum of conversation', Washington, 11 Mar. 1969, *Foreign relations of the United States, 1969-1976*, E-10, doc. 197, [history.state.gov/historicaldocuments/frus1969-76ve10/d197](https://history.state.gov/historicaldocuments/frus1969-76ve10/d197) (last accessed on 1 Mar. 2023).

<sup>58</sup> 'Telegram from the Department of State to the embassy in Switzerland', 11 Dec. 1968, *Foreign relations of the United States, 1964-1968*, XXXIV, doc. 311, [history.state.gov/historicaldocuments/frus1964-68v34/d311](https://history.state.gov/historicaldocuments/frus1964-68v34/d311) (last accessed on 14 Mar. 2023).

<sup>59</sup> 'From embassy Bern to state', 9 Jan. 1970, NARA, RG 59, Subject Numeric Files 1970-3, AV12 US 1/1/70-AV12 US 9/11/71, box 608, Economic. See also 'From embassy Bern to state', 11 Dec. 1968, NARA, RG 59, Av10-2 AV12, box 579/1613, General Records of the Department of State, Economic.

communicated to President Nixon that 'We expect that most hijackers coming from Cuba would be entitled to political asylum.'<sup>60</sup>

This was an instance of misjudgement. It was not the equality and reciprocity the Cubans expected. The Americans wished to reach an agreement without changing the terms through which they could admit political dissidents, but those whom the Americans saw as asylum seekers the Cubans regarded as ruthless criminals, and there seemed to be no way around the impasse. Cuban officials failed to respond to a draft of a MoU sent by the Americans. Only the worsening nature of plane hijackings over the coming years would force the two sides to reach an agreement to combat the hijacking wave.<sup>61</sup>

#### IV

A new type of hijacking arose in 1971, one in which hijackers used planes not for transportation but for the extortion of wealth.<sup>62</sup> This type of hijacking carried greater risk of injury and death for passengers and crew. The worst incident took place on 10 November 1972, when three fugitives hijacked a Southern Airways DC-9 departing Birmingham with thirty-one passengers and crew members onboard. The hijackers demanded \$10 million from the airline, and when they received only \$2 million, they threatened to crash the plane into a nuclear facility located in Oak Ridge, Tennessee. At one point, the hijackers shot and wounded the co-pilot and a few of the passengers. They then flew to Havana, where the Cubans promptly arrested the perpetrators and returned the ransom money to the US carrier.<sup>63</sup>

This dramatic hijacking, with its risks to passengers and to the larger population, provoked a public outcry. Newspapers called for an end to all hijackings and believed an extradition agreement with the Cubans was the key to achieving it.<sup>64</sup>

By now, both the Cubans and the Americans were eager to put an end to the hijackings of planes flying between their two countries. Just days after the November 1972 ransom hijacking, Radio Havana Cuba indicated that 'The Cuban government was "ready to take such steps which might lead to the

<sup>60</sup> 'Memorandum from Secretary of State Rogers to President Nixon', 31 Oct. 1969, *Foreign relations of the United States, 1969-1975*, E-1, doc. 125, [history.state.gov/historicaldocuments/frus1969-76ve01/d125](https://history.state.gov/historicaldocuments/frus1969-76ve01/d125) (last accessed on 14 Mar. 2023); NYT, 20 Jan. 1969, p. 16; NYT, 2 Feb. 1969 p. 48; 'Memorandum from the president's assist for National Security Council (Kissinger) to the president's assistant (Flanigan)', 31 Oct. 1970, *Foreign relations of the United States, 1969-1976*, E-1, doc. 79, [history.state.gov/historicaldocuments/frus1969-76ve01/d79](https://history.state.gov/historicaldocuments/frus1969-76ve01/d79) (last accessed on 20 Dec. 2023).

<sup>61</sup> 'Memorandum from Arnold Nachmanoff of the National Security Council Staff to the president's special assistant for national security affairs (Kissinger)', 22 Dec. 1970, *Foreign relations of the United States, 1969-1976*, E-1, doc. 133, [history.state.gov/historicaldocuments/frus1969-76ve01/d133](https://history.state.gov/historicaldocuments/frus1969-76ve01/d133) (last accessed on 2 Mar. 2023); Leogrande and Kornbluh, *Back channel*, pp. 124-5; Latner, 'Take me to Havana!', p. 19.

<sup>62</sup> Holden, 'The contagiousness', pp. 882-3; Latner, *Cuban revolution*, pp. 135-6, 139-41.

<sup>63</sup> NYT, 13 Nov. 1972, pp. 1, 55. Years later they would also extradite them to face trial in the United States.

<sup>64</sup> *Washington Star*, 20 Nov. 1972, p. A13; *Evening Star* (Washington, DC), 14 Nov. 1972, p. A14.

adoption of a broad agreement” with the United States to deter future hijackings.’ The Cubans had growing concerns about what to do with the skyjackers who flocked to their shores, especially violent hijackers like those on the 10 November flight for whom reaching Cuba was not ideologically or politically motivated but rather due to the fact that the country had no extradition agreement with the United States. They, like the Americans, feared a major plane disaster that might blemish their reputation. The stream of hijackings that came from different countries, the Cubans understood, would not help normalize their relations with Latin America. As previously pointed out, the Cubans had moved away from their militant approach and to give shelter to hijackers would continue to associate them with terrorism.

Just as the Cubans were eager to reach an agreement, so, too, were the Americans. They ordered the extradition of three hijackers who arrived ten days after the November ransom hijacking. They signalled to the Cubans a wish to negotiate, and the two sides, via the Swiss, began to discuss a possible agreement.<sup>65</sup>

In mid-February 1973, the United States and Cuba signed a five-year ‘Memorandum of understanding on the hijacking of aircraft and vessels and other offenses.’ This was the first agreement signed between the two countries since the rise of Castro and the instatement of an American embargo on Cuba in the late 1950s. In the agreement, signed ‘on the bases of equality and strict reciprocity’, both sides agreed that a hijacker must be either extradited or tried by the country he reached ‘in conformity with its laws for the offense punishable by the most severe penalty according to the circumstances’. Most importantly, the two sides strictly limited the cases in which a hijacker could receive political asylum. The agreement stipulated that each of the countries

May take into consideration any extenuating or mitigating circumstances in those cases in which the persons responsible for the acts were being sought for strictly political reasons and were in real and imminent danger of death without a viable alternative for leaving the country, provided there was no financial extortion or physical injury to the members of the crew, passengers, or other persons in connection with the hijacking.<sup>66</sup>

These words placed a strict limit on the circumstances that allowed each country to grant political asylum to a plane hijacker. They included being under immediate fear of death and the lack of other means of transportation, all conditioned on the premise that during the hijacking no physical harm was caused to others. From now on the United States, as well as Cuba, would be obligated to either extradite or try future hijackers. In the end, this agreement and the

<sup>65</sup> Leogrande and Kornbluh, *Back channel*, p. 125; Veilleux-Lepage, *How terror evolves*, chs. 4 and 6; *Times*, 15 Jan. 1973; *NYT*, 16 Nov. 1972, pp. 1, 6; *NYT*, 19 Nov. 1972, p. E1; *CSM*, 7 Dec. 1972, pp. 20, 32.

<sup>66</sup> ‘MoU on the hijacking of aircraft and vessels’, *International Legal Materials*, 12, no. 2 (Mar. 1973), p. 373; *WP*, 16 Feb. 1973, pp. A1, A8; Latner, *Cuban revolution*, pp. 148–9.

few extraditions that followed it, together with implementing stricter airport security procedures, brought an end to the wave of hijackings.<sup>67</sup>

## V

Throughout the 1960s and early 1970s, both Cuba and the United States understood that an extradition agreement would serve as the most effective deterrence to end hijackings. Yet, it was only in November of 1972, fourteen years after the first hijacking from Cuba to the United States and eleven years after the first hijacking in the opposite direction, that both sides finally seriously pursued an agreement. It was only when both simultaneously felt the brunt of frequent hijackings and fully grasped their potentially disastrous outcomes that the two countries could reach a bilateral agreement.

The process leading up to this agreement exposed the dynamics of the political overtures being made by both Cuban and US officials to each other around the issue of plane hijackings. At different points in time, when each group sought an agreement (Cuba in the early 1960s and the United States in the late 1960s), one side attempted to entice the other by promising that negotiations over the topic of hijacking would open the door to discussing broader issues at the core of relations between them.

But even when Cuba and the United States finally reached an agreement in mid-February 1973, it would not advance any understandings on other issues. At the time of the agreement, President Nixon met with his secretary of state, Rogers, and asked if the MoU 'get[s] into anything in terms of normalization of relations because that's the only thing that would concern me'. Nixon was adamant that the agreement around hijacking would not signal any change in the strict policy of isolating Cuba.<sup>68</sup>

Learning of the agreement, some politicians pushed the administration to build on the co-operation to advance relations with Cuba. Secretary Rogers was quick to quell such expectation when he told reporters that the agreement 'does not foreshadow a change of policies as far as the United States is concerned'. The agreement had not, in the words of Guevara to Goodwin in 1961, served as a means to advance from 'subordinate issues' to reaching a *modus vivendi* between the two countries.<sup>69</sup>

While the many years of on and off negotiations between the two nations did not achieve a thaw in the relationship, they did create a back channel of communications. The negotiations, writes Rososal, had 'stretched the rigid limits of diplomacy between the United States and Cuba and in doing so challenged and inevitability modified that relationship'. The establishment of

<sup>67</sup> One such extradition procedure took place against three Cubans who had forced a vessel to land in Key West. The possibility that they would be deported, a break in a long American tradition of allowing hijackers to remain in the United States, brought one government official to state that 'the price is too great', *Time Magazine*, 15 Jan. 1973, p. 20.

<sup>68</sup> Cited in Leogrande and Kornbluh, *Back channel*, p. 126; Rososal, *Balancing power*, p. 51.

<sup>69</sup> Cited in Schoultz, *That infernal*, p. 259.

this back channel of communication would allow the Carter administration to reach a mild thaw with Cuba.<sup>70</sup>

In the end, the incidents of hijacking forced Cuba and the United States to come to a rational agreement to prevent harm to both sides. Unlike the common view in the historiography of diplomatic relations between the two countries, hijackings did not represent only broken relations. They also signalled a new opportunity to create back channels for discussion and negotiation that would lead to an agreement and become the basis for future communications.

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<sup>70</sup> Rososal, *Balancing power*, p. 66; Latner, 'Take me to Havana!', p. 19.

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