CHAPTER V

INTERNATIONAL CONVENTIONS ON TERRORISM
CHAPTER V

INTERNATIONAL CONVENTIONS ON TERRORISM

Brief Historical Analysis of International Agreements on the Prevention and Punishment of Acts of International Terrorism.

There are a number of international agreements in force today known to be designed for the prevention and punishment of terrorism.

In reviewing these international arrangements is to consider them as stipulating the corpus delicti punishable under the text of the conventions, the character of the crime from the standpoint of international law, the specified range of subjects as well as measures and procedural actions which states commit themselves to undertake in virtue of their status as contracting parties.

1. The 1937 Convention for the Prevention and Punishment of Terrorism.

Then king Alexander of Yugoslavia and prime minister Louis Barthou of France were killed in Marseilles on October 9, 1934, the government of Yugoslavia basing itself on the covenant of the League of Nations, asked the council of the League of Nations for an inquiry. The request also charged a foreign government meaning to that of Nazi Germany with involvement in the crime which had been committed. In a letter of December 4, 1934 the government of France sent an aide memoire to the council of the League of Nations setting out basic principles to govern an International Convention for the repression of crimes committed with a political and terrorist purpose.

On the very next day the council of the League of Nations unanimously passed a resolution to institute a committee of "Experts" with a view to drafting a tentative international Convention to curb any offences in pursuit of political terrorism.

The Assembly of the League of Nations having considered the preliminary drafts of the Convention for the Prevention and Punishment of Terrorism, adopted a resolution on October 10, 1936, pointing out that the contemplated convention, founding itself upon the principle that it is the duty of every state of abstain from
any intervention in the political life of a foreign state should have as its Principal objectives.

1. To prohibit any form of preparation or execution of terrorist outrages upon the life or liberty of persons taking part in the work of foreign public authorities and services.

2. To ensure the effective prevention of such outrages and in particular, to establish collaboration to facilities early discovery of preparations for such outrages.

3. To ensure punishment of outrages of a terrorist characters in the strict sense of the word which have our international character either in virtue of the place in which preparations for them were made or the place in which they were carried out or in virtue of the nationality of those participating in them or their victims.

This international conference meeting in Geneva from members 1 to 16, 1937, examined and adopted two conventions, one for the prevention of punishment of terrorism and the other, for the creation of an international criminal court.

The convention for the prevention and punishment of terrorism consists of a preamble and 29 articles. The Preamble emphasis’s that the convention is designed to make more effective the prevention and punishment of terrorism of an international character.¹

Article 1 of the convention reaffirms the principle of international law in virtue of which it is the duty of every state to refrain from any act designed to encourage terrorist activities directed against another state.

Under the provision of Article 1, the expression “acts of terrorism” means Criminal acts directed against a state and intended or calculated to create a state of terror in the minds of particular persons, a group of persons of the general public.

This warrants the reference in the preamble to “international characters” as the term that follows from the aims of an act of terrorism designed to inflict
damage or exert pressure on a state by spreading fear among particular persons, a group of persons or the general public.

Article 2 plays an important part in the structure of the convention since, on the other hand, it defines what constitutes an act of terrorism of an international character and on the other comprises a commitment of the participating states of the convention to have its respective original legislation stipulate, liability for any breach of the law within the meaning of article 1.

Constituting acts of terrorism of an international character are:

1. Any willful act causing death or grievous bodily harm or loss of liberty.
   (a) Heads of states, persons exercising the prerogatives of the heads of the state, their hereditary or designated succession.
   (b) The wives or husbands of the above-mentioned persons.
   (c) Persons charged with public functions or holding public position when the act is directed against them in their public capacity.

2. Willful destruction of or damage to public property or property devoted to a public purpose and belonging to or the authority of another High contracting party.

3. Any willful act calculated to endanger the lives of members of public (4) Any attempt to commit an offence falling within the foregoing provisions of the present article. (5) The manufacture, obtaining, possession or supplying of arms, ammunition, explosives or harmful substances with a view to the commission in any country whatsoever of an offence falling within the present article.

The essential provisions of this article are (1) qualification of the above-mentioned act of terrorism as a criminal offence. (2) Unification of the concept of an act of terrorism of an international character (3) Definitions of the object of the Commission of an act of terrorism with this definition based on the function or position of the person in public service or the designation of property being the object of an act of terrorism.

Art 2 may be found deficient because of the organic uniformity, from the legal point of view, of actions constituting an act of terrorism with the meaning of this article.
Article 3 of the convention provides each of the High Contracting parties to make the following acts criminal offences when they are committed on his own territory with a view to an act terrorism falling within article 2.

i) Conspicatory to commit any such act.

ii) Any incitement to any such act, if successful.

iii) Direct public incitement to any act mentioned under heads (1), (2), or (3) of Article -2, whether incitement be successful or not.

iv) Wilful participation in any such act.

v) Assistance, knowingly given towards the commission of any such act.

Furthermore under Article 4 of the convention, each of the offences mentioned in Article 3 shall be treated by the law as a distinct offence in all case where this is necessary in order to prevent an offender escaping punishment.

Any willful act calculated to endanger the lives of members of public. (4) Any attempt to commit and offence falling within the foregoing provisions of the present article. (5) The manufacture, obtaining, possession of supplying of arms, ammunition explosives or harmful substances with a view to the commission in any country whatsoever of an offence falling within the present article.

The essential provisions of this article are (1) qualification of the above mentioned act of terrorism as a criminal offence (2) Unification of the concept of and act of terrorism of an international character. (3) Definitions of the object of the commission of an act of terrorism, which this definition based either on the function or position of the person in public service or the designation of property being the object of an act of terrorism.

Art. 2 may be found deficient because of the organic ununiformity from the legal point of view, of actions constituting an act of terrorism within the meaning of this Article.

It is understandable that the inclusion of head (5) of Art. 2 in the wording of Art-2 concerning the manufacture obtaining, possession or supplying of arms, ammunition etc had been prompted by the determination to provide for these acts to be punishable under an articles of National criminal legislation as much as for the way commission of an act of terrorism.
Art 6 & 7 of the Convention consider the questions of recognition of previous convictions and sentences passed by foreign courts within the conditions prescribed by domestic law and include the provision that in so far the domestic law admits parties civiles, foreign parties civiles, including, in proper cases, a high contracting party shall be entitled to all rights allowed to nationals by the law of the country in which the case is tried.

Art. 8 formulates in practical terms, the principle of a instituted by the heads (1), (2) & (3) establish the ground for the extradition of criminals having committed offences set out in Arts 2 and 3 along with head (4), that stipulates that the obligation to grant extradition under the present article shall be subject to any conditions and limitations recognized by the law or the practice of the country to which application is made.

This principle is reinforced by the wording of Art 9 which formulates the obligation of a state which does not recognize the principle of extradition of its nationals to prosecute and punish its nationals who have returned to the territory of their own country after the commission abroad of an offence mentioned in Arts 2 & 3 even in a case where the offender has acquired his nationality after the commission of the offence. However, the provisions of this article shall not apply in similar circumstances, where extradition of a foreigner cannot be granted.

The fact in this context that the relationship between the necessity of prosecution for an offence and the presence of political motives for the refusal to extradite a foreigner or a national of one's own state is always decided by fixing a standard with some political element or substance in it. Consequently there arises a blanket standard which creates a compromise version half way between the necessity of prosecution following from the consistency of Legal logic and the political motives behind the selection of a legal system for prosecution.

Art. 10 supplements the provisions of the convention designed to make certain the punishment of the offences mentioned under the relevant articles of the convention, emphasizing that foreigners who have committed abroad any of the offences set out in arts 2 and 3, which on the territory of a High Contracting
Party, shall be prosecuted and punished as though the offence had been committed in the territory of that High Contracting party, if the following conditions are fulfilled.

a) Extradition has been demanded and could not be granted for a reason not connected with the offence itself.

b) The law of the country of refuse recognizes the Jurisdiction of its own courts in respect of offences committed abroad by foreigners.

c) The foreigner is a national of a country which recognizes the Jurisdiction of its own courts in respect of offences committed abroad by foreigners.

Art-11 stipulates that it must not exceed the maximum provided for by the law of the country where the offence had committed.

That is to say that is one of its basic aspects of sanction, the commention applies lexloci actus but not in its full volume, but only within the limits of sanction conforming to the law of the country where the offence has been committed.

Art-12 provides for indispensable legislative and administrative measures to be taken to ensure the purpose of the present convention.

Article 13 deals with the question of regulations of the carrying possession and distribution of firearms and of ammunition and establishes the necessary of punishment of persons who do not hold any license to possessor carry arms. Art 14 considers punishments for action involving any fraudulent manufacture or alteration of passports of other equivalent documents, irrespective of national or foreign character of the document.

All action punishable under this connection shall not be dispersed throughout the convention located in one point of the convention in an order dictated by the social danger of such action.

Art. 15, 16 and 17 stipulate the order, method and form of exchange of information and cooperation between the appropriate agencies of the High contracting parties as well as the execution of letters of request to offences referred to in the convention with nothing to be interpreted in this context as a circumstance allowing the national judiciaries to apply methods of proof contrary to their own legislation.
Article 18 and 19 of all convention could be structurally grouped along with articles codifying the aute dedere aute judicare principle since for instance Art 19 undersigned that the characterization of the various offences dealt with in the convention, the imposition of sentences, the methods of prosecution and trial and the rules as to mitigating circumstances, pardon and amnesty are determined in each country by the provisions of domestic law provided the offender is not allowed to escape punishment owing to an omission in the criminal law.

Art. 20 to 29 lay down the procedure to follow in settling a dispute, should it arise between the High contracting parties, relating to the interpretation or application of the convention (Art 20), the necessity of its verification (Art. 21), the right of accession (Art 22).

The High contracting Parties accepted the present convention, is not assuming any obligation in respect of all or any of its colonies, protectorates, overseas territories, territories under its suzerainty or his mandated territories. That means they kept a reservation in case of above mentioned territories that the convention, in that case, not be applicable to the territories named in such declaration, as provided under Article 25. The presence of the so called colonial reservation does not allow the convention to pretend to be universal which is a considerable deficiency and makes its elaborated provisions ineffective in preventing terrorist acts of an international character.

To review the 1937 convention, one can put it in the following words as

- Definition of an act of terrorism as one of in international character because of the specific object of attack.
- Emphasizing the functional base for granting protection to persons named in Art-2 from offences falling within Art 2.
- Assuming the principle of inescapable punishment (Article 8, 9,10,11,12,13,19).
- The necessary of cooperation, exchange of information and execution of letters of request relating to the application of the convention (Arts. 15, 16, 17)
Guarantee of the enforcement of the provisions of the convention through appropriate legislation, either available or newly enacted, as well as appropriate administrative organization (Art-24).

This convention even if it could have become universal due to the excellent to which its provisions had been elaborated, could not have provided Universal protection because it contains the right to "Colonial reservation"- Art 25.

**Conventions for the Suppression of Unlawful Interference with the Operation of Air Service**

There has been an alarming increase in recent five decades, of acts against the safety of international air travel. The largest number of such acts was recorded between 1968 to 1970. A total of 121 aircrafts including 69 transport planes were hijacked in the world from January 1948 to September 1969, with air traffic thereby disrupted on the air lines of 47 nations, 97 persons killed and 23 wounded. Under such circumstances international measures have been taken to prevent and suppress acts against international Civil aviation. Three Conventions have been concluded, one after the another in the space of less than seven years, complementing each other, counter the incessant growth of the danger jeopardising the normal operation of international civil aviation. Those are:

- The Convention on Offences and Certain other Acts Committed on board Aircraft, signed at Takyo on 14 September 1963. This convention entered into force on December 4, 1969. It has been notified or acceded to by 60 nations, including three socialist states. Hungary, Poland and Yugoslavia.


- The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation signed at Montreal, September 23, 1971. This Convention entered into force on January 26, 1973. The USSR has been a party to it since December 27, 1972.

The Convention on offences and certain other acts commited on board Aircrafts— Takyo Convention— acceded to by 60 nations was the sole international
document in 1968-69 to provide some measures for certain action to counter the rapidly rising incidence of aircraft hijacking and other acts jeopardising the operation of air services.

The Convention applies in respect of offences committed or acts done by a person on board any airport registered in a contracting state, while that aircraft is in flight or on the surface of the high seas or of any other areas outside the territory of any state. The deficiencies of the Convention comprise not only the absence of a definition of the corpus delicti and the exclusion from the convention's scope of domestic airlines, but also the absence of a clearly formulated principle of inescapable punishment and qualification of offences falling within the convention as criminal regardless of the motives of the offence. Other deficiencies of the convention are the granting of unjustifiably extensive rights to flights commanders and separation of Art 11, formulating the concepts of 'unlawful seizure of aircraft' from chapter 1 of the convention entitled "The scope of the convention" This creates a possibility of divergent interpretation of the convention in the event of structural interpretation being used.

The aforesaid deficiencies are compounded by the wording of Art 22 which that this convention shall, after it has come into force, be open for accession by any state member of the United Nations or of any of the specialised agencies". This wording meant that the convention, conceived as universal character, could not become one.

Considering the rising incidence of acts of unlawful interference with the operation of air service as well as the deficient provisions or other Tako convention, the General Assembly of International Civil Aviation Organisation (ICAO) passed a resolution A-16-37 asking the ICAO Council to consider, within the bounds of possibility, other measures towards resolving the problem of unlawful seizure of aircraft.6

The twenty fourth session of the United Nations General Assembly in 1969 considered the problem of "forcible diversion of civil aircraft in flight". The Assembly approved the Resolution 2551. (Twenty fourth session) declaring itself "deeply concerned over acts of unlawful interference with international civil
aviation" and recommended "effective measures against hijacking in all its forms or any other unlawful seizure or exercise of control of aircraft. A diplomatic conference at the Hague on December 16, 1970, adopted a convention for the suppression of unlawful seizure of Aircraft.

The important provisions of the convention comprise the aut dedere aut Judicare principle formulated in Art 7 which makes it imperative for the contracting state in the territory of which the alleged offender is found, if it does not extradite him to submit the case "Without any exception whatsoever" to its competent authority for the purpose of prosecution.

The Contracting states in virtue of Art 10, commit themselves to afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence falling within the Convention. Art 13 codifies the Moscow formula the convention is open for Signature in Moscow, London and Washington, which creates the objective conditions for it to become universal.

A diplomatic conference at the Hague on 16th December 1970, adopted a convention for the suppression of unlawful seizure of aircraft. The Hague convention defined the offences falling within it.

Article 1 says that any person who on board an aircraft in flight a) Unlawfully, by force or threat these of or by any other form of intimidation, seizes or exercises control of, that aircraft, or attempts to perform any such act or b) is an accomplice of person who performs or attempts to perform any such act commits an offence.

The convention requires each contracting state to make the offence punishable by severe penalties (Art 2). Under Art 3 the extension of the convention to domestic line traffic seen as a positive aspect of the convention.

Art. 3 also stipulates the scope of the convention which is limited to instances involving an international element in it:

- if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the state of registration of that aircraft:
it the offender or the alleged offender is found in the territory of a state other than the state of registration of that aircraft.

The major distinguishing feature of the Hague convention is that it deals with nothing but the problem of hijacking of aircraft as such. The convention is designed to project only an aircraft in flight, moreover, it protects an aircraft in flight only in the event of it being an object of an act of seizure, besides, this act is qualified as an offence only when committed by a person on board this particular aircraft. Consequently, the convention excludes from its scope all the categories of other acts which could produce a no lesser threat to the operation of civil aviation.

This being the case the ICAO General Assembly adopted a resolution on 17-20 in June 1970, that is, before the conclusion of the Hague Convention, condemning without any exception what so ever all acts of aerial hijacking or other interference with civil air travel. Whether originally national or international though the threat or use of force and all acts of violence which may be directed against passenger crew and aircraft engaged in and air navigation facilities and aeronautical communication used by civil air transport.

**Montreal convention 1971**


Art. 1 of the Montreal convention says:

1. Any person commits an offence if he unlawfully and intentionally:
   a) performs an act of violence against a person on board an aircraft in flight if that act is likely endanger the safety of that aircraft, or
   b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight.
   c) Places or causes to be placed or an aircraft in service by any means whatsoever a device or substance which is likely to destroy that aircraft or to cause damage to it which is likely to endanger its safety in flight.
d) Destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight or.
e) Communicates information which he known to be false thereby endangering the safety of an aircraft in flight..

2. Any person also commits an offence if he:
   a) attempts to commit any of the offences mentioned in paragraph 1 of this article or
   b) is an accomplice of a person who commits or attempts to commit any such offence.

It can be seen from the Montreal Convention that it is directed not only against acts of seizure or exercise of control of an aircraft with a view to using it as a transport vehicle but also against acts of terrorism committed in respect of aircraft in service whether on the ground or in the air as well as in respect of ground based air navigation.

That distinguishes the Montreal convention from the Hague Convention is not only its scope, but also the presence of a special provision whereby the "Contracting states shall in accordance with international law and national legislation, endeavour to take all practicable measures for the purpose of preventing the offences mentioned (Art-10)".

In a trial at Caracas in 1978, all the defendants were convicted. That was a typical case of crime investigation and denunciation and that pointed to the grave danger of acts of terrorism in respect of civil aviation and to the connection, as a rule, between these actions and a whole series of other acts of international terrorism subject to prosecution and calling for the cooperation of nations in preventing them.

The convention has a great importance in dealing many aspects of safety and prosecution matters, also fails in some respect. The convention had no reflection of instance of destruction of aircraft while asked out of service, as stipulated in Art. 2 of Montreal Convention, and in airport hangars or the destruction of airfield installation outside those relating to air navigation facilities. One essential deficiency of the Convention is the absence of provision to make
punishable the acts of violence in respect of airport ground personnel. The tragic events in Fiumicino airport of Rome on December 18, 1973 demonstrated the essentiality for inclusion of such provisions to suppress unlawful interference with the operation of air services.

On December 18, 1973, a group of terrorists blew up a Pan-American airliner in Fimicino Airport, Killing 30 people. Thereupon, the terrorists seized a west German Lufthansa airliner and left for Athens, having taken sensual Italian policeman and port officials hostage along with the passengers on board. Having failed to get their demands met in Athens the terrorists flew on to kuwait and landed there. In Kuwait the terrorists were arrested and the crew and the hostage set free.

The point that matters in that particular case were:

- no provision for the protection of airport officials in the Hague and the Montreal Conventions.

- The fact that the State of Kuwait is not a party to the above mentioned Conventions and that reason technically, the authorities of Kuwait were under no obligation to institute criminal proceedings against the terrorists for the commission of that crime.

Neither did the Convention reflect the problem of prosecution and punishment of individuals committing their offences outside any national territory. Besides, in virtue of the provisions of the Conventions, several states simultaneously have the right to try the offender, considering the purpose of the offence, the right of preferential Jurisdiction must belong to the state of registration of the airport and in the event of an act committed in respect of ground equipment or installations or an aircraft out of service or in hangars, if the offenders is extradited.

Another outstanding issue is the absence of a system of guarantees to ensure the fulfilment of obligation by states arising from these Conventions.

A research study of terrorism by the UN secretariat carried out in Compliance with decision taken by its 1314 meeting, which said that, these conventions do not deal directly with terrorism. They contain no express provisions on that subject.
The 1971 Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance.

The rising number of acts of terrorism convicted on the American Continent led to the Inter-American Commission on Human Rights adopting a resolution in April 1970 concerning terrorism for political or ideological purpose in which it condemned acts of "Political terrorism" and "Urban or rural guerilla"s as being grave violations of human rights and fundamental freedoms.

The Permanent Council of the Organisation of American States (OAS) meeting on May 15, 1970, approved a resolution based on a report submitted by its legal political committee, which, inter alia condemned acts of terrorism and in particular the kidnapping of persons and extortion in connection there with as crimes against humanity. On June 30, 1970, the General Assembly of the OAS adopted a resolution entitled "General Action and policy of the organisation with regard to Acts of Terrorism and especially, the kindapping of persons and extortin in connection with that crime." The third special session of the OAS General Assembly, meeting in Washington from January 25 to February 2, 1971 adopted a "Convention to prevent and punish the Acts of terrorism taking the form of crimes against persons and related extortion that are of International significance":

Structurally the convention consists of a Premble and 13 articles. The Preamble emphasises that the General Assembly of the organisation of American states, in resolution, of June 1970, strongly condemned acts of terrorism especially the kidnapping of persons and extortion in connection with that which it declared to be serious common crimes, pointing crimes, out that criminal acts against Persons entitled to special protection, Under international law are occuring frequently. Those acts are of international significance because of the consequences that may flow from them for relation among states.

The object of the Convention, the preamble said, is to adopt general standard that will progressively develop international law as regards cooperation in the prevention and punishment of such acts.
Art 1 stipulates the undertaking of the contracting states to cooperate among themselves by taking all the measures that they may consider effective, under their own laws and especially those established in this convention to prevent and punish acts of terrorism, especially kidnapping murder and other assaults against the life or physical integrity of those person to whom the state has the duty according to international law to give special protection as well as extortion in connection with those crimes.

Art-2 qualify the above mentioned crimes as common crimes of international significance regardless of motive.

Art- 3 does say that persons who have been charged or convicted for any of the crimes referred to in Art-2 shall be subject to extradition under the extradition treaties in force between the parties or in the case of states that do not make extradition dependant on the existence of a treaty in accordance with their own laws its subsequent provision virtually ignores the very fact of this convention having been drafted in any case it is the exclusive responsibility of the state under whose jurisdiction or protection of such persons are located to determine the nature of the acts and decide whether the standards of this convention are applicable. That means as a matter of fact that the state itself establish whether the given case shall be treated under the convention or not.

Art -5 formalises the Principle of "aute dedere aute Judicare" since when extradition requested is refused the requested state is obliged to submit the case to its competent authorities for prosecution as if the act had been committed in its territory.

Although this convention has been signed within the framework of the organisation of American states, the text of its Art 9 warrants the assumption that the Convention contemplates wider range of contracting states as it is open to for signature by :

1) member states of the organisation of American states.

2) members of the United Nations or any of its specialised agencies or any state that is a party to the statute of the International Court of justice.
3) any other state that may be invited by the General Assembly of the organisation of American States to sign the convention.

To sum up the convention, following conclusion can be made:

1) The convention does not indicate the corpus delicti falling within it.

2) While mentioning the term “special protection” in Art-2, the convention does not specify the juridical substance of the notion.

3) The convention contains no list of persons to be granted “special protection” and not even the principle of drawing up one.

4) If does not contain any clear distinction between the obligations of the state arising from its recognition of the right of asylum, its commitments under the convention and the proper consideration for the constitutional and related provisions of domestic legislation of the state (Arts 5, 6, 7).

Other positive aspects of the convention,

1) The presence of au te dedere au te judicar e principle whose purpose to suppress acts of terrorism of international significance (Art-5).

2) formulation of the commitment of the states to include in their respective penal laws criminal acts falling within the convention (Art-8).

3) An Attempt to make the convention Universal through Art 9, with all these positive elements the convention fall short to become universal in its approach and application.

The 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents

The acts of violence and arbitrary practices in respect of official representatives of states abroad have placed in Jeopardy the “Principle of inviolability” of the person of a diplomatic agent (Art 29 of the 1961 Vienna Convention and Diplomatic Relations) as well as the principle of protection of consular officers to prevent any attack on their person, freedom of dignity" (Art 40 of the 1963 Viena Convention on Consular Relations).
The provision to ensure the inviolability of the person of diplomatic agents means recognition of the fact that certain immunities and privileges for such agent are indispensable for the relationship of Sovereign and independent nations. Special protection in this sense means more reliable protection that which of these states are obliged to grant to private persons.

Draft Article-1 Says.

1. Internationally protected person means

a) A head of state or a head of Government, whenever he is in a foreign state, as well as members of his family who accompany him.

b) Any Official of either a state or an international organisation who is entitled, pursuant to general international law or an international agreement, to special protection for or because of the performance of functions on behalf of his state or international organisation as well as members of his family who are likewise entitled to special protection.

Important provisions of this article

- Reaffirmation of the generally accepted legal principle whereby it is the intent to commit an offence, rather than the reasons behind its commission.

- Paragraph (1) incorporates the principle of Universality as fundamental to establishing Jurisdiction in respect of the offences listed therein.

The provision of draft Art-3 are intended to ensure the adoption of more effective measures to prevent the crimes.

The provisions of Art 5 concern the immediate action to be taken when the alleged offender is discovered on the territory of a state party following the commission of any of the crimes set forth in Art 2. This action in accordance with Art 5 is directed towards securing criminal proceedings or the extradition of the offender.

The Twenty-Eight session of the UN General Assembly having considered the draft Convention on the prevention and punishment of crimes against Diplomatic agents and other internationally protected persons submitted by the international law commission adopted a Convention on the prevention and Punishment of Crimes Against 'Internationally Protected person.
The twenty-eight session of the UN General Assembly succeeded in drawing up a Convention to meet the interests of overwhelming majority of states, which means it may well be expected to play an important part in the suppression of acts of terrorism creating a grave threat to the maintenance of normal international relations.

The events of recent years have furnished ample evidence to demonstrate the necessity of effective enforcement of the standards of international law designed to protect the activities of official representatives of states, international organisations and peoples in battle for national liberation against foreign occupation and racism.

For years the Soviet Mission at the UN in Newyork and many other permanent representative offices of socialist and developing countries, their staff and members of their families have been the targets of the terrorist action of the so called Jewish Defence League.

The Soviet Mission in its notes more than once called in the American authorities to the take all the necessary measures to ensure the security and normal conditions for the activities of the mission and its staff as well as the Soviet staff of the UN Secretariat and to put an end to provocative attacks by Zionist terrorists. The UN committee for liasion with the host country repeatedly declared such attacks to be intolerable.

The Minister of the Interior of India, Zail Singh made a statement in Parliament on April 28, 1981, about an attempted act of Sabotage on the aircraft by which Prime Minister Indira Gandhi was to have set off on a foreign tour early in May of the same year.

The world was shocked by the attempted assassination of Pope John Paul II on May 13, 1981. The enquiry revealed that the man who made that attempt Mehmer Ali Agca, a Turkish subject who had close connection with the neofacist party “Grey Wolves” of the nationalist movement in Turkey, escaped to West Germany where branch offices of that Turkish neofascist party are acting in full freedom” backed up by West Germany Secret Services.
The Washington post columnist HB Johnson Frankly said all that reminded one of the anti-cuban campaign at the time when the invasion of the Bay of Pigs and the assassination attempts in Fidel Castro had been prepared.

As the facts indicate, the authorities of a number of states have deliberately stalled the launching of an effective conventional mechanism assuring inescapable punishment for the commission of crimes, connived at the latter and disregarded the elementary standards of international law, which could not but hamper the cooperation of nations in the suppression of terrorism.

**The 1977 European Convention on the Suppression of Terrorism.**

Almost half of the acts of terrorism committed in the 70s and 80s, occurred in Western Europe that were the results of major terrorist organisations are operating in those capital countries of the Europe.

The coordinating centre of Aginter Press was set up in Lisbon in 1953. In 1956 two lines became distinct in its activity: Propaganda and outright terrorism (armed struggle against international communism)

At present, Aginter Press has its headquarters in Spain and maintains contacts with Ordine Nudo (New Order), Avanguardia Nazionale, the neo-fascist Italian Social Movement, the neo-nazis in West Germany the nationed Front of Andrew Fountaine, a fascist and the Monday Club (the right-wing conservatives) in Britain; the extreme right wing organisation and National Front in France; the fascist organisations in Luis Garcia Rodriguez and right wing Catholics on Spain, along with Neo-fascist centres in Barcelona and Madrid and Jenne Europe (young Europe) and Nouvel ordre European (New European order) in Belgium and Switzerland.

The world Union of National Socialist is a neo-nazi organisation operating in France, West Germany, Great Britain and in countries of Latin America.

The world Anti Communist League, founded in 1961, is headed by Raimundo Goerrero, a Mexican fascist The league has extensive connection with a number of kindred organisations of Latin America and is in close contract with the Munich Centre, Ukranian nationalist National Labour Union and the secret services of United states, West Germany and Switzerland.
Besides, these rightist groups, there are a number of Leftist groups committed to terrorism in Western Europe. For the most part, their members are young people under 30, coming from the petty bourgeoisie and middle classes. Some of them have worked at industrial enterprises for a short time. Their programmes are a rather limited set of high-flowing “revolutionary phrases”, while their actions are of a piece with those of prolascist groups. These are, above all, the Red Brigades of Italy, worker Autonomy, Protetarian Armed cells, Armed workers for Communism, Red Army Faction (RAF) in West Germany. Their common practice to procure their means of subsistence of looting Jewellary shops or banks or kidnapping relatives of rich groups of people to get a ransom for them.

The aim of leftist groups is to destabilise the situation which the rightist seek to exploit to lash out against left forces and democracy.

The Italian “Rinascita” weekly defined, “terrorism is the armed hand of the crisis against the organised working-class movement, which means that this movement has to defend itself against such an enemy”. This weekly also expressed that attempts to destabilise the domestic situation in various countries through terror are undertaken by secret services just when there is a steep rise of the influence of the communist and working class movement.

In the spring of 1978 the Italian La Do-monica del carriers Newspaper asserted that the West German terrorist, Hans Joachim Klein had been trained for sabotage operations in a special camp in karlovy Vang, czechoslovakia together with other Italian, spanish and Germany terrorists.

In an effect to stem the wave of terrorism through improvements in Legal machinery and in the performance of the police force, the government of Great Britain, west Germany, france, Swiszerland, Belgium, Denmark, Italy the Netherlands, Norway and Austria set up special commando type anti-terrorist groups. In April 1978, the nine common market countries as well as Austria and Switzerland reached an agreement on pooling their resources to this end. France acceded to the agreement in september 1978.
One thing produced through the legal cooperation of west European states was the European convention on the suppression of terrorism signed at starsbury on January 27, 1977. The Convention consists of a preamble and 16 articles. As stated in the Preamble the purpose of the Convention was to take effective measures to ensure that the perpetrators of acts of terrorism did not escape prosecution and punishment. It was stressed, furthermore that extradition was a particularly effective measure for achieving result.

This Convention as can be seen from article 1 does not regard the following offences as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

- an offence with the scope of the Convention for the Suppression Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970.

- an offence within the scope of the Convention for the Suppression of unlawful Acts against the safety of Civil Aviation signed at Montreal on September 23, 1971.

- a serious offence involving an attack against the life, physical integrity or liberty of internationally protected persons including diplomatic agents.

- An offence involving kidnapping the taking of a hostage or serious unlawful detention.

- an offence involving the use of a bomb, grenade rocket, automatic firearm or letter or parcel bomb if this use endangers persons.

- An attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

Analysing the afore-mentioned corpora delicti falling within the convention, one should make the following observation.

The convention offers a loose definition of the offence which leaves it open to arbitrary application, notably against democratic force.

Article 3 demands a modification of all extradition treaties and arrangements applicable between contracting states including the European Convention on Extradition, to the extent that they are incomparative with this Convention.
This provision of the Convention is, as a matter of fact, contrary to the principles of participation by European states in a whole series of international conventions concluded with a view to suppressing all kinds of terrorist acts of international significance. Ireland's position is a clearer reflection of the drawbacks of the convention. Ireland refused to sign it at all on the ground that to do so would infringe the "generally recognised principles of international law." Article 5 comes into conflict with the provisions of Article 1 and 2, by stipulating that none of the provisions of the Convention shall be interpreted as imposing an obligation to extradite if the requested state has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nation and political opinion.

In these circumstances, it is difficult to view the conclusion of the European Convention as a positive step in the legal cooperation of states in action to suppress terrorist acts of international significance as it is not an adequately elaborated document with a view to standardising the principles of national law to prevent and punish terrorist acts of an international character.

Article 7 formulates the Principle of "Extradite or Prosecute" which further complicates the consistent effective application of the convention since the previous provisions articles lay emphasis on extradition. Article 8 stipulates the obligation of the states in connection with mutual assistance in criminal matters and proceeding with regard to the offences falling within the convention.

Articles 9, 10, 11, 12, 13, 14 and 16 regulate the questions of mutual information and settlement of disputes arising from interpretation or application of the convention, the procedure of signing, ratifying and putting it into effect, the procedure and application of reservations made by states with regard to the various provisions of the convention as well as the process of denunciation.

One major point to note in giving a general assessment of the European convention on the Suppression of Terrorism is that this convention is not a treaty on the extradition of criminals or a treaty on mutual assistance in Criminal matters. It is general international extradition or mutual assistance agreements that remain
the basic documents for extradition or mutual assistance in Criminal matters or the Principle of reciprocity in their absence.

Article 3 and 8 of the Convention on Suppresion of Terrorism contain a provision whereby extradition of assistance in criminal matters may not be denied on the grounds that the crime is of a political character.

Speaking at the 1980 Strasbourg conference on "Defence of Democracy Against Terrorism in Europe: Tasks and Problems" the Principal legal officer in Austrian Ministry of Justice Robert Linke said criticising the convention, that the solution is offered was an oversimplification of the problem as it denied the political character of offence under all circumstances. A similar view as expressed by Paul Wilkinson, professor of International Relations, Britain.

"A former Italian Minister of Justice, Senator Francesco Paolo Bonifacio, in a paper "Limitation of Individuaal Rights in the Fight against Terrorism" held that no antidemocratic legislation should be passed even in the face of terrorists act committed. Mr. Bonifacio, from Italian experience, stressed further more reliance on the guarantees of political asylum, found it necessary to produce such an interpretation of the defensive function of the extradition ban as would contain clear restrictions."

It should be noted that the convention does contain some provisions permitting a state to refuse to extradite a terrorist by referring to the political character of the offence which would of course, weaken the effort of nations in the suppression of terrorism. However, the main thing is that the convention does not draw any line of distinction between a terrorist act of international significance and a terrorist act of a domestic character and that makes cooperation extremely difficult, involving different national systems in the fight against criminal offences in general, which hampers identical solutions and may bring all kinds of abuse in its train.

Critical reactions to European Convention from Public opinion in European countries surfaced, in particular, a convention to protect the right of asylum has been produced in France as an act of protest. Well known Belgian lawyer Jean
salmon observes that Article 1 of convention can be applied to anybody a spy, a hangman or an entirely innocent civilian, due to the absence of objectives proclaimed there in.

The Convention in Salmon’s opinion is aimed essentially not so much at fighting international terrorism as at opposing internal political violence. The convention resuscitates the spirit of the Holy Alliance, that of intervention in the internal affairs of nations and contradicts the principles of non-intervention and self determination.

Nationals of the signatory Countries can face a trial or lose the right of political asylum for an indefinitely interpreted complicity. Any political opponent of an existing regime, who has committed no act of violence, whatsoever, can be declared an accessory and prosecuted for terrorist activity.

In a wider sense of understanding the convention has become and expression of the “order and freedom” conception which is gaining currency and institutionalised in the West as the so called “Security doctrine”. The convention has become the foundation for the west European criminal law although, technically, it has an international legal aspect.

The 1979 International Convention Against the Taking of Hostages

The substance of terrorists acts falling within the scope of international law indicates that in a number of instances the commission of such offences involves the taking of hostages. International law already has some proscriptions in force to ban hostage taking in specified circumstance. Article 3 of the third 1949 General Convention for the protection of war victims forbids hostage taking during armed conflicts, and a similar ban is to be found in international Conventions drawn up with a view to combating unlawful interference with the operation of air services (The Hague Convention of 1970 and the Montreal Convention of 1971) in the Convention on the Prevention and Punishment of Crimes against Internationally
Protected persons including Diplomatic Agents, as well as in the UN General Assembly Resolution 2645 (Twenty fifth Session).

At the thirty First Session of the UN General Assembly, west Germany called for the drafting of a uniform international convention against the taking of hostages to be included in the agenda as a special item after Lufthansa airliner tragedy in autumn of 1977, which fortunately ended up in the release of hostages at Mogadishu airport. On December 15, 1976, the General Assembly, acting upon the 6th committee’s recommendation, passed the resolution 31/103, pointing up the imperative need for this matter to be studied and provided for an Ad-hoc Committee to be established to draft an international convention against taking of hostages, to be composed of representatives of 34 member States.

The Ad-hoc committee met at the UN headquarters from August 1 to 19, 1977. Analysing the discussion in the committee, one can note the similarity of the positions of the states on the Ad Hoc Committee with regard to international terrorism. The representative of the USSR, in the general debate stressed, “the taking of hostages should be considered as manifestation of terrorism”. Also expressed his views that effective measures at national level could be instrumental in dealing with it. There must be no loose interpretation of type of offence to prevent the measures taken within the UN framework against the taking of hostages from being extended to the national liberation struggles against colonial and racist regimes.

Article 1 of the draft defined the offences within the scope of the convention any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the hostage) in order to compel a third party namely, a state, an international inter governmental organisation, a natural or Juridical person or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages within the meaning of this convention.
Paragraph (2) stipulates that any person who: a) attempts to commit an act of taking hostages b) or is an accomplice of any person who commits or attempts to commit an act of hostage taking also commits an offence within the meaning of this convention.

Article 2 regulates the questions of cooperation between the states parties to the convention, notably, by taking measures within the framework of national law to prevent the commission of such offences in or outside the territories, by an exchange of information and coordination in taking administrative and other appropriate measures to forestall the commission of an offence.

Article 3 contains the obligations of the contracting states to ease the conditions of hostages who have found themselves in their territory and take measures towards securing the release of hostages. Among other things the states are bound to facilitate the departure of liberated hostages and return the objects unlawfully seized the offender.

Article 4 provides for severe penalties against persons having committed any of the offences in the convention.

Article 5 says that the fixing of Jurisdiction over the offences defined in the Convention does not exclude any criminal jurisdiction exercised in accordance will national legislation. It would be more correct to speak of fixing jurisdiction over the offender under this article.

Article 7 and 8 formulate the principle aute dedere aute Judicare. This provision is a rather essentical complement to assure inescapable punishment of this category of crime.

Article 9 regulates the questions of granting legal aid in connection with criminal procedure executed against the offenders pursuant to this Convention.

Article 10 emphasises that the present Convention does not affect the above mentioned conventions of 1949, 1970, 1971 and 1973.

Article 11, 12 and 13 are of a Procedural character and regulate the questions of accession, entry into force and the machinery of setting dispute that may arise from the application of the Convention.
The International Convention Against the Taking of Hostages, consisting of 20 Articles was adopted by the UN General Assembly on December 17, 1979.

The convention makes it imperative for the signatory states to prosecute under criminal law or extradite any person committing an act of hostage taking and also take appropriate measures of punishment, considering the grave character of such an offence. Some progress towards resolving the question of hostage taking has been made through international law.

The preamble to the Convention records that the states parties consider that, the taking of hostages is an offence of grave concern to the international community" and that "it is urgently necessary to develop international cooperation between states in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking hostages as manifestation of international terrorism.\textsuperscript{12}

One extremely important the wording of Article 12 whereby is so far as the Geneva Conventions of 1949 for the protection of war victims or the Additional protocols to those Conventions are applicable to a particular act of hostage taking and is so far as states parties to this Convention are bound under those Conventions to prosecute or hand over the hostage taker the present Convention shall not apply to an act of hostage taking committed in the Course of armed conflict as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts mentioned in Article 1 Paragraph 4 of additional protocol 1 of 1977 in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their rights of self determination, as enshrined in the Charter of the United Nations and Declaration on Principles of International law Concerning Friendly Relations and Cooperation among states in accordance with the charter of the United Nations.

The Convention is an important document of international law for the fight against the crime of hostage of international character. To make the provisions of the Conventions more effective in its application politically and geographically universality is required.
The drawback of the Convention is the absence of a special article for the suppression of terrorist organisations committing acts of hostage taking.

**The International Conference on Suppression of Mercenarism : 1978**

The International Conference on Suppression of mercenarism held in Berlin early in 1978, did not only stress prevention of mercenarism as an urgent problem, also called attention to the peculiar mobile connection of mercenarism in the struggle against the national liberation movements in Africa as against the left forces and working people in the countries of western Europe. The UN has condemned mercenarism and declared it as an international crime.

The problem of mercenarism became acute during the events in the Congo. In 1961, Tshombe had 500 white mercenaries from Europe and south Africa. In that circumstances, the UN security council on February 21 1961 passed a resolution urging that measures be taken for the immediate withdrawal and evacuation from the Congo of all Belgian and their foreign military and paramilitary personnel and political advisers not under the United Nations Command and all mercenaries. The United Nations force managed to expel 273 mercenaries from the Congo in August 1961, but there were still 237 ‘Soldiers of fortune” there in November 1961. A further resolution authorising the use of whatever force was necessary to carry out that decision was adopted by security council on November 24, 1961.

Within the framework of international law generally the first attempt at getting mercenaries out lawed was made by the Hague Convention on 1907 which, in Article 4 forbade the recruitment of combatants and opening of recruiting agencies on the territory of a neutral power to assist the belligerents. On the other hand Article 6 of the Hague convention absolved neutral nations of responsibility in the event of private persons leaving the country to take up foreign armed service.

The Hague Convention was applied in respect of belligerent parties and the status of neutral nations. Consequently the Hague convention, on the one hand, imposed ban on mercenarism and on the other, acknowledged the institution of volunteers which should beyond question be distinguished from mercenarism.
For this controversy in recent times even to define mercenarism. It has been suggested by scholars that it is difficult to define and therefore, it is impossible or qualify it in any way. It extremely difficult to distinguish between mercenaries and volunteers, holding both to endanger international peace and security in equal measure.

Under Art-6 of the 1907 Hague Convention respecting the rights and duties of Neutral powers and persons in case war on land, “the responsibility of a neutral power is not engaged by the fact of persons crossing the frontier separately to offer their services to one of the belligerents”.13

Simply it means that participation of individual citizen by the voluntary principle, without any material interest, is far from being forbidden, permitted.

It is likewise obvious that in the context of international law now in force, the participation of volunteers in an armed conflict of an international or not international character shall not create a danger to international peace & security. The participation of volunteers in an international armed conflict is permissible only if it is to favour the victim of the aggression and those in battle for the national liberation, the right of self-desmination, against foreign occupation, colonialism and racist regimes. This is a new important element which has been introduced by contemporary international law into the institution of voluntary services. In this case the state although it is not responsible for the action of its volunteer citizens, is responsible for the observance of the general principles of international law.

From this of view, for example, the participation of volunteers at the side of the republicans in the civil war in Spain should be regarded as legitimate while the participation of ‘volunteers with the regular force of Italy and Germany in action to aid France and consequently having committed aggression against Spain, should be considered illegitimate.

International law does already contain a definition of mercenarism, which can be used as the ground for states to act on it checking it and in drafting national legislation.

The 1949 Geneva Conventions for the protection of mercenarism, which can be used as the ground for states to act on in checking it and in drafting national
legislation. In 1870 Britain adopted a Foreign Enlistment Act to forbid British subjects from going to serve in a foreign state in order to participate in hostilities against another state if Great Britain was not at war with it. It is significant enough that the Act is still the only law on mercenaries for many of the commonwealth nations. British Parliament confirmed the validity of the Act during the Spanish Civil war. In May 1968 Great Britain promulgated an Act forbidding her subjects to enter any service in Rhodesia.

In Belgium the Penal code bans the recruitment of any person for a foreign army without royal permission and provides for those guilty of such action to be punished by imprisonment of from eight days to six months (Art-135).

French legislation has provision concerning mercenaries. Art 85 of the Penal code provides for imprisonment of from one to five years and a fine of from 3,000 to 30,000 francs for the recruitment of soldiers on behalf of a foreign power in time of peace.14

In Sweden, it so the 1949 Geneva Conventions for the protection of war victims extended the status of the Prisoner of war to the members of such formations as militia and other volunteer contingents and mercenaries have not been considered of legitimate Combatants by many nations. There was a certain restriction on the application of the Geneva Conventions to them.

In 1977, the diplomatic conference adopted Article 47 of the protocol on International armed conflict additional to the 1949 Geneva Conventions for the Protection of war victims which contains a generally recognised definitions of mercenary. This Article considers mercenarism as an international crime and mercenary as a person not entitled to the status of Combatant or prisoner of war. The definition runs as follows. “A mercenary is any person who (a) is specially recruited locally or abroad in order to fight in an armed conflict. b) does in fact take a direct part in the hostilities c) is motivated to take part in the hostilities essentially by the desire for private gain and in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and function in the armed forces.
of that party. d) is neither a national of a party to the conflict nor a resident of
territory controlled by a party to the conflict; e) is not a member of the armed
forces of a party to the conflict and f) has not been sent by a state which is
not a party to the conflict on official duty as member of its armed forces”.

The definition enables a fairly clear line of distinction to be drawn between
a mercenary and a volunteer, ie, on the one hand, a person committing a criminal
offence and thereby subject to prosecution and punishment and on the other, a
person able to participate in an armed conflict in according with international law.

The draft Convention on the Prevention and Suppression of Mercenarism
declared mercenary with the following four elements:\textsuperscript{15}

a) a mercenary fights in a foreign country
b) he does not fight as a soldier of his own country.
c) he fights for personal profit, whether or not he also has some ideological
motivation.

t) the purpose for which he fights is to interfere with a people is right to
self determination, to oppose the onward freedoms and security of citizens.

Article two considers the fact of assuming command over mercenaries as
an aggravating circumstances. Article three stipulates responsibility of the rep­
resentatives of a state for the commission of crimes defined by the convention.
The responsibility of states for the commission of these crimes may be invoked
by any state in its relations with the state that is responsible or before competent
international organisation (Art-3)

The draft Convention makes mercenaries outlaws, denying them prisoner
of war status if captured (Art-four)

Article six binds the Contracting states to enact all legislative and other
measures necessary to implement fully the provisions of this convention in their
territory.

The draft Article under seven and eight prompts the conclusion that the drafts
have found it necessary to reinforce the aspect of extradition, appears to be
absolute and justified. An offender must be extradited to the state against which
his offence has been aimed.

A special provision predetermines the cooperation of the contracting states in matter of criminal proceedings brought against the crime defined in Article one.

The main asset of the draft is its stimulating influence upon the legal formulation of the issue of mercenarism. Mercenarism must not only declared outlaws, but actually outlawed.

There is a wide ranging front in the making to fight mercenarism, shown the criminal character of this institution and the necessary of criminal prosecution of those responsible for it. Fight imperialism and promoting the cooperation of the peace loving nations throughout the world is the way towards resolving every aspect of the problem of the suppression of international terrorism in every shape or form.

The thirty fourth, thirty-fifth and thirty sixth sessions of the UN General Assembly debated the drafting of Universal international Convention to control mercenaries and mercenarism and set up an Ad Hoc Committee to do the drafting.  

**International Instument of Relevant Conventions**

Terrorism has been defined in hundreds of ways, without having single internationally agreed definition. The definition includes terror by the state and non-state actors. State involves in clandestine state agents. State terrorism has prevented and still prevents the international community from embarking on a common search for a definition which would acceptable to all. Individual terrorism or the non-state actors has many manifestation and is used by groups, large and small, nationalist, separatists, liberation fighter etc. For the purpose of this chapter no overall all-encompassing definition has been agreed upon in the legal arena, such as General Assembly Security Council, ICJ, Convention or Treaties etc. It would be more ideal to stick to definition provided by the International Law Commission which functions within the relam of United Nations. To combat terrorism means
to punish and take other measure to punish terrorist for his terrorist act. It so important to identify which acts are comes under the purview of a terrorist act. For this, there is a need of an agreed definition of terrorism. The International law commission categories the following as terrorist acts.

i) Any act causing death or grievous bodily harm or loss of liberty to a Head of state persons exercising the prerogatives of the Head of state, spouses of such persons charged with public functions or holding public positions when the acts is directed against them in their public capacity.

ii) Act calculated to destroy or damage public property or devoted to a public purpose.

iii) Any act likely to imperil human lives through the creation of a public danger, in particular the seizure of aircraft, the taking of hostages, and any form of violence directed against persons who enjoy international protection or diplomatic immunity.

iv) The manufacture obtaining, possession or supplying of arms, ammunition, explosives or harmful substance with a view to the commission of a terrorist act.

International law follows an definition to which General Assembly agreed upon on measures to eliminate international terrorism in 1996, serve as leading notion, that criminal acts intended to provoke a state of terror in the general public, a group of persons or particular persons for political purposes. The definitions as contained in the various international instruments have all been included in this survey. The various international instruments have been divided for easy reference as follows:

i) Instruments adopted within the UN system often as an annex to a GA Resolution and with the UN secretariat as the depository.

ii) International instruments adopted outside the UN Systems with normally a government or an international organization as the depository.

iii) Regional instruments.
List of Relevant Terrorism Conventions

UN Conventions
A. Convention on the Prevention and Punishment of Crimes Against Internationally Protected persons, including Diplomatic Agents adopted by General Assembly of the United Nations on 14 December 1973, came into force 20 February 1977, with 119 parties and 25 signatories up to May 2002, used the definition of terrorism as per the International Law 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.
B. International Convention Against the Taking of Hostages adopted by the General Assembly of the United Nations on 17 December 1979, came into force on June 3, 1983, defined terrorism, in its first Article that any person who seizes or detains and threatens to kill to injure or to continue to detain another to compel a third party namely a state or an intergovernmental organisation or a natural or Judicial person to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking hostages within the meaning of this convention.
C. International Convention for the Suppression of Terrorist Bombing adopted by the General Assembly of United Nations on 15 December 1997. As per article 2 of the convention it has been explained that any person if unlawfully and intentionally delivers places, discharges or detonates or explosive or other lethal devices in or against a place of Public use, a state or government facility of public transportation system or an infrastructure facilities, either with the intent to cause death injury or with the intent to cause extensive destruction of such a place, facility or system, when such destruction results in major economic loss.
D. Draft International Convention for the Suppression of Acts of Nuclear Terrorism 22 October 1998, under article 2, identified the following as terrorist. 1. Any person commits an offence within the meaning of this convention if that person unlawfully and intentionally (a) (i) Possesses radioactive materials or makes or possesses a device (ii) with the intent to cause substantial damage to property or the environment (b) uses in any way radioactive material or a device or uses or damages a nuclear facility in a manner which releases or risks the release of radioactive materials (i) with the intent to cause death or serious bodily injuries or (ii) with the intent to cause substantial damage to property or the environment or (iii) with the intent to compel a natural or legal person, an international organisation or a state to do or refrain from doing an act.

2. Any person also commits an offence if that person a) threatens, under circumstances which indicate the credibiliting of the threat or commit an offence as set forth in subparagraph 1 (b) of the present article or (b) demands unlawfully and intentionally radioactive material a device or a nuclear facility by threat, under circumstances which indicate the credibility of the threat or by use of force.


In article 2 of the convention it has been provided that the person or his act can be treated as terrorist act when any person commits an offence within the meaning of this convention if that person by any means directly or indirectly unlawfully and wilfully provides or collects fund with the intention that that would be used or in the knowledge that they are to be used in full or in part in order to carry out: a) An act which constitutes an offence within the scope of an defined in one of the treaties of UN or non-UN Convention (b) Any other act intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part
in the hostilities in a situation of armed conflict when the purpose of such act, by its nature or context is to intimate a population or to compel a government or an international organisation to do or to abstain from doing any act.

F. Draft Comprehensive Convention, 11 February 2002.

In order to prepare a comprehensive document for the purpose of convention, India drafted and submitted to UN. This has been arranged on the basis of the report of the Ad-hoc committee established by the General Assembly Resolution 51/210 of 17 December 1996. In article 2 it has been comprehensively mentioned regarding the terrorist act as: Any person commits an offence within the meaning of this convention if that person by any means, unlawfully or intentionally causes (a) Death or serious injury to any person or b) Serious damage to public or private property including a place of public use, a state or government facility of public transportation system, an infrastructure facility or the environment or (c) Damage to property places, facilities or system referred to in this article resulting or likely to result in major economic loss, when the purpose of the conduct or an international organisation to do or abstain from doing any act (i) made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph (I) of this article (II) be made in the knowledge of the intention of the group to commit an offence.

It has also provided that where this convention and a treaty dealing with a specific category of terrorist offence would be applicable in relation to the same act as between states that are parties to both treaties, the provision of the latter shall prevail.

Non-UN Conventions

A. Convention on Offences and Certain other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963.

For the purpose of a terrorist act under article 2.
1. This convention shall apply in respect of
   a) Offence against penal law (b) acts which, whether or not they are
   offences may or do jeopardize the safety of the aircraft or of persons
   or property therein or which jeopardize good order and discipline on board.
2. Except as provided in chapter III this convention shall apply in respect
   of offences committed or acts done by a person on board any aircraft
   registered in a contracting state, while that aircraft is in flight or on the
   surface of the high sea or of any other area outside the territory of any
   state.
3. For the purposes of this convention an aircraft is considered to be
   in flight from the moment when power is applied for the purpose of take­
   off untill the moment when the landing run ends. 4) This convention shall
   not apply to aircraft used in military customs or police services.
B. Convention for the Suppression of Unlawful Seizure of Aircraft, signed
   at the Hague, on 16 December 1979.
   Any person who on board an aircraft in flight unlawfully, by force or
   threat or by any other form of intimidation, seizes or exercises control of
   that aircraft or attempts to perform any such act, treated as a terrorist act
   as per article one of the convention.
C. Convention for the Suppression of Unlawful Acts Against the Safety
   of Civil Aviation, Signed at Montreal on 23 September, 1971.
   As per article 1 of the convention the act considered as an terrorist act
   when.
1. Any person commits an offence if the unlawfully and intentionally.
   a) Performs an act of violence against a person on board an aircraft
   in flight if that act is likely to endanger the safety of that aircraft of (b)
   destroys the service or causes damage to such aircraft which renders it
   incapable of flight or which is likely to endanger its safety in flight or (c)
   Causes any device or substance which is likely to destroy that aircraft or
   cause damage to it rendering incapable of flight or its safety in flight.
d) destroys or damages air navigation facilities or interferes with their operation if such act endanger the safety of aircraft e) Communicates false information, thereby endangering the safety of an aircraft in flight.


The convention under article 7 prohibit the following act.

1. The intentional commission of:

a) Any act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, dispersal of nuclear materials and which causes or likely to causes death or serious injury or substantial damage to property
b) theft or robbery of nuclear materials c) an embezzlement or fraudulent possession or obtaining of nuclear material d) An act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation (e) a threat (i) to use nuclear material to cause death or serious injury to any person or damage to property ii) to compel a natural or legal person, international organisation or state to do or to theft or robbery of nuclear material.


The following has been added as a new paragraph to the earlier convention at Montreal.

Any person commits an offence if he unlawfully and internationally using any device, substance or weapon (i) performs an act of violence against person at an airport serving international civil aviation which causes or is likely to cause serious injury or death or (ii) destroys or damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the air port if such act endangers the safety of that air port. In this new provision the airport safety has been
taken into consideration.


This has been deposited with the Secretary-General of the International Maritime Organization.

Any person commits an offence if that person unlawfully and intentionally (a) Seizes or exercises control over a ship by force or by other form of intimidation. (b) performs an act of violence against a person on board a ship if that act endanger the safe navigation of that ship (c) destroys a ship or causes damage to a ship or its cargo to endanger the safe navigation (d) places any means, a device or substances which is likely to destroy that ship or cause damage to that ship or its cargo which endangers the safe navigation of that ship. (e) destroys or damages maritime navigational facilities to endanger the safe navigation of a ship (f) Communicates information which is false for the purpose of endangering the safe navigation of a ship (g) kills or injures any person in connection with the commission of above offence.


For the purpose an act to be treated as terrorist act, under article 2 of the convention.

1. Any person commits an offence if that person unlawfully or intentionally a) Seizes or exercises control over a fixed platform by force or threat or any other form of intimidation or b) performs an act of violence against a person on board a fixed platform which endangers safety or c) destroys a fixed platform to endanger the safety or d) places any means, devices or substances to endangers safety or (e) injuries or kills any person in connection with commission of any offence set forth in subparagraph (a) to (d)
H. Convention on the Making of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1st March 1991. This convention has not included any definition of terrorist act.

**Regional Instruments**


In a very clear unambiguous brief explanation under article 2 of the Convention mentioned that for the purposes of this convention, kidnapping murder and other assault against the life or personal integrity of those persons to whom the state has the duty to give special protection according to international law, as well as extortion in connection with those crimes shall be considered common crimes of international significance regardless of motive.


Under article 1 of the Convention has provided regarding the extradition of the terrorist to protect and prevent international terrorism.

For the purpose of extradition between Contracting states, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as offence inspired by political motives.

- an offence within the scope of the Convention of the Suppression of unlawful Act seizure of Aircraft, signed at the Haque on 16 November, 1970.

- an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 23rd September 1971 offence involving attack against the life, physical integrity or liberty of international protected persons including diplomatic agents.

- an offence involving kidnapping, the taking hostage or serious unlawful detention
- an offence involving the use of a bomb, grenade rocket automatic firearm or letter or parcel bomb if this use endanges persons.
- an attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits attempts to commit such an offence.

C. SAARC Regional Convention on Suppression of Terrorism, Signed at Kathmandu on 4 November 1987.

Article 1 of the Convention provides that, subject to the overall requirements of the law of extradition conduct constituting any of the following offences, according to the law of the contracting state shall be regarded as terrorist and for the purpose of extradition shall not be regarded as political offence or an offence inspired with political motives:

(a) An offence within the scope of the Convention for the suppression of unlawful seizure of aircraft signed at the Hague on December 16, 1970.

(b) An offence within the scope of the convention for the suppression of unlawful acts against the safety of civil Aviation, signed at Montreal on September 23, 1971.

(c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally protected persons including Diplomatic agents, signed at New York on December 14, 1973.

(d) An offence within the scope of any Convention to which the SAARC member states Concerned are parties and which obliges the parties to prosecute or grant extradition.

(e) Murder, manslaughter, assault causing bodily harm kidnapping, hostage taking and offence relating to the fire arms, weapons, explosives and dangerous substance used to perpetrate indiscriminate violence involving death or serious damage to property.

D. Arab Convention on the Suppression of Terrorism signed at a meeting held at the General Secretariat of the league of Arab states, in Cairo on 22 April 1998.
Terrorist offence has been defined as any offence or attempted offence committed in furtherance of a terrorist objective in any of the contracting states or against their nationals, property or interests, that is punishable by their domestic law. The offence stipulated in the following Conventions except where states or where offence have been excluded by their legislation shall be regarded as terrorist offence (a) The Tokyo Convention on offences and certain other acts committed on Board Aircraft of 14 September 1963 (b) The Hague Convention for the Suppression of unlawful seizure of Aircraft, of 16 December 1970 (c) The Montreal Convention for the suppression of Unlawful Acts against the safety of civil Aviation of 23 September 1971 and the Protocol there to of 10th May 1984 (d) The Convention on the Prevention and Punishment of Crimes Against Internationally Protected persons including Diplomatic agents, of 14 December 1973. (e) The international Convention against the taking of the United Nations Convention on the law of the sea, of 1982 relating to the piracy on high sea.

E. Convention of the organization of the Islamic conference on Combating International Terrorism, adopted at ouaga douga on 1st July 1999.20

For the purposes of this Convention terrorist crimes means any crime executed, started or participated in to realize a terrorist objective in any of the contracting states or against its nationals assets or interest or foreign facilities and nationals residing in its territory punishable by its internal law. Crimes stipulated in the following conventions are also considered terrorist crimes with the exception states or these who have not ratified them.

(a) Convention on Offences and other Acts Committed on Board of Aircraft, Tokyo, 14.09.1963


(e) International Convention Against the taking of Hostages at New york, 1979.


(g) Convention on the physical protection of Nuclear Material, at viena, 1979.


(i) Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed platform on the Continental Shelf at Rome, 1988.21


For the purpose of this Treaty the term "Terrorism" means an illegal act punishable under criminal law committed for the purpose of undermining public safety, influencing decision making by the authorities or terrorizing the population and taking the form of violence or threat of violence against natural or Judicial person destroying or threatening to destroy or damage property and other material objects so as to endanger people's lives.

- Causing substantial harm to property or the occurrence of other consequences dangerous to society.
– Threatening the life of a statesman or public figure for the purpose of putting an end to his activity.

– Attacking a representative of a foreign state or an internationally protected staff member of an international organization as well as the business premises or vehicles of internationally protected person.

– Other acts classified as terrorist under the national legislation of the parties or under universally recognized international legal instruments aimed at combating terrorism.

Under article 1 of the treaty the "Technological Terrorism" also defined to cover more broader subjective area of terrorism.

"Technological Terrorism" means the use or threat of the use of nuclear, radiological, chemical or bacteriological (biological) weapons or their components, pathogenic microorganisms radioactive substances or other substance harmful to human health including the seizure putting out of operation or destruction of nuclear, chemical or other facilities posing on increased technological and environment danger and utility system of towns and other inhabited localities, if this acts are committed for the purpose of undermining public safety terrorizing the population or influencing the decisions of the authorities in order to achieve political, mercenary or any other ends.22

G OAU Convention on the Prevention and Combating Terrorism adopted at Algerias on 14 July 1999. In this Convention "Terrorist act" has been mentioned as any act which is a violation of the criminal law of a state party and which may endanger the life, physical integrity or freedom of or cause serious injury or death to any person any number or group of persons or causes or may causes damage to public or private property natural resources, environmental or cultural heritage and is calculated or intended to:

i) Intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment there of do or abstain from doing a particular standpoint or to certain principles or
ii) Disrupt any public service, the delivery of any essential services to the public or to create a public emergency or.

iii) Create general insurrection in a state.

SAARC Regional Convention on Suppression of Terrorism

Terrorism is an offence against humanity. Terrorism has international ramifications. South Asia as a region faces this menace for a long time. Most of the terroristic problems in South Asia have indeed their origin in nation building dilemma faced by the countries of the region. The problem of terrorism is more complex due to the fact that respective nation-building strategies are not complementary to one another rather have a tendency to thrive at the expense of one another. Secularism forms the mainstay or the Indian strategy to prevent terrorism based on religion. This idea is ridiculed in Pakistan, Bangladesh and in Sri Lanka also. Religion is made to play a vital role in nation building in all most all countries of the region. In India active political consideration given to separate religion from politics. Both the circumstances begets merits and demerits give rise to variety of social conflicts. These conflicts get reflected in terroristic or militaristic activities. These activities influence the inter-state relations in the region, so the regional affairs.

In the prevailing reality the haunting problem of terrorism can, be addressed by the SAARC- The South Asian Association of Regional Cooperation in the region. Organisations are instuments to achieve goals. For the regional move to curb terrorist there is a necessity of timely adoption of the convention. Most of the member states of SAARC are over burdened with terrorist acts. The convention signed in Nepal in 1987 among its member countries India, Pakistan, Sri Lanka, Bangladesh, Bhutan, Nepal and Maldives. This convention is the outcome of four sessions of the Committee of experts who were entrusted with the charge of drafting the documents.

The Convention in its present form consists of eleven articles. By adopting this convention the member states have resolved to take effective measures to
ensure that perpetrators of terroristic acts do not escape prosecution and punishment by providing for their extradition or prosecution. The convention follows a descriptive approach for identification of terrorist acts, avoiding the question of definition of terrorism.

The first article of the SAARC convention states that murder, manslaughter, assault causing bodily harm, Kidnapping, hostage taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious damage to property constitute terrorism. The convention creates obligations for the contracting parties to change the existing extradition treaties and to formulate any future extradition treaty to the line with the provisions of the convention. In fact SAARC member states are not inter-related inter se by extradition treaties. The fate of any extradition request depends on the law of the requested state.

Extradition of an alleged offender found in the territory of a contracting state is also "subject to national law of that state". This clause put convention under the national law of the state concerned. The main objectives of any such international treaty is to unify the material laws of the contracting states or invent new laws where such laws are non-existance. The convention also provides that in case state does not comply with the extradition request shall submit the case without exception and delay to its competent authorities to start prosecution against the perpetrator.

The mutual cooperation and assistances among the contracting states in connection with suppression of terrorism has been subject to their national laws. The article VIII declares that contracting states shall cooperate among themselves to the extent permitted by their national laws with a view to preventing terroristic activities through precautionary measures. The convention does not create any obligation for the contracting states to change or modify their national laws in tune with the convention. Even after signing of the Convention problems relating to the suppression of terrorism falling within the Jurisdiction of the Convention have been placed under laws of the contracting states.
The convention in its present form is far away from making a headway for evolution of a common unified law or SAARC Community law in this field. The priority and prominence of the national laws accorded to in the convention is sufficient to manifest that there is no common understanding within the SAARC member countries of the object or the subject of a terrorist act falling within the scope of international law.27

Some of the above stated shortcomings of the convention have to be removed if the convention is to play the role enumerated in the preamble. There is a need to modify or to make active consideation on the corpus delicti of the convention in the lines (i) Unification of national legislation in respect of terrorist acts and punishment there of (ii) Creation of convention machinery of legal cooperation (iii) Invention of a system of regional criminal justice system implying the functioning of a SAARC criminal court for the prosecution of terrorism cases (iv) Introduction of severe punishment for terrorism. Despite the tense political relations among neighbour states convention is of prime importance and various shortcomings can be overcome to sow the seed of harmony which is sure to bloom in full in near future.28
Note and References
Chapter - V

1. I. Blishchenko- Terrorism and International Law p- 83. 1989 Mir Pub
3. Ibid p- 85
4. Ibid p- 92
8. Ibid - p-101
11. Supra Note I p-116
12. Supra Note I p-118
13. Italian weekly "Rinscita" May 12, 1978 as cited N. Zhdanov p-148
16. Supra Note 1 pp- 145, 156.
17. Ibid - p- 166
18. Ibid p-186
20. Wilfred Burchett and Dreck Rocbuck- International Terrorism. p-146.
23. Peter J Krishten- Terrorism and International Legal Order p-118
25. P. Ghosh- SAARC and Terrorism pp- 130.137