CHAPTER - IV

REGIONAL EFFORTS TO SUPPRESS TERRORISM

Terrorism is a growing challenge to all democracies. The 20th Century witnessed the rise of modern terrorism. India is vulnerable to terrorist attacks because of divisive forces, religious fundamentalism and other factors such as neglect and exploitation. Terrorism targets States, Poland, Latin America, U.S.A., China, West Germany, Cuba & Soviet Russia all have felt the consequence of terrorist attacks on Society. From killing a few to large scale violence, terrorists manipulate the media to their best advantage. Small groups graduated into armies with structures and facilities. Conflicts around the world are now fought by non-State Actors, funded by the proceeds of organized crime. The training camps and arms bazaars have to be checked and closed by pre-empting such activities as it would lead to the prevention of terrorism. Since terrorism is said to arise in our own region; it is also necessary to develop strong regional co-operation between countries to defeat the scourge of terrorism.

Although international terrorism is within the purview of the U.N. and its agencies, a co-ordinated effort at the regional level would go a long way. The European Convention and the Organization of African States Convention...
promote such co-operation in combating terrorism in the region. The South Asian Association for Regional Co-operation (SAARC) has made some efforts in this area, although much remains to be done. An effective strategy is required to deal comprehensively with this problem. Combating terrorism necessitates a unified action plan among the States on matters of extradition, the investigation and trial, giving prominence to the provisions of the U.N. Convention. The emphasis must be on “aut dedere aut judicare” i.e., extradite or prosecute” in order to effectively combat terrorism. Countries all over the world have responded to the threats of terrorism differently. Some countries negotiate a settlement so as to overcome a serious situation. In an atmosphere of mutual respect and understanding MOU’s are signed and any future acts are prevented eg. U.S. and Cuba – MOU against Hijacking of Aircraft and Vessels and other offences.

Some countries adopt agreements on combating terrorism – eg. Netherlands, Britain, Germany and other EC countries. They established the TREV1 System of consultation-Terrorism, Radicalism, Extremism, Violence and International Terrorism. This response was so effective that the TREV1 Programme was adopted into inter-regional co-operation.

1 From the French acronym for combating terrorism.
In the Hostages case, USA imposed economic sanctions on Iran and also froze the finances of Iraq in the U.S. America even broke off diplomatic relations with Iran.

However, many States are careful in their approach, keeping in mind national interests Libya and Syria also faced sanctions by the U.S. in response to their support for international terrorism.

The non-use of force becomes redundant when there is no breakthrough in negotiations. The Israeli conducted a raid at Entebbe, Uganda in 1976 to free the hostages. The hijackers demanded the release of fifty-three prisoners in Israel and elsewhere. Opting for military action, in freeing their countrymen. Israel conducted successful raid. However at the U.N. there were exchanges between some countries as the Israeli action amounted to a violation of Charter obligations eg. Article 2(4) the right of self defence was invoked. The U.S. action in intercepting the Egyptian Airlines carrying the terrorists who had earlier taken over the Achille Lauro\(^2\) was also taken in self defence.

States respond to terrorism differently and in the light of U.N. efforts, presently there is an emerging consensus among States to respond according

\(^2\) Mr. Klinghoffer an American Citizen was killed in the attack.
to established norms and procedures. A shared approach to this would yield results. Keeping this in mind there are various regional approaches to combat terrorism currently being favoured by the World body.

A. THE COUNCIL OF EUROPE AND THE EUROPEAN UNION-TERRORISM

The Strasbourg Conference\(^3\) was the first occasion when regional organization and specialized agencies came together to discuss measures to combat terrorism within their respective spheres of responsibility.

Although the European Convention on the Suppression of Terrorism\(^4\) had come into force in 1978, only few States had ratified it.

The Council of Europe expressed its concern caused by the increasing acts of Terrorism. In order to take some effective measures against this they adopted this Convention. Keeping in mind the various conventions of the U.N. it was decided that certain offences would not qualify for political offence\(^5\) eg. Attacks on diplomats, kidnapping, use of bombs etc.

\(^3\) 1980 – The earliest recommendation 684 was on combating terrorism. Also recommendation 703/852.

\(^4\) Adopted in 1976.

\(^5\) Act 1 of the Convention.
In the light of these provisions, extradition treaties would have to be re-considered with the notable exceptions for turning down a request for extradition. It was necessary for the State where the offender is present to try him by establishing their jurisdiction over the offence. Besides mutual assistance and co-operation between member States, the laws of the requesting state will be applicable at all times.

The notable feature of the Convention are the provisions regarding extradition\(^6\). It is left to the extraditing State to decide if the offence falls within the purview of a political offence, or serious acts involving violence or an offence inspired by a political motive. This is an important distinction often used by government when dealing with extradition. Also important is the fact that participation as an accomplice is also an offence under the enactment. The measures contemplated by the Council of Europe was to take an effective stand to ensure that the perpetrators of such acts do not escape prosecution and punishment.\(^7\) The Council of Europe decided to ask its member States to look into the legislative measures to deal with terrorism.

\(^6\) Art 2 of the Convention  
\(^7\) Ibid at 6.
The lack of a precise legal definition of terrorism was noted. Cooperation among members was to be the basis for a bilateral approach, which included the judiciary, police and intelligence services.

In order to expeditiously evolve procedures exchange of information between neighbouring States should be facilitated so as to prosecute and punish the offenders. International co-operation is necessary in the light of human rights provision, which are infringed by terrorist acts.

The recommendations included:-

(1) Mutual assistance in criminal matters.
(2) Exchange of information.
(3) Prosecution and punishment for acts of terrorism.

Later to the list was added, the freezing of funds, criminalisation of activities of others and the role of the media in such cases.

However massacres and murders by terrorist organizations in many E.U. countries continued to shock public conscience. Compensation for victims of violent crimes was another step taken to suppress and prevent terrorist acts.
By the mid 1980's many of the States of the E.U. were considering measures to combat terrorism. These included:

1) Trial or extradition of terrorists.

2) To take effective measures to fight organized crime eg. Arms or drug trafficking.

3) To apply counter terrorism measures to combat it.

4) Other action according to existing national law.

From time to time the Council of Europe has condemned the acts of terrorism. Further considering the international ramifications of terrorism, they have brought in specific measures to combat it.

At Maastricht the members discussed matters of common interest such as asylum and drugs. Also, police co-operation to prevent and combat international terrorism, unlawful drug trafficking and other serious forms of international crime and co-operation regarding the exchange of information within the European Police Office (EUROPOL). In the mid 1990's many agencies were set up between the States to deal with terrorist activity.

After 9/11 the seriousness of efforts took an unprecedented turn – to step up the fight against terrorism within the EU. It was based on:

*An European Union Meet in 1992 on co-operation in certain matters.*
1) the immediate need for understanding and co-operation in political and legal matters concerning terrorism.

2) laying down common criminal sanctions.

3) to introduce a common European arrest warrant instead of the extradition procedure (to do away with the procedure concerning double criminality).

This was important as judicial co-operation between the EU countries could expedite matters—hence the Convention on Mutual Assistance in Criminal Matters. More powers were sought for investigation and prosecuting agencies, in matters dealing with terrorism.

In this regard, it was decided to set up an European Judicial Network. Also various Counter Terrorism measures were initiated.

The co-operation between member States envisage measures to be adopted by the governments at airports, borders controls, roads etc, in order to alert the authorities dealing with trans-border terrorist acts. Increased security measures were to be brought into being.

\[40\) International Legal Materials 1258, 2001
Further measures were brought in to deal with financial and banking transactions. This is an important area, because terrorism can be controlled, by preventing transfers of money through banking institutions.

The European Union has taken steps to combat terrorism by bringing into existence various agencies and provisions to deal with terrorist attacks. By co-operation, these countries can take pre-emptive steps in this regard. Modern day electronic communications and weapons are tools in the hands of terrorists. Trans border and transnational crime are planned, financed and executed in different places. In order to prevent this an effective plan of action was adopted by the European Union keeping in mind the Convention of the U.N. This led the European Union to call for "the broadest possible global coalition against terrorism, under U.N aegis". More so it supported the "Indian proposal in framing within the U.N. a general convention against international terrorism, which should enhance the impact of measures taken over the last twenty five years under the UN."

However the fact remains that terrorist movements are not necessarily based in Europe, the European Union realized that in order to make the fight

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10 Ibid at 1264
11 Ibid at 1265
against terrorism, more effective, it was necessary to have a dialogue with countries where such activities and ideologies thrive and influence world events, such as nationalist racist and xenophobic.

Till date the EU remains the most import regional organisation which has enunciated specific measures to combat terrorism, leading to the creation of agencies to control and suppress terrorism and terrorist activities.

**B. UNITED KINGDOM – TERRORISM**

International Terrorism in Britain owes its origin to the acts of anarchists and Irish terrorists. Besides this Middle East groups have been active in Britain as well because of the Palestinian problem. Salman Rushdies’ “The Satanic Verses” lead to a fresh spate of violence in the early 1990’s.

U.K. was the ideal location for terrorists they used markets bombs letter bombs and killed important public figures such as Lord Mount batten.

The British Government grappled with religious and militant groups and their activities with a firm hand. The Sinn Fein received little media coverage on the B.B.C. – seditious speeches were censored. Special counter

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12 The Black September and Abu Nidals Fatah attacked Jewish and Israeli targets.
measures to deal with terrorist related problems could be brought about by a ministerial order. There was firm political will not to submit to terrorist demands.

The prevention of Terrorism (Temporary Provisions) Act 1974 was brought about to deal with terrorist and criminal acts. The organizations suspected of Irish terrorism were proscribed. This has been superseded by new legislative measures.

The British Intelligence service operates efficiently to gather information on the Irish terrorists. A Central arrangement\textsuperscript{13} was also devised to assess counter measures.

When other measures have failed then the State responds by the use of force—a military response to international terrorism\textsuperscript{14}. British with the cooperation of other countries, has explored all methods to tackle international terrorism.

Various groups were set up to respond to different kinds of terrorist attacks on aircraft, foreign missions and diplomats. The British commitment

\textsuperscript{13} Terrorism Intelligence Gathering Evaluation and Review / Research (TIGER) Committee.

\textsuperscript{14} In 1973 the Special Patrol Group killed two of three terrorists who attempted to seize the Indian High Commission.
to the U.N. Convention and Protocols is well known. The British Government has made their policies felt at the E.U. meets and conferences. At the British initiative, action was taken against governments, suspected of aiding terrorists eg. the closure of the Libyan diplomatic mission in Europe. Britain ratified the European Convention on the Suppression Terrorism. Britain worked at Anti-terrorist measures within the TREV1 Group, which later included the Ministers from U.S., Canada and Austria.

These efforts are largely due to the fact that the Irish problem concerns over a million Protestants. Its negotiations with the Irish Republican Army and Sinn Fein for a peaceful solution brought a positive reaction from leaders the world over. The government enacted several laws to give effect to the International Conventions it has signed and ratified over the years.

Most countries were concerned about the active support given to international terrorism by money, training and sanctuary. International terrorism was manifest in the acts of hijacking, hostage taking, attacks on diplomatic and consular staff and the premises for example. The International community termed them as flagrant violations of international law. The British government mounted pressure on other industrialized States to take

\textsuperscript{1} Art. 15 International Legal Materials 1272, 1978
firm action, involving the Bonn Declaration. The heads of government declared that they would intensify their efforts to combat international terrorism. The declaration clearly states that sanctions would be imposed on States who are unwilling to extradite or prosecute the hijackers. The “Bonn Sanction” has been invoked against States who fail to extradite or prosecute hijackers.

By the mid 1980s Britain had initiated various counter terrorism measures. Together with the Council of Europe, Britain involved itself in various anti-terrorist measures. The European Convention on the Suppression of Terrorism was a significant effort of the Council of Europe, which Britain ratified. It incorporated its provisions in the Suppression of Terrorism Act 1978. It recognized various offences committed by terrorists as non-political in character and entered into various bilateral extradition treaties with Italy, India and the U.S.

The British Police forces co-operated with other Police forces in their efforts to combat terrorism. Co-operation came from the U.S. regarding Irish


17 In Italy and Belgium they found Semtex Plastic Explosives, also looked into drug money dealings in Europe.
Republican Arms smuggling. By the mid-1990's they were negotiating for a lasting peace with the IRA.

U.K. enacted several laws to give effect to its international obligations eg. The Nuclear Material Offences Act\(^\text{18}\) and the Taking of Hostages Act\(^\text{19}\)

An important legislation is the U.K. Terrorism Act 2000 which was brought about to comprehensively deal with this problem, criminalise these actions and prosecute the offenders within the purview of law.

Terrorism is defined as the use or threat of action where it\(^\text{20}\) :-

(a) involves serious violence against a person.
(b) involves serious damage to property.
(c) endangers a person’s life, other than that of the person committing the action.
(d) creates a serious risk to the health or safety of the public or a section of the public, or
(e) is designed seriously to interfere with or to disrupt and electronic system.

\(^{18}\) To give effect to the Convention on the Physical Protection of Nuclear Material.

\(^{19}\) To implement the International Convention Against the Taking of Hostages.

\(^{20}\) Sec 2 of the Act, 2000.
Further it covers all actions, which involves the threat or use of fire arms.

Part-III of the Act covers the offences of fund raising and money laundering for unlawful acts. A duty is cast on all persons who have such information to disclose it to the competent authority (even to a constable) co-operation with the Police is necessary. All such property and funds forfeit to the State, when a person is convicted of the offence.

Counter terrorist powers are provided to the authorities and they can arrest a person or mere suspicion without a warrant, search premises etc.

Training persons in the making or use of fire arms is prohibited and include:-

1) Fire Arms
2) Explosives
3) Chemical biological or nuclear weapons.

Both the person imparting the instruction and the person receiving are guilty of the offence. Persons are strictly prohibited from directing activities of an organization involved in terrorist activities.
Extra territorial jurisdiction lies for any acts committed outside the U.K. In order to give effect to her international obligations the government of U.K. amended 115 laws to incorporate the provisions of the Terrorist Finance Convention 2000 and the Terrorist Bombings Convention 1998.

These provisions are the same for Scotland and Wales. Details as to procedure to be followed are specified eg. Closure of roads, preservation of peace, port and border controls, police and army powers.

In Britain, the Police have powers to deal with such terrorist situations, as also the army for they have been called to handle some situations.

Further collection of informations regarding terrorists which could be useful in any way to a person intending to commit the act of terrorism is prohibited.

The Schedules contain specific provisions relating to Northern Ireland and Scotland. The British government has tackled the issue of terrorism with various rules and procedures involving departments and agencies involved in terrorist and counter terrorist measures. It has also actively pursued regional efforts in combating terrorism. Its foreign policy is to seek co-operation to
eliminate all such attacks on a regional and global basis. It has found an ally in the U.S.

C. UNITED STATES OF AMERICA- TERRORISM

The United States Government has taken many decision to suppress and eliminate terrorism and taking its efforts in this direction seriously the U.S signed many conventions of the U.N. In fact the various conventions dealing with different aspects of terrorism have been brought within the legal framework of its domestic laws.

The murder of the Israeli athletes at the Munich Olympics had a significant effect on various democratic governments. Acts committed outside U.S.A. was brought within the purview of the law.22

In matters pertaining to terrorism the U.S. government ensures that all acts against U.S. citizens anywhere in the world, are subject to criminal jurisdiction.

21 The Hostages Convention, Nuclear Material Convention etc.

22 Illegal Drug trafficking – General Noriega was captured from S. America and brought to the U.S. for trial.
The use of economic sanctions to curb terrorism has been utilised effectively by the U.S.\textsuperscript{23} It has also been invoked against countries supporting terrorism.\textsuperscript{24}

According to the Omnibus Diplomatic Security and Anti Terrorism Act, 1986, "international terrorism remains a serious threat to the peace and security of free-democratic nations. The counter terrorism center was established for intra-agency co-operation on matters concerning terrorism.

The attack on its embassy at Tehran and Nairobi led to retaliatory measures. The U.S. Code – Title 22 Sec. 2656 (d) defines terrorism as “premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents usually intended to influence an audience”. It has used force against terrorists in order to flush out Bin Laden and others - from hiding after the 9/11 attack.

After this the U.S. also enacted legislation to combat terrorism, uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism USA Patriot Act of 2001. This act was

\textsuperscript{3} Bureau of Public Affairs Special Reports No.149, 1986.

\textsuperscript{4} Cuba, Iraq, Libya, S. Yemen and Syria.
brought about to combat terrorism and empower the law enforcement agencies appropriately in order to discharge their duties.

The provisions reflect the concern of the American administration to intercept and obstruct terrorism and protect the civilian population.

A fund was set up to provide finances for the various departments of State and to reimburse them for expenses incurred. Eg. detaining individuals in foreign countries for acts of terrorism that violate the laws of the U.S.

Recognising that the terrorists use modern means of communication, the government initiated steps to develop a national network of crime task force in the country to prevent and detect crime. The law enforcement agencies and investigating officers are allowed to share information. The Federal Bureau of Investigation is also empowered to look into business documents in respect of international terrorist investigations. This includes communications via computers. Various other provisions list details of practical application and procedure to be followed.

The U.S. Government has also brought in various measures to deal with money laundering. This extends to the financing of international terrorism by

5 Sec. 105 of the Act, 2001
illegal activities. Banking transactions are to be followed as per the procedures laid down. The U.S. like India has the power to confiscate questionable transactions and assets thereof. All Bank transactions must be done through an account. Steps are taken to see that no services are extended through foreign shell banks in order to direct funds from illegal activities. These procedures are meant to identify the transactions through the account and exchanging information with the law enforcement organizations. Further a duty is imposed on the banker or broker as the case may be to report suspicious activity.

Those accused of the crime of money laundering are punished by stiff penalties imposed on them by the Court, "To engage in terrorist activity would mean to commit, incite, prepare or plan to gather information of potential targets or to solicit funds for the same".

A terrorist organization comprises of two or more individuals, which engage in such activities mentioned in the act. A suspected terrorist can be detained under the law. Therefore the investigating agencies can discharge their duties efficiently.
In view of the strict regime brought into being against international terrorism the government of the U.S. also co-operates with other governments in sharing information and data-bases.

Further and important feature of this enactment is to combat terrorism. Pursuant to this aim funds "may be used for the payment of awards pursuant to public advertisements for assistance to the Department of Justice to combat terrorism."

The laws in the U.S. are amended to include within their purview attacks on transport vehicles, placing of biological or toxic agents near any such vehicle used for mass transportation (ferry, rail, air) sets on fire, interference with the driver.

Provisions also include measures against domestic terrorism, cyber security labs and biological weapons. To combat terrorism, the States agencies and departments have to work hard to detect and investigate such terrorist acts, but also take preventive measures. Law Enforcement Officers must be properly trained in anti-terrorism, which includes critical management of the attack and also stabilizing the community after such attack. Grants by

26 Sec. 501 – For information given by the public.
27 Sec. 801
the government would help devise such programs and train officers. The officers belonging to the Drug Enforcement Administration also need to be trained to control efforts in South and Central Asia. The Government has responded to the threat of bio-terrorism by making provision for funds to respond to a potential threat or attack. All local and state anti-terrorism programmes need to be co-ordinated.

This is in keeping with the U.N. Mandate for all States to adopt necessary legal instruments within their jurisdiction to strengthen the international regime against terrorism. International co-operation of member States of the U.N. could effectively combat international terrorism.

The danger posed by terrorists in the present situation includes weapons of mass destruction. A large number of agencies have to respond to added counter terrorism responsibilities. Government funding for such programmes has increased over the years. Besides a domestic counter terrorism center, the federal government has established a non-proliferation center to monitor the proliferation of Weapons of Mass Destructions (WMDs).

28 Sec. 1005
29 Sec. 1013.
In order to review security measures, the U.S. recently constituted the 9/11 Commission. This Commissioner will give the report to the government within a few months. It will access the country’s preparedness for such attacks from terrorist organizations and an early effective response. Cooperation between governmental agencies and appropriate powers are also being looked into to deal with terrorist threats.

D. ISRAEL - TERRORISM

Terrorism is Israel predates its inception in the turmoil of Middle East politics and has left its mark on Israeli society, polity and administration. The Palestinians targeted Israel with other militant and neo-nationalist outfits, that used every means at their disposal to terrorise Israeli society. The Al Fatah\(^{30}\) of the Palestine Liberation Organisation (PLO), the Revolutionary Council\(^{31}\) and other organizations and splinter groups. Eg. Hamas. Many of these groups are supported by Iran and Syria. Some are with the Palestinians and the others against the Jewish State, Motivations differ\(^ {32}\) but the actions are the same.

\(^{30}\) Led by Yasser Arafat from 1948.

\(^{31}\) Led by Abu Nidal

\(^{32}\) Some for the right of self determination of Palestinian
The guerilla tactics, together with arms and ammunition, let loose a scourge of terror in Israel. One aspect of Palestinian terrorism is to obliterate the State of Israel completely.\(^3^3\) Hijacking, hostage taking, bus capturing, bombing markets and other public places has had a profound effect on terrorist strategies all over the world.

By the 1950, the Fedayeen (Palestinian Commandos) attacked the states from Egypt, Syria and Jordan, Israel sealed her borders with her neighbours. Slowly the Jewish State dealt with terrorism, by targeting their network in Jordan. This is often cited as one of the causes of international terrorism. As they fled to other countries for safe haven, they allied with the local groups of the region.

Many countries supported the logic of the fight for self determination. These freedom fighters received sympathetic understanding in initial years. Later view changed when the Irish Republican Army in England, ETA in Spain and other terrorist organizations started large scale destruction and killing of innocent civilians.

\(^3^3\) Elizeh Ben – Rafael, Israel – Palestine – A Guerilla Conflict in International Politics, New York Greenwood Press, P-135.
Started in the 1960’s in the next decade the PLO was supported and funded by Arab Countries. Many groups around the World associated freely with the Palestine Liberation Organisation. The hijacking of the aircraft to Entebbe created history of sorts. The daring attack by the Israeli forces to rescue the hostages and bring them in safety was condemned by many countries as a violation by Israel, with scant regard for international law.

Ever since hijacking became a popular method of terrorist to force governments to accede to their demands, the Israeli government did not to negotiate with hijackers for ransom or to release other terrorists. This State Policy of the Government has been scrupulously followed all these years – the principle of non-negotiation with terrorists.

In 1974, at the Arab Summit, the PLO was officially recognized as the only legitimate representative of Palestine. Later that year Yasser Arafat was invited to address the U.N. A few years later, Anwar Sadat, President of Egypt reached an agreement\(^4\) with Israel. This was a blow to the PLO, and it increased its attacks on Israel. By 1982 Lebanon, was reduced to rubble by Israeli retaliation. In fact Israel went so far as to bomb the Iraqi reactor terming the attack as “self defense”.

\(^4\) The Camp David Agreement, 1979 signed in the U.S.
However, due to a series of events the policy of non-negotiation with terrorists was set aside and many guerrillas and terrorists were released in exchange for Israel soldiers. This policy faced criticism at home because it is held by many jurists that an Accord between a State and a terrorist Organisation viz. The PLO is illegal according to the Principles of International Law.

Suicide bombers and taking of hostages for extortion were methods that gained favour in the eyes of terrorists. These methods were first used in the Middle East. The media was used for gaining support for the cause of the Palestinian State. However these acts were not appreciated by the Western developed nations and gradually lost their favour by repeated violence. In response to terrorist acts the Israeli government had in 1948, brought about the Prevention of Terrorism Ordinance.

The threat or use of violence by organizations with the intention of causing bodily harm or death is a terrorist organization. Assistance of any kind including membership was prohibited. Collection of funds was also discouraged. However, as a terrorists did not have many rights except those

'Oslo Accord I & II

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mentioned in the Four Geneva Conventions, he was treated worse than a criminal because of the threat he posed to "the security of the State".

In 1975 the Government set up a Special Unit to deal with terrorism\textsuperscript{36} i.e., to deal with hostage crises or counter attacks. The Israeli's have perfected techniques at terrorism management. Besides the criminal justice system, the government deports or detains suspects as preventive measure. The government also tried to reduce retaliatory strikes by its civilian population against terrorist attacks. Israel has followed the policy that all States need to adhere to their international obligations, failing which they will have to force Israeli actions and counter measures.

More than anti-terrorist legislation Israel is known for its counter terrorism efforts. Their forces work to destroy terrorist infrastructure wherever they may be\textsuperscript{37} the daring rescue of hostages at Entebbe brought home to world community that special rescue units trained in the field could use the same strategy. The made many world governments raise such elite units\textsuperscript{38}. Bilateral assistance and co-operation according to the various resolutions of

\textsuperscript{36} The "Jamam" was a unit of the government.

\textsuperscript{37} They use selective targeting to minimize civilian casualties. The Israeli intelligence agency Mossad is said to take care of operations abroad.

\textsuperscript{38} Known also as operation Thunderbolt.
the United Nation General Assembly and Security Council have created world opinion-against terrorist activities.

The Defence (Emergency) Regulations was adopted to deal with measures to suppress terrorism. Personal freedoms and rights enjoyed by citizens can be curtailed by order of the Military Commander in the occupied territories.  

However later, both the Government of Israel and the PLO decided to bury their differences (some) and paved the way for the peace process.

The missile attack on the spiritual leader of Hamas, Sheik Ahmed Yassin has however cast a shadow over the peace process. Most of the people across the Middle East have been enraged by this. Many nations have expressed their dis-satisfaction at this attack. The Israeli authorities maintain however that he was the spiritual leader who inspired suicide bombers, killing hundreds of Israelis. He was on their list for assassination by the government thereby exercising the right of self defence.

However, the position in the Gaza strip and in Palestine is serious enough to merit the attention of the international community. The military

39 West Bank and Gaza strip also in Hamas Deportation case.
option is increasingly coming to the forefront as states rely on this to combat terrorism. This may provoke a fresh round of terrorist bombings as the U.S. is also looked upon with suspicion.

Israel has pursued the policy of "liquidating" leaders of terrorist and militant organization. It has elite troops to deal with terrorist acts within Israel and elsewhere in the world.

E. SOUTH ASIAN ASSOCIATION FOR REGIONAL CO-OPERATION (SAARC) – TERRORISM

Terrorism is not a recent phenomenon in South Asia. Developments abroad had a profound effect in this region on the world. Insurgency and militancy is well known in many countries the LTTE in Sri Lanka which according to the government is a terrorist organization.

Terrorism threatened the stability of the South Asian region, and therefore it was essential for governments to combat it in order to ensure peace. The hijacking of aircraft, holding hostages in return for ransom or favours, bombing of public places and threatening the lives of public personalities posed a serious problem to the SAARC countries.
In keeping with their international obligations and the Conventions of the United Nation the SAARC countries examined in problem of terrorism in 1986 at Dhaka. It was necessary to take measures to combat and eliminate terrorism in South Asia as part of ongoing global efforts.

The study group recommended.

1) SAARC members condemned terrorism as criminal and effecting the security and stability of the region.

2) Called upon their member states to become parties to the various UN Conventions and Protocols against terrorism.

3) Under the provisions of international law SAARC States should not permit any such activities from taking place within their territories or organizing attacks upon the territory of other states.

4) They called upon all members to take legislative measures to combat terrorism by introducing appropriate legislation within their respective domestic jurisdiction.

5) Member States should identify the offences relating to terrorism and prosecute or punish the offenders according to the provisions of the U.N.

6) Offences outside the purview of “political offence” should be treated as extraditable by the members of SAARC.
7) Regional co-operation regarding exchange of information relating to terrorism was required.

8) Co-operation with other agencies must be discussed eg. INTERPOL.

9) Anti-terrorist techniques among the member States must be initiated by means of workshops and seminars.

10) Consultations to formulate a common policy against terrorism must be part of an on-going discussion.

Realising that terrorism thrives on media coverage the media was called upon to exercise restraint while reporting such acts.

Efforts were made to describe offences, which were terroristic and that States should tackle the issues by incorporating the offences in their national legislation, bilateral treaties and other regional instruments.

However State sponsored terrorism was not touched upon including the conflict situation especially in Jammu and Kashmir between India and Pakistan, Pakistan's connivance with terrorists in Punjab was suspected. However the discussion of Member States at these meets are yet to be fully implemented in their domestic policies. This makes the SAARC ineffective in handling regional issues. A common plan or strategy could not evolve because of perceptional differences among the States regarding terrorism. Bilateral and
multi-lateral treaties would bring the nations closer in matters that pertain to
the region viz. River water sharing, extradition. And illegal trade in drugs and
arms. A comprehensive approach on matters of mutual concern would ease
tensions and clear the way for a peaceful solution. The U.N. has called upon
members to develop a regional approach to solve issues that could otherwise
to contribute the growth terrorism in the region.

The South Asian Association for Regional Co-operation adopted the
Convention on Terrorism in 1987. Like most conventions and protocols of the United Nation this regional
instrument aims to eliminate terrorism in South Asia. It was a timely
convention to bring about when four of the seven members were facing
terrorist attacks. The measures adopted are effective in so far as the offenders
are either extradited or prosecuted.

The SAARC nations keeping in mind the Bangalore Declaration where
they agreed to co-operate with each other in the prevention of terrorism,
brought into being this Convention at Katmandu.

40 At Nepal in 1987. The Rajiv Gandhi assassination and the acts of terrorism was considered
seriously.
This was primarily brought about keeping in mind resolution of the U.N. wherein members were called upon to “refrain from organizing instigating, assisting or participating” in acts of civil strife and preventing activities being organized in their territory directed against another State.

According the following offences were classified as terrorist (not a political offence).

1) Offences falling within scope of the Hague Convention.
2) Offences falling within scope of the Montreal Convention.
3) Offences with the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons.
4) Offences within the scope of any convention to which SAARC member states are parties, casting an obligation to extradite or prosecute.
5) Serious offences of murder assault, kidnapping hostage taking etc. when used to perpetrate indiscriminate violence to persons and property.
6) Conspiracy or aiding and abetting the above mentioned offences.

Accordingly the members are called upon to extradite persons charged with such serious offences, whether or not mentioned in any extradition treaty.
However since few bilateral agreements exist on extradition between these States, the procedure would be difficult as extradition could considered subject to a treaty.

States that do not extradite are obliged to prosecute the offender. However, there is no obligation on these States to incorporate within their national legislation their obligations both regional and international. Accent is on national laws. Further there is no duty imposed on the member to extradite if there is any doubt regarding the request for extradition.

The States parties are called upon to co-operate with one another, by consultations, exchange of information and other measures appropriate to prevent terrorism. The Convention is limited in scope and at the utmost represents a step towards some understanding among these countries for regional co-operation to suppress terrorism.

In 1993 the Government of India enacted the SAARC Convention (Suppression of Terrorism) Act to give effect to the above-mentioned convention. The interest of the government seems merely to prevent hostage taking. Prosecution under this enactment required permission of the Central government.
In the light of present day events terrorist organizations are involved in a variety of acts, eg. Money laundering, smuggling, trading in narcotics, gunrunning etc, the government needs to amend this enactment to increase the scope and jurisdiction of this Act.

A perusal of the various articles indicates that although regional measures are urgently required the SAARC meetings have left the methods of suppressing terrorism to the member states and their legislation. Once a matter is with in the purview of national legislation, there is little scope for international control. Thus the provisions are counter productive with the sole exception of recognizing the need to combat terrorism, the SAARC States are unwilling to co-operate in order to suppress and eliminate terrorism. This assumes significance in the fact that four of the seven SAARC States are facing problems of terrorism, militarism and insurgency.

In circumstances neither was there a common understanding on the definition of terrorism, neither was there any common plan worked out to combat terrorist activities in the region. However atleast it is a step towards the creation of some understanding on the subject of terrorist acts, which effects the international community at large, creating fear and uneasiness in

\(^1\) As "permitted by their national laws"
the minds of the public. This has forced States to re-evaluate their security measures. In the wake of the attack on the Indian Parliament in Dec. 2001, the problem has acquired more serious overtones.

The SAARC countries need to consider and understand their international obligations in proper perspective. A legal regime strictly enforced will clear differences between neighbours. These developing countries need to use all their resources to build strong and progressive democratic societies in their respective territories.

India has long standing problems in the North East and Sri Lankas problems with the LTTE, Pakistan with the Taliban (and now All Qaeda) Bhutan with arms and drug smuggling, need to tackle the scourge of terrorism, by building a strong regional response to terrorism.

F. NORTH ATLANTIC TREATY ORGANISATION (NATO)- TERRORISM

The NATO is a collective self defence organisation\textsuperscript{42} which came into being in 1949. The signatories decided to come together for mutual concerns and to develop their capacity to sustain an armed attack. Originally a collective of Western European States established to withstand an attack by

\textsuperscript{42} Primarily a military alliance.
the Soviet Union and its allies, now it needs the demands of present day challenges posed by events taking place around the globe. Basically its interest is to provide better security for the Member States i.e., a common approach to security.

Originally founded with twelve members, Belgium, Canada, Denmark, France, Ireland, Luxembourg, the Netherlands, Norway, Portugal, U.K. and U.S.A. presently it has expended to include Greece, Turkey, West Germany, Spain, Poland, the Czech Republic and Hungary. It has grown into a large political alliance.

The NATO brought about the Partnership for Peace Plan\textsuperscript{43} and has made strides in combating terrorism. With more states likely to join the NATO\textsuperscript{44}, it is likely that it will play an important role in international politics.

However over the years the role of NATO has changed and from a political alliance it has created new agencies in keeping with the present day situation. Post 9/11 Russia co-operated with the U.S. and in the light of “Pro West” co-operation the NATO members re-considered their stand.

\textsuperscript{43} 19 member states and 27 others.

\textsuperscript{44} Some more East European nations later joined the NATO in May 2004 at Dublin.
A new organization the NATO – Russia Council came into being mainly to wage war on terrorism, arms control and crisis management. Ukraine joined the partnership for Peace Programme and worked at greater co-operation between the organization and other countries of the region.

After the 9/11 attacks NATO members provided assistance to the U.S. by:

1) Increased intelligence sharing by States.
2) Assistance to other States that might be subjected to terrorist attacks because of their co-operation with the U.S.
3) Granting access to the U.S. to airports and other facilities of NATO members.

In military operations in Afghanistan the NATO members provided assistance to U.S. Britain, Canada and Germany while they conducted their operations. The Indian Ocean witnessed the largest deployment of ships.

According to analysts Iraq, Iran, Sudan, Syria, Libya, North Korea and Cuba are said to be supporters of terrorism. Therefore most anti-terrorist policies keep these countries and their militancy in mind. The fact that co-operation both regional and international is stressed because it is not possible for one nation to combat terrorism. It requires the collective responsibility of the civilized world to do so. This has called for a
multi-lateralist approach. Today the military option and the use of force is the method states use to deal with terrorists. The NATO approach is the same, the use of military might to eradicate the scourge of terrorism.

The framework of co-operative security is best suited to the NATO and its allies. Within the legal framework of the Treaty, they work against clear and present danger. The U.S. took a lead role in attacking the Taliban and Al-Qaeda in Afghanistan.\textsuperscript{45} This was the first time that this alliance ventured outside Europe.

At the Prague Summit the NATO Member countries adopted measures to strengthen security, combat terrorism and contain the spread of weapons of mass destruction.

When facing a terrorist attack the NATO will provide the necessary infrastructure and forces to contain and repel the attack. A NATO response force has been constituted to be readily deployed wherever required. Also it has developed a Partnership Action Plan to fight terrorism. The fear of use of weapons of mass destruction, nuclear, chemical toxic or biological by terrorists, has made the members work together towards a common goal.

Further anticipating disruption of community and information systems, which

\textsuperscript{45} Operation Enduring Freedom.
are largely dependent on electronics and computer technology, efforts have been made for their protection.\textsuperscript{46}

In keeping with times, the NATO has maintained relation with other international and regional organizations eg. European Union and International Civil Aviation Organisation works closely with the U.N. Counter Terrorism Committee.

Mindful of their obligations under International Law and the Conventions brought about by the U.N. the NATO expanded its commitment under the Partnership Action Plan against Terrorism. As per the various resolution, the U.N. has called upon member States, it co-operate with one another in the sharing of information to combat terrorism. Emphasis is on sharing information regarding movement of terrorists and their networks. This would strengthen the global response towards this threat to international peace and security.

\textsuperscript{46} Hacking into computers to access information or planting a virus to disrupt the system is anticipated in future.
Under this Plan the members of the Alliance undertake to ratify and implement relevant U.N. Conventions against terrorism. This regional response would go a long way to complement international efforts.

In the context of the Alliance airspace, border controls, suppression of financing of terrorism, illegal smuggling of arms and explosives are particularly important. A legal regime would effectively combat terrorism and safeguard human rights and fundamental freedom. The effective and timely implementation of the existing instruments would effectively suppress and eliminate terrorism.

The objectives of the Partnership Action Plan are:-

1) To create an environment that is unfavourable to the development and expansion of terrorism.

2) The states are determined to co-operate and act against terrorism attacks and their consequences.

3) Partners would be provided with support facilities consistent with their requirements and programmes.

4) To provide upon request assistance to States facing terrorist attacks.

This Plan is the first issue related specific plan to help countries and their partners fight terrorism. The provisions are issue oriented and provide
facilities and assistance to all interested partners. This is itself is indicative of importance given to anti terrorist measures of the NATO.

With reviews on a regular basis, the States will be kept informed of developments, investigations and other pertinent information. However it was necessary to enact domestic legislation and other regulations to effectively deal with such specific activities.

After the attacks on 11.09.2001, the U.S. and the NATO Alliance decided to consider the military concept as a defence against terrorism.

This would to conform to the U.N. Charter and relevant international norms especially provisions relating to human rights. The threat assessment also took into consideration a possible attack by CBRN Weapons.47

The Force Protection is a defence plan against terrorism. The four aspects that merit consideration are:-

1) Anti terrorism – defensive measures.
2) Consequence Management – to reduce effects of terrorist attacks.
3) Counter – terrorism – offensive measures.
4) Military co-operation.48

47 Chemical Biological Radiological and Nuclear Weapons which poses a threat to the civilised world.
The States need to harmonise their resources, procedures and efforts in order to evolve a comprehensive strategy to combat terrorism. With this in mind various plans have been drawn up in order to maximize its efforts against terrorism. By its other programmes it can facilitate co-operation with other non-member states as well.

Other procedures need to be implemented. Reducing the numbers of weapons of mass destruction would help considerably. Also, arms control and non-proliferation would help to effectively control these activities.

The Conventional Armed Forces in Europe Treaty was signed by Twenty Countries in 1990. It relates to limiting five categories of weapons by States.\textsuperscript{49}

1) Tanks
2) Armoured Combat Vehicles
3) Artillery
4) Attack Helicopters
5) Combat Aircraft.

\textsuperscript{48} NATO Website.

\textsuperscript{49} Comprised of both NATO Members and the former Warsaw Pact members.
Later, after reviewing the progress made an Agreement\(^{50}\) was entered into by former States limiting Conventional Armed Forces in Europe.

However, with the Madrid bombings, the NATO has re-evaluated its policies to fight terrorism. They are fully committed to combating terrorism, by all means. By a united stand the Alliance has plans to eliminate the scourge of terrorism.

The role of NATO — a Euro – Atlantic Alliance has expanded in the light of events that have taken place. Pakistan being designated with the status of a major Non-NATO ally profoundly affects terrorist activities in the South Asian Region. The NATO will assume a larger role to play in international efforts to combat terrorism in the 21\(^{st}\) Century and expand activities in South Asia.

G. ORGANISATION OF AMERICAN STATES (OAS) - TERRORISM

The American States have been very concerned about terrorist activities taking place all over the World. Kidnapping and extortion of internationally protected persons, in the 1970's posed serious consequences for States in their

\(^{50}\) Agreement on Adaptation of the CFE Treaty at Istanbul, 1996.
international relations. In order to prevent such acts it was felt necessary to adopt general standards, which would effect the development of international law.

In keeping with the events that occurred often in the 1970's the Organisation of American States brought into being the Convention to Prevent and Punish Acts of Terrorism taking the Form of Crimes against Persons and Related Extortion that Are of International Significance. The States decided to undertake effective measures, under their national legislation to prevent acts of murder, extortion and kidnapping.

The importance of the Convention lies in the fact that such offences are considered crimes, punishable under national legislation. However if an extradition treaty exists then the State may extradite the offender. In some circumstances the requesting State is obliged to prosecute the offender eg. If he is a national.

Further obligations are imposed on States to prevent preparation of terrorist acts from taking place on their territories, directed against another State. Also, they would co-operate and exchange information to this end. Efforts would be made to amend their national legislation to include such acts within the rule of law.
The kidnapping of internationally protected persons had aroused world opinion and posed serious implications for the governments involved, that they were forced to condemn these acts as terrorist acts. Acts of terrorism are violative of all human rights values according to convention. The proliferation of such acts could be prevented with effective measures and co-operation amongst the States.

However from hijacking and extortion, terrorist acts escalated mall over the world. Suicide bombers, bombing of trains, buses and market places came to the forefront, casualties arose and it soon became apparent that terrorist activities were going to occur, despite measures taken at various levels by governments.

The charter of the U.N. created obligations on its members by bringing into being various conventions against terrorism. A duty was cast on members to satisfy the provisions of this convention. Further various international and regional organizations were also called upon to co-operate, to bring about an effective legal order against terrorism. Acts of terrorism cause economic harm to the country and poses a serious threat to democratic values. Therefore these States brought into being the Inter-American
Convention against Terrorism\textsuperscript{51}. This was done keeping in mind the U.N. Conventions against Hijacking, Safety of Civil Aviation, Crimes against Internationally Protected Persons, against taking of Hostages, Suppression of Unlawful Acts Against Maritime Navigation, Fixed Platforms, Suppression of Terrorist Bombings and Financing of Terrorism\textsuperscript{52}.

The U.N. had called for regional measures to be adopted in order to eliminate and suppress terrorism. Accordingly by the OAS stringent measures were brought about creating a regulatory regime concerning banks and financial institutions.

In order to check trans border crimes, States were called up to check money laundering offences and to enact legislation to deal with it under domestic law. Border checks should be established to prevent international trafficking in arms and other equipments necessary for terrorist activity.

Enhanced effective law enforcement would be necessary and therefore channels of communication needed to be set up. Mutual legal assistance would ensure the interests of these nations and help in combating terrorism.

\textsuperscript{51} 42 International Legal Materials 19 (2003)

\textsuperscript{52} All U.N. Conventions
Keeping in mind that the refusal of extradition on grounds of it being political offence is often expressed by States, the provisions of the Convention provides for such situations. It expressly states that any offences mentioned in international instruments listed in the convention\(^5\) are not political offences and therefore the request for extradition may not be refused. Further if there is any reason to believe that a person has committed any offences listed out he should not be granted asylum.

All measures carried out by States parties should be within the provisions of established rules of international law, and other international instruments brought about by the United Nations. The Inter American Committee against Terrorism was set up and members were encouraged to cooperate with it in order to effectively deal with terrorism and terrorist activities.

As the OAS member States dealt with terrorism on the domestic level, some States ratified the various U.N. convention against terrorism and other activities connected with terrorism. It was dealt with under national legislation of the States.

\(^3\) According to Art 11 of the Convention.
After the 9/11, terrorist attack on the U.S. the member States decided on a plan of common action to deal with such attacks. They condemned the acts as an attack on democracy. Apart from the insecurity generated, such attacks affect international trade and industry, thereby the economic well being of a nation. Therefore it was necessary that the members enact relevant legislation to legally prosecute the offenders.

Further, action needs to be taken against nations who harbour terrorists, providing them safe haven, and financial support, international efforts must be taken in this regard. India has requested the U.N. to bring about a Comprehensive Connection Against Terrorism. This would bring about a legal regime amongst states against terrorism. Other regional organizations have also brought about anti-terrorist legislations. The Arab Conventions on the Suppression of Terrorism was signed in 1998 at Cairo. The Islamic Conference has also brought about provisions relating to combating International Terrorism. The Organization of African Unity also considered similar measures. The Common Wealth of Independent States took preventive measures in the light of the acts of the Chechan rebels and brought

4 According to the Treaty of Reciprocal Assistance.


Although at the debates and discussion on the creation of the International Criminal Court and its jurisdiction over crimes of terrorism was included. However despite the interest, shown by many nations, terrorism was excluded from the courts' mandate. Presently the United Nations and its members states are interested in developing strong regional measures, on basis of co-operation to combat terrorism on a global basis.

The spread of fear, threats of violence and terrorist bombings has created a situation, which forces governments to review their national legislation and make urgent amendments wherever necessary. No country or region seems to be free from terrorism, whether it be chechans kidnapping Russian public figures for ransom, attacking American tourists in Bali the USIS building in Calcutta or extra judicial killings by Israel against a terrorist organization such as 'Hamas' in Gaza. International and regional efforts by States would help to suppress and eliminate such attacks. The International Civil Aviation Organisation and other organizations\(^\text{57}\) are also working against

\(^{56}\) The assassination of Hamas Leader Ahmed Yassin in Gaza has angered the Arab World.

\(^{57}\) International Maritime Organisation.
hijacking of aircraft, crew and passengers. Anti-terrorist measures and counter terrorists plans are being urgently put into practice by governments. Other diplomatic means have opened up new areas of co-operation between countries such as Britain and Libya\textsuperscript{58}. The recent talks between the Libyan Leader Gadafi and Blair of Britain is indicative of the need to co-operate and exchange information. This has been suggested for a long time at the international level. However, nations are yet to come to a consensus on a common plan of action against terrorism. In fact the lack of an accepted definition of terrorism poses significant consequences for States to arrive at this consensus. Many regional organization place terrorism as an important topic on their agenda. To what extent can terrorist organization and militant outfits be controlled by concerted action remains to be seen. However if efforts are made to reduce the production of arms and military equipments, this would significantly effect and reduce the number of such events worldwide.

Terrorism is said to be an organized system for political ends and is the focus of international attention Religious fundamentalism and political ideology are factors that are assuming a sinister influence all over the World

\textsuperscript{58} The Libyans were behind the Bomb attack on the Aircraft over Lockerbie. Presently talks are taking place between Britain and Libya.
in recent times. The U.N. has made all efforts to deal with such matters, by establishing a Counter Terrorism Committee.

Way back in 1981 Jordan requested the General Assembly to strengthen international response to human suffering caused by man made disasters in addition to natural calamities. It was aimed at providing a basis for solving the problems of terrorism and refugees in particular. Later member States were asked for their suggestions on the establishment of a New International Human Order59.

However, States need to control acts of terrorism which take place within their borders, this would effectively contribute to the control of international terrorism. Regional efforts and measures would further strengthen the legal regime against terrorism. Terrorism anywhere constitutes a threat to humanity everywhere.

"Where international terrorists are operating globally and committing acts designed to terrorise the population in one country, that can have implications which threaten the life of another. That is why a collective approach to terrorism is important".60

Five terrorists enter Parliament complex at 11:25 a.m. in a white Ambassador through the main Vijay Chowk gate. Just past the gate, constable Kamlesh Kumari challenges them. She is shot. They follow vice-President Krishan Kant's empty car past a security barrier. The flashing red beacon and Home ministry sticker get them in.

The fifth terrorist—a suicide bomber—moves towards Gate 1, which is used by MPs and blows himself up.

One terrorist reaches Gate 5—the Prime Minister's down by DRP personnel.

A confrontation with Kant's driver, whom the terrorists threaten. Delhi Police and security guards challenge the terrorists. Four security men shot down.

Four terrorists, carrying machine guns and grenades, run left and scale the wall into the highest security zone. Terrorists fire at security men and lob grenades.

Three terrorists are killed near Gate 0 by security men.

Terrorists turn left towards Gate 11. Running up against a wall between Gates 11 and 10, they reverse and bang into Kant's parked car.