CHAPTER-I
INTRODUCTION

A. Historical Perspective

Terrorism has become a worldwide phenomenon. It is not a modern invention. It has been recurring theme in the story of human kind. The world ‘terrorism’ has been derived from the latin verb ‘ters’ which means to ‘terror’ or state of intense fear and submission to it. It is equivalent to the word ‘fear’ and in the French verb ‘terreur’ which means/reveals the same meaning ‘Shiver’ or ‘Shivering’. It includes that conduct which creates the fear or terror in the minds of general public or groups or individuals in the form of killing, injuring or endangering of members of public. According to the Encyclopaedia of the social sciences terrorism means. “A term used to describe the method whereby an organised group or a party seeks to achieve it’s avowed aims chiefly through the systematic use of violence. Acts of terror are directed against the persons who are individuals, agents or representatives of authority likely to interfere, with the objective of such a group. Death or destruction is part of programme of action and if he is caught, his behaviour during trial is generally directed primarily not towards winning his freedom but towards speeding a knowledge of his doctrines”.1 The primary aim of the terrorists is to create the terror in the pubic mind or to erode psychological support to the government machinery by spreading fear among the government officials and their supporters. They kill, injure the innocent persons and also destroy the public and government property. The word terrorism entered in modern vocabularies only in the fourteenth century through the French Language. The first English usage was recorded in 1528. The

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basic mechanism of terror was captured in an ancient Chinese proverb “kill one, frighten ten thousand”.2

B. Problem of Terrorism at Global Level

The problem of terrorism have existed throughout the world in some form or the other. The ancient Greek historian Xenophon (c 430– c 349 BC) wrote of the effectiveness of psychological warfare against enemy populations. The Roman emperors such as Tiberius (reigned AD 14–37) and Calligaea (AD 31–37) used banishment, expropriation of property and execution as means to discourage opposition to their rule. The Spanish inquisition used arbitrary arrest, torture and execution to punish, what is viewed as religious heresy. It is curious to note that use of terror was openly advocated by Roberspire during the French Revolution, leading to the period of his political dominance, called the ‘reign of terror’ (1793-94). This revolution had really laid the foundation for democratic systems. During the French Revolution in Paris a wave of executions followed. In the provinces repressions on mission and surveillance committee instituted local terrors.3 The terror had an economic side embodied in the maximum a price central measure demanded by the lower classes of Paris and a religious side that was embodied in the programme of the dechristianization pursued by the followers of Jacques Hebert.

In the latter half of the 19th century, terrorism was adopted by adherents of anarchism in western Europe, Russia and the united states. They believed that killing of the kings, presidents, prime ministers and other government officials would pave the way to achieve revolutionary changes in the society. Terror was, therefore adopted as a virtual state policy though an unacknowledged one, by such totalitarian regimes as those of Nazi Germany under Adolf Hitler and the Soviet Union under Joseph Stalin. In these states, arrest, imprisonment, torture

and execution were applied without legal guidance or restraint: Terrorism was used by one or both sides in anti-colonial conflicts in Ireland and the United Kingdom, Algeria and France, Vietnam and France/United States and disputes between different national groups over possession of a contested homeland Palestinians and Israel and in conflicts between different religious dominations (Catholics and protestants in northern Ireland) and in internal conflicts between revolutionary forces and established governments.\(^4\)

Now back to terrorism at since the end of 1960's, the Palestinian terror organisations not only disturbed the delicate balance in the middle East, but became an awesome burden on the entire world. Terrorists gang of Abu Nidal had range of tactics, like hijacking planes, explosions in the air, assassination of leaders of name, random shooting at classified institutions, blowing up cars, booby trapped packages, creating ghast psychosis and solid infrastructure on three continents of Europe, Asia and Africa. The Abu Nidal group aimed at twelve different targets the United States, Israel, Jordan, Kuwait the Untied Arab Emirates, (U.E.A), the P.L.O., Egypt, Saudi Arabia, Britain, Austria, Italy and France were carried out on the soil of no less than 18 countries : Greece, Malta, Austria, Itlay, Romania, Poland Yugoslavia, India, Egypt, Pakistan, Jordan, Syria, Kuwait, France Britain, Lebanon, and the Netherlands.\(^5\) The problem of terrorism at international level has been discussed as under:

1. **Terrorism Sponsoring States**

   The state sponsoring terrorism, which is commonly known as “proxy terrorism”, has added a new dimension to the term “subversive intervention” earlier coined by Wright to denote subversive activities engineered by one state to create civil strife, revolt or treason in another state. Six countries i.e. Iran, Iraq, Libya, North Korea, Sudan and Syria, are considered as terrorism sponsoring

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\(^5\) Ibid.
According to the United States department all these countries are providing support to various terrorist groups. The support includes amounts of funding, training and weapons as well as sanctuary and harbours to various terrorist groups. The North Korea harboured the several hijackers of the Japanese Airlines flight to North Korea in the 1970s and maintained the links to the other terrorist groups. The Philippine Liberation Front had purchased weapons from North Korea with funds provided by the middle East Sources. The Pakistan is also considered as the safe haven to several terrorists but did not declared as terrorism sponsored state which appears to be a major mistake of the United States. In 1999, the Taliban of Afghanistan provide the harbour to the hijackers of the Indian Airlines IC 814.

2. Terrorism Affected States

There are several affected states/countries from the terrorism. Such countries includes India, Sri Lanka, Indonesia, Japan, Spain, Malaysia, Laos, Philippines, Thailand, Armenia, Azerbaijan, Georgia, Kazakhstan, Russia, Egypt, Tajikistan, Uzbekistan, Lebanon, Chechnya, USA, United Kingdom, Argentia, Colombia, Peru, Turkey, Switzerland. Italy, Greece, Germany, France, Belgium Austria, Israel, Albania, Zambia, Uganda, South Africa, Sierra, Nigeria, Liberia, Angola Bangladesh and Philistine etc. These countries have been suffering from the problem of terrorism from many years. Currently, in Spain, 191 innocent persons killed and 1500 injured in the terrorist's attack on the Madrid computer train. In Sri Lanka, on July 14, 2006, 22 soldiers were killed in a fight in potentially the worst military clash by the LTTE rebels.

On June 26, 2006, the Top Lankan General was assassinated by a suspected Tamil Tiger suicide bomber rammed an explosive laden motor cycle against the car of a top Sri Lankan army General killing him along with three
others on the outskirts of the capital. Major General Pasami Kulatunga, who was the third highest ranking officer in the army, was traveling to work when the suicide bomber banged his motor cycle against the officer’s car at Pannipityita, suburb of Colombo.  

In Bangladesh about 400 small bombs, suspected to have been planted by an Islamic militant outfit, exploded almost simultaneously in cities and towns across country killing at least more persons, including children, and injuring 138 persons. In Britain, on July 7, 2005, 45 persons were killed and 1000 hurt in a serial blasts. The AL-Qaida group claimed the responsibility for a series of seven blast in London. The Al-Qaida group said that our Mujahideen have carried out a blessed invasion in London and here is Britain now burning with fear and terror. We have repeatedly warned Britain to withdraw its troops from the Iraq and Afghanistan but it did not do so. We are still warning the governments of Denmark and Italy that they will receive the same punishment it they also do not pull out their troops from the same countries. On July 21, 2005, terrorist striked London again. Four explosions rocked three tube stations and a bus here at midday but there was no casualty. On August 13, 2006, terrorists tried to blow up the US-bound planes from Britain but the security forces of the Britain failed the plot of the terrorists and a suspected Al-Qaida leader among the 24 persons were arrested in this connection. In Egypt, on July 23, 2005. At least 88 persons were killed and 200 injured when car bombs ripped through shopping and hotel areas in the Red Sea resort of state in the worst attack. In October 2004, 34 persons were killed most of them at to be Hilton on the border of Israel. Egyptian authorities had blamed on the Al-Qaida and Palestinian group.  

13 "Al Quida group claims responsibility" The Tribune (Gurgaon) July 22, 2005.  
15 Sharm EL-Sheikh “Terror now in Egypt” The Tribune (Gurgaon) July 24, 2005.
In Chechenya Shamil Basayev was the prime leader of the Chechen insurgency who died on July 11, 2006. But there is a confusion about death of Basayev according to the Rebels, Basayev has died in an accident but Moscow official said that he was killed by its special Forces. Basayev made many major terror attacks.16

3. Gravity and Extent of Problem of Terrorism

In Sri Lanka, 65,000 peoples have been killed by LTTE till year 2002.17 In USA near about 7,000 killed and 5000 injured. In Chechnya 3,000 killed from 1995 to 2005.18 In Israel Palestine, Lebanon, 40,000 people killed.19 In United Kingdom nearly 5,000 killed from 1990 to 2005.20 In Algeria 150,000 people killed. In Pakistan, Afghanistan and Bangladesh many thousand have been killed. In Spain in 2004, 191 people killed and 1500 injured. In Tajikistan, Uzbekistan, Russia, Georgia, Turkey, Japan, Armenia Switzerland, Iraq, Iran and Libya, etc. many thousand people have been killed and injured.21

4. Profile of Terrorist Organizations

The United States Secretary of State has designated and declared the following 29 groups as Foreign Terrorist organisations in pursuant to Section 219 of the Immigration and Nationality Act of 1996. It has also declared that it would be unlawful to provide the funds and other material support to such designated Foreign Terrorist Organisations. The members and representatives of the designated foreign terrorist organisations can be denied the visas. They can be expelled from the United States. The United States Institutions would block the funds of such designated organisations and report about it to the United States Department of the Treasury.22

17 "Lankan blast kills 16" The Tribune (New Delhi) April 3, 2007
18 Supra n. 16.
19 Sunandak Datt Ray, "It will lead to for Terrorism" The Tribune (New Delhi) March 27, 2004.
21 See infra chapter Vth for further details.
(a) **Designated Foreign Terrorist Organizations** :- These designated terrorist organizations have been discussed as under:

(i) **Liberation Tigers of Tamil Eelam (LTTE)** :- This organisation founded in 1976 in Sri Lanka. It is a powerful outfit which uses its overt and illegal methods to raise funds, acquire weapons and publicize cause of establishing an independent Tamil State. It is most popular for its suicide bombings.\(^{23}\)

(ii) **Kach and Kahane Chain** :- It was founded by radical Israeli American rabbi meir Kahane. It's main goal is to restore the biblical state of Israel. This organisation was declared to be terrorist organisation in March 1994 by the Israel Cabinet under the 1948 Terrorism Law.\(^{24}\)

(iii) **Kurdistan Worker's Party (PKK)** :- It was founded in 1974 as a Marxist-Leninist insurgent group primarily composed of Turkish Kurds. The main aim of this group is to establish an independent Kurdish state in southeastern Turkey, where Kurdish population is predominant. It is operating in the Turkey. It has made many attacks on Turkish government and security forces in Turkey.\(^{25}\)

(iv) **Abu Nidal Organisation (ANO)** :- This organisation came into existence after the split of Palestine Liberation Organisation (PLO) in 1974. It has carried out terrorist attacks in 20 countries and killed at least 900 peoples. The main target of this organisation has been the U.S.\(^{26}\)

(v) **Abu Sayyaf Group (ASG)** :- This group came into existence after the split of the Moro National Liberation Front in 1991 under the leadership of Abdurajik Abubakar Janjalani, who was killed in a clash with Philippine police on December 18, 1998. It is the smallest and most radical of Islamic separatist group operating in the southern Philippines. The main activities of this organisations is bombings, assassinations, kidnappings and extortion.\(^{27}\)

\(^{23}\) Ibid.

\(^{24}\) Id at 190.

\(^{25}\) Id at 191


\(^{27}\) Id at 1.
(vi) Armed Islamic Group (GIA) :- It is an Islamic extremist group and operating in Algeria. The main aim of this group is to overthrow the secular Algerian regime and replace it with an Islamic 1992 after Algiers avoided the victory of the Islamic Salvation Front which was the largest Islamic opposition party in the first round of the legislative elections in December 1991. Assassinations, bombings and kidnappings are the main activities of this group.28

(vii) Aum Supreme Truth :- This group was established in 1987 and its main aim was to take over Japan. It is operating in Japan. The Japanese government revoked its reorganization as a religious organisation in October 1995. In 2000, Fumihiro Joyu took control of this group and changed its name to Aleph and claimed to have rejected the violent and apocalyptic teachings of its founder. Its current membership is estimated at 1500 to 2000 persons.29

(viii) HAMAS :- This group was formed in late 1987 in Palestine. The main aim of this group is to establish an Islamic Palestinian state. It is popular for its political and violent means i.e. terrorism.30

(IX) AL-Gama'a Al-Islamiyya :- This group is an Islamic group and is active since 1970 in the Egypt. The Egyptian government believes that Osama Bin Ladin, and Afghan militant groups are supporting this group and it may also obtain some funding through various Islamic non-governmental organisations.31

(X) Basque Fatherland and Liberty ETA :- This group founded in 1959. It is operating in the Basque autonomous regions of northern Spain and Southern France. The main aim of this group is to establish an independent homeland based on Marxist principles in the northern Spanish provinces of Vizeaya, Giupuzcoa, Alava, and Navassa and the South Western French departments of Laboured, Basser-Navarra, and Soule. The main activities of this group is kidnappings, robbery, extortion and assassination of Spanish government officials, especially

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28 Id at 187.
29 Supra n. 22 p. 183.
30 Supra n. 26 pp. 161-162.
security and military forces, politicians and judicial persons. This group has killed more than 800 persons till now.32

(XI) Islamic Movement of Uzbekistan (IMU) :- This group is operating in the Uzbekistan, Tajikistan, Kyrgyzstan and Afghanistan and getting the aids from other Islamic extremists growing in central and south Asia. Its main goal is to establish an Islamic State in Uzbekistan.33

(XII) Japanese Red Army (JRA) :- This group was founded around 1970 after breaking away from Japanese communist league Red Army Fraction. The Japanese Red Army led by Fusaka Shigenobu till 2000. It is operating in Japan and its main goal is to overthrow the Japanese government and monarchy and to help forment world revolution. The activities of the group is hijacking, blasts and kidnappings.

(XIII) Hizbulla (Party of God) :- This group is operating in the Bekaa valley, the southern suburbs of Beirut, and southern Lebanon. It is strongly anti west and Anti-Israel. Sheikh Hassan Narrallah is the leader of this group. Currently, Hizbulla captured two Israeli soldiers and killed eight on July 12, 2006. The Israel attacked on the the Hizbulla and killed many people. Narrallah said that Abduction is our natural right and the only logical way to highlight internationally the suffering of thousands of Lebanon, Palestinians and Arab prisoners in Israeli jail. Israeli holds an estimated 9,000 Palestinian prisoners.34

(XIV) Harkat ul Mujahideen (HUM) :- This group is an Islamic militant group based in the Pakistan and operates in Kashmir (India). Formerly, it was known as the Harkat ul-Ansar. Jammu and Kashmir is the main target of it. Its main activities are to kill explosion kidnap and hijack. In December 1999, terrorist hijacked the Indian Airline IC 814 and they took it in Taliban Afghanistan. The three hardcore terrorists who were in Indian jail have to be released in exchange of the passengers. Masood Azar was the leader of this group. The HUM trains its

32 Id at 37.
33 Id at 118.
34 Id at 15.
militants in Afghanistan and Pakistan. It collects donations from Saudi Arabia, other Gulf and Islamic states and from Pakistan and Kashmiries.\textsuperscript{35}

(XV) AL-Jihad :- It is an Islamic extremist group which has been active since 1970 in Egypt. It operates in the Cairo area. It has also an outside network in Yemen, Afghanistan, Pakistan, Sudan, Lebanon and the United Kingdom. According to the Egyptian Government, the Iran and Bin Laden are supporting this group. It is also obtaining some funds through various Islamic nongovernmental organisations. Its primary aim is to overthrow the Egyptian government and replace it with an Islamic state.\textsuperscript{36}

(XVI) Mujahideen-e-Khalg Organisation (MEK or MKO) :- It was formed in 1960 by the college educated children of Iranian Merchants. It is operating in Iran. In 2000 it has claimed several attacks against Iran.\textsuperscript{37}

(XVII) National Liberation Army :- It is the Marxist insurgent group which was formed in 1965 by Urban Intellectuals inspired by Fidel Castro and Che Guevara. It operates in the Colombia. Its main aim is to establish an independent government. Its main activities is to kidnap, hijack, bomb, extortion and guerrilla war. Approximately membership of this group is 3000 to 6000.\textsuperscript{38}

(XVIII) The Palestine Islamic Jihad :- This group originated among the militant Palestinians in the Gazastrip in 1970. It is operating in Israel and the occupied territories and other parts of the middle Israel i.e. Jordan and Lebanon. Its main purpose is to create an Islamic Palestinian State and destruct Israel through holy war.\textsuperscript{39}

(XIX) Palestine Liberation Front :- It is formed in mid 1970s after breaking away from the PFLP-GC. Its base is in Iraq and it is operating in Tunisia and Palestine. It gets aid from Iraq and Libya.\textsuperscript{40}

\textsuperscript{35} Supra n. 22 pp. 186-187.
\textsuperscript{36} Id at 189 see also Supra n. 26 p. 14.
\textsuperscript{37} Id at 192-193.
\textsuperscript{38} Supra n. 31 p. 98.
\textsuperscript{39} Id at 21.
\textsuperscript{40} Ibid.
(XX) Popular Front for Liberation of Palestine :- It was founded by George Abash as a member of PLO. It is operating in Syria, Lebanon, Israel and occupied territories. It gets the assistance from Syria.\(^{41}\)

(XXI) Al-Qaida :- It was established by Osama Bin Laden in 1980s for purpose to fight together against the Soviet invasion. The main goal of this group was to establish a pan-Islamic caliphate throughout the world and to overthrow the regime of non-Muslim from the Muslim countries. Bin Laden wanted to establish a worldwide network under which all the Islamic Organisations work together. He was a billionaire. His headquarter was Taliban Afghanistan country when America attacked him. His whereabouts are not known till now. It is also uncertain that whether he is alive or dead?\(^ {42}\)

(XXII) Popular Front for the Liberation of Palestine General Command :- The main activities of this group is to attack on Israel, West Bank, and Gaza strip. Its headquarter is in Damascus with bases in Lebanon. It obtains assistance from Syria and Iran.\(^ {43}\)

(XXIII) Revolutionary Armed Forces of Colombia :- It is operating in Colombia. Its main activities is extortion kidnapping and assassination. It obtain aids from Cuba.\(^ {44}\)

(XXIV) Revolutionary People's Liberation Party/Front (DHKP/C) :- It operates in Turkish. This group has assassinated many prominent Turkish businessmen and others in early 1996.\(^ {45}\)

(XXV) Revolutionary People's struggle :- It is operating in Greece country.

(XXVI) Sendero Luminoso (Shining path, or SL) :- It operates in Peru country.

(XXVIII) Tapac Amaru Revolutionary Movement :- It also operates in Peru country. Its aim is to establish a Marxist regime and to get rid of Peru of all

\(^ {41}\) Id at 24.

\(^ {42}\) Supra n. 22 pp. 185-196.


\(^ {44}\) See Sunil Sondhi, op cit, Supra n. 22 pp. 196-197.

\(^ {45}\) See Frankc Carlucei & George Bush op cit, Supra n. 31 p. 96.
imperialist elements. It was formed in 1983 from remains of the movement of Revolutionary Left, a Peruvian insurgent group active in the 1960s.46

(b) Non-Designated Foreign Terrorist Organisations :- There are also other groups which are not designated as Foreign Terrorist Organisations but are operating in many states. which are as follows :-

(i) Alex Boncayao Brigade :- This group was formed in mid 1980s and is operating in the Manila and central Philippines. It has done more than 100 murders. Its strength approximately estimated 500.47

(ii) Army for the Liberation of Rwanda :- This group is operating in the area of Democratic Republic of the Congo and Rwanda and in Burundi. The Laurent Kabila regime in the Democratic Republic of the Congo is providing the arms ammunitions and training to it.48

(iii) Irish Republican Army (IRA) :- This group is operating in the area of Northern Ireland, Irish Republic. Its aim is to reunify of Ireland and to force British troops from Northern Ireland. Its main activities is bombings, assassinations, extortion and robberies and primary targets is British military and Northern Ireland security forces and Loyalist paramilitary forces/groups.49

(iv) First of October Anifascist Resistance Group :- Its operation area is Spain and formed in 1975. It wants to over throw the Spanish government and replace a Marxist-Leninist regime. It is vehemently anti United States and calls for and advocates the removal of all United States military forces from the Spanish territory.50

(v) Jaish-e-Mohammed :- This is an Islamic group, based in Pakistan. Its main aim is to unite Kashmir with Pakistan. It is operating in Jammu and Kashmir. It obtains the aids and assistance from Pakistan and Osama bin Laden. Its main

46 Id. at 72, see also Supra n. 22 pp. 198-200.
47 Supra n. 22 p. 201.
48 Ibid.
49 Supra n. 26 p. 182.
50 Ibid.
activities includes kidnapping, hijacking, murder and extortion. It has made several attacks against India.  

(vi) Lashkar-e-Tayyba: This is a religious group based in Pakistan. It was formed in 1989. Professor Hafiz Mohammed Saeed is the chief leader of this group. Area of operation is based in Muridike, near Lahore and Muzaffarabad (Pakistan). It trains militants and organises mobile camps across Pakistan, administered Kashmir and Afghanistan. It collects aid and donations from the Pakistani Non-government organisations and Kashmiri and Pakistani businessmen. It has also made several attacks against India.

(vii) Loyalist Volunteer Force (LVF): This terrorist group was formed in 1996 after breaking away from the mainstream of loyalist Ulster Volunteer Force. It wants to endorse peace process in Northern Ireland. Its operational area is Northern Ireland.

(viii) New People's Army: It is a Maoist group formed in 1969. Its operational area is Rural Luzon, Visayas and parts of Mindanao. Its aim is to overthrow the government through protected guerrilla warfare. Its strength is estimated between 6000 to 8000.

(ix) Organe Volunteers: It is operating in the Northern Ireland. Its activities include robbery, arson, bombing and beating. It is popular for bomb making.

(x) Real IRA: It is also functioning in Northern Ireland. Its aim and targets are similar to IRA.

(xi) Red Hand Defenders: It is also operating in the Northern Ireland.

(xii) Revolutionary United Front: Its operation is in Sierra Leone, Liberia and Guinea. It wants to topple the government of Sierra Leone and to retain control of

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51 Id at 49.  
52 Id at 50.  
53 See Frank Carlucci III & George Bush op cit Supra n. 31. p. 122.  
54 Supra n. 44 pp. 207-208. See also Cindye Gombs & Martin Salnn, "Encyclopaedia of Terrorism" (2002) p. 45.
the lucrative diamond producing regions of the country. It has made several attacks on government and civilians for this purpose. 55

5. Background of Terrorists

There has been a common perception about terrorists that they are hardcore criminal and kill the innocent persons mercilessly prowling in the streets at night. They are prone to youthful fragilities of blaster, boasting, tall talk and bomb-blast about matching the needs of historical martyrs. They leave no doubt about their fury, sadism and nihilistic streak for destruction. They never failed to issue the warning to their detractors and violators of the religious edicts. They made no secret of their cynical and mindless manipulations. They often told that they would die for their cause. All terrorists tend to invest their deals with historical purpose. The government and public should aware or know about terrorists that what are their age? How old are the terrorists? Are they educated, semi educated or illiterated? Do they come from a poor, middle or affluent family or class? Did they have a happy or unhappy home life? Does they come from urban or rural areas? How long does they remain in the movement? What are their life style? What are their identity? How do their leader motivate them? Every person and government should have the answers of these question to avoid the destruction from the terrorists. There is also general perception that terrorists profiles are always same what they are from Northern Ireland, Germany or West Asia even then Indian terrorists/insurgents are no different/exception.

The terrorists are generally male and unmarried and their age ranges between 16 to 28 years. They are mostly educated. Their brief profile is discussed as under:

(i) Age :- The age of terrorists are considered between 14 to 28 years. They are young people. They are professional and well trained people. Their main aim is

to complete their consignment. Today, terrorists are pushing the teenaged into the fires of violent of terrorism.56

(ii) Sex :- Terrorists are generally males but it does not means that there has been no female terrorists. Leila Khaled’s exploits is well known example. Generally, women are not easily suspected of violent tendencies, therefore, they have been gainfully employed by LTTE in Sri Lanka and Islamic Terrorists in Kashmir for planting improvised explosive device (IED) women terrorists are also helping hands to other terrorists activities. Many women have been arrested by the police and security forces for their terrorists acts. There are mostly young women and unmarried.57

(iii) Education :- There has been common perception that they are educated. Some of them may be graduate or post graduate and some may be middle, secondary and higher secondary. There has also been a hard fact that some of them are Engineers and M.B.B.S. Doctors. Most of the educated people are entering terrorism for the purpose of alluring of earning more and more money easily. They want to become multi-millionaire overnight.58

(iv) Marital Status :- The marital status of terrorists are generally preserved as unmarried. The unmarried persons have keen loyalty to their leaders. They remain free from the marital encumbrances. This is necessary requirements of mobility, flexibility initiative aggressions and dedication to the cause. All the contents may be found in the unmarried person. But, it does not mean that there has no married person among terrorists. There have also been many married terrorists. For example, many mercenary terrorists who come from Pakistan or Pakistani occupied area of J & K and other countries for the short time in the name of ‘Jihad’ have been found to be married and fixed amount are given for

56 Ibid.
57 Ibid.
58 Id at 62.
their commitment. There has also been instances that many married persons are involved in the terrorists acts and they get the fixed salary from their leaders.59 (v) **Origin** :- Generally, they come from the rural areas due to unemployment for nurturing of them self and their family. Many persons also come from the urban areas and well settled family to earn more and more money.60

6. **Weapons Used by Terrorists** :- Terrorist to complete their consignment or commitment use many kinds of weapons which have been summarized as under61:

(i) **Nomenclature of the Weapons**
   
   (a) AK 47
   
   (b) Rifle
   
   (c) LML
   
   (d) Rocket Launchers
   
   (e) Mortars
   
   (f) RDX
   
   (g) Pkg Gun and universal Madwne gun.
   
   (h) Spiner Rifle
   
   (i) Pistol
   
   (j) Bombs
   
   (k) Chemical and Biological
      
      (i) Choking weapons
      
      (ii) Blood weapons
      
      (iii) Blister weapons
      
      (iv) Nerve weapons
   

(ii) **Cost of Weapons and Explosives**

   (a) AK 47 @ Rs. 25,000/- per head
   
   (b) Rifle @ Rs. 10,000/-

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59 ld. at 63.

60 ld at 64.

61 ld at pp: 70-72.
C. Problem of Terrorism at National Level

India is facing the problem of terrorism right from its inception. If we look back, we may realize that the history of terrorism is too old and has been raising its hand from the inception of civilization. India has been witnessing terrorism since many centuries particularly when Arabs, Turks Mangols and Mughals invaded her and suffered another setback of terrorism through the Britisher's regime.

1. Origin of Terrorism in India

During the British regime, the revolutionaries trying to overthrow the British Government were termed as "terrorists" and Netaji Subash Chandra Bose was considered as a source of inspiration of such "terrorists". The Judiciary, during the British regime in India, dealt with such revolutionaries as "terrorists" under the provisions of the Indian penal code, which is also in force at present. The first case of terrorism which arose was under section 124-A of the Indian Penal Code and is known as the Joginder Chander Bose case.62 which was tried by a Jury before Sir Comer Petheram, Chief Judge, who explained the law as follows:

"It is sufficient for the purposes of the section that the words used are calculated to excite the feelings of ill-will against the government and to hold it up to the hatred and contempt of the people, and that they were used with the intention to create such feeling".

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62 Queen Empress v. Jogindra Chander Bose, ILR 19 Cal. 35.
The next case is of *Shri Balgangadhar Tilak*, who was tried by a jury before Strachey J. who explained the law as follows:

"It is not the exciting or attempting to excite mutiny or rebellion or any sort of actual disturbance, great or small, whether any disturbance or outbreak was caused by these articles, is absolutely immaterial. If, the accused intended by the articles to excite rebellion or disturbance, his act would doubtless fall within Section 124A, and would probably fall within other Sections of the Penal Code. But, even if, he neither excited nor intended to excite any rebellion or outbreak or forcible resistance to the authority of the Government, still if he be tried to excite feelings of enmity to the Government, that is the sufficient to make him guilty under the Section."

During the Freedom movement, many freedom seekers were considered as "terrorists" by the British Government. Activities of such freedom seekers also considered/concluded as crimes. But, they were justified in those days as their intentions were to drive away the foreign rulers. They never killed the innocent people during the movement. By resorting to non-violence they were exhibiting their anguish and dissatisfaction and non-cooperation with the British rule. When India was close to become an independent country, Mr. Jinhla, Muslim Leader, demanded a separate Muslim country for the Muslim community. The British Government accepted the demand of Mr. Jinhla and finally decided to leave the shores of India. In August 1947 India and Pakistan became an independent countries. But British government could not able to settle finally, the fate of Kashmir. In Jammu and Kashmir where ruler, Maharaja Hari Singh, was unable to make up his mind by August 15, 1947 he offered a stand still agreement to both India and Pakistan for a status quo. But, the Pakistan was very keen to get the Jammu and Kashmir and could not await longer. Pakistan ordered to General Akbar Khan to raid on the Jammu and Kashmir, General Akbar Khan attempted

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63 *Queen Empress v. Bal Gangadhar Tilak*, ILR 22 Bom. 112.
64 *Supra* n. 2 p. 53.
to capture the Jammu and Kashmir across the border. Most of the citizens were murdered and raped by the Pakistan forces and tribesmen in the Baramula Muzaffarabad, Mirpur and Poonch towns. Even nuns in a convent and a hospital were not spared. This was the first terrorist incident took place in Kashmir India. Then the Maharaja asked for military assistance from India, which was rendered and raiders and free looters were pushed back from the Jammu and Kashmir. The Pakistan could not succeed to capture the Jammu and Kashmir. Since then, Pakistan has made many attempts to capture the Jammu and Kashmir. Pakistan, directly and indirectly supports the terrorists against the India.65

Today, the menace of terrorism has become a complicated problem for India. There seems to be no end of it. The Pakistan, through terrorist activities, has been continuously trying to weaken the India since 1947 and India also has been witnessing terrorist violence since then. It is a well documented fact that leaders of some of the most dangerous terrorist organisations/groups are in Pakistan and are continuously trying to motivate the youth to take recourse to the terrorist/extremist activities. According to an estimate, nearly 56,000 people have been killed in the terrorist violence in Jammu and Kashmir and other parts of India.66 It is a true fact that in Jammu and Kashmir, terrorists are killing daily the innocent people and people of the state are living in the shadow of death. They do not know when they would be killed. Governor S.K. Sinha said 41,333 persons were killed in the state since 1989, and 16284 civilian killed by militants where 24126 civilians including men, women and child were injured, 5006 security personnel and 20043 militant were also killed in the period.67

2. Gravity of Problem of Terrorism

The 1993 serial bomb blasts in Bombay was one of this major incidents of terrorism in India. In this serial bomb blasts, 251 people were killed and 707

injured. Currently, in 7 blasts on local trains, 200 people were killed and 714 injured in Mumbai. There have been many more incidents of bomb blasts in different parts of country. Many thousand people have been killed and injured in the terrorist’s strikes. According to an estimate. In 1990, 1012 civilians and 154 security forces, in 1991, 977 civilians, 168 security forces, in 1992, 1167 civilians, 177 security forces, in 1993 1136 civilians, 195 security personnel in 1994, 1189 civilians, 189 security forces, in 1995 1135 civilians, 234 security forces, in 1996, 1530 civilians, 185 S.Fs., in 1997 1105 civilian 186 S.Fs, in 1998, 977 civilians, 234 S.Fs, in 1999, 941 civilians, 357 SFs. In 2000, 995 civilians, 397 S.Fs. in 2001, 1090 civilians, 546 SFs. In 2002 1120 civilians, 480 SFs. In 2003, 1334 civilians, 185 SFs. In 2004 358 civilians 153 SFs and in 2006 350 civilian, 225 SFs. have been killed in the terrorist.68

3. Terrorist Organisations

There have been many terrorists organisations/groups operating in Jammu and Kashmir and other parts of India. The government has notified such 32 groups as terrorist organisations operating mainly in Jammu and Kashmir, North-East and Naxal affected states. These are as under:69

(i) Babbar Khalsa International
(ii) Khalistan Commando Force
(iii) Khalistan Zindabad Force
(iv) International Sikh Youth Federation
(v) Lashker-e-Toiba/parban-e-Ahle hadis
(ix) Al-Umar-Mujahideen.

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The Minister of State for Home Affairs Sri Parkash Jaiswal said that some prominent organisations are receiving funds from foreign countries. He further said that Indian insurgent groups had setup their training campus and hide outs in the territory of Bangladesh for subversive activities against India.
In North-East the region has been plagued with armed insurgency in the states of Assam, Manipur, Nagaland Tripura and Meghalaya. These extremists outfits have not only developed active inter-links with each other but also receiving covert assistance in diverse forms from neighbours across the border. A significant number of deaths have occurred in these states. In 1993, Naga and Kukis have claimed 400 lives, besides 200 persons were injured 1200 houses burnt and 3500 people rendered refugees. There are also other states which are suffering from the Naxalism problem. These states are Andhra Pradesh, Madhya Pradesh, Orissa, Chhattisgarh, Jharkhand, Uttar Pradesh, West Bengal Bihar, Tamil Naidu and others. A significant numbers of deaths have also been occurred in these states.

D. Legal Principles against Terrorism

Some measures have been taken both at National as well as international level to combat terrorism. For systematic study of the legal principles, we can classify it into following parts.

1. International Legal Principles

2. National Legal Principles

1. International Legal Principles

The attempts to control international terrorism started from with the league of Nations which unanimously adopted a resolution in December, 1934, instituting a committee of experts to draft an international convention to curb offences in pursuance of political terrorism. Later on, an International convention was convened in Geneva which met from November 1 to 16, 1937. The conference examined and adopted two conventions: the Convention for the Prevention and Punishment of Terrorism, and the Convention for Creation of an International Criminal Court. The first convention received only one ratification, that of India in January 1941. However, both conventions did not come into force for want of ratifications. After the coming into force of the United Nations, a few conventions have been concluded for the suppression of the specific forms of international terrorism which are as under :-
(i) **Air Craft Hijacking** :- Beside the General Assembly Council Resolutions 2251 (XXIV) and 2645 (XXV) and the Security Council Resolution 286 (1970), International civil aviation organisation (ICAO) adopted three conventions :-

(a) The convention on Offences and Certain other Acts Committed on the Board of Aircraft at Tokyo, 1963 (The Tokyo Convention, 1963)


(ii) **Acts against Internationally Protected Persons, 1974** :- The main purpose and object of the adoption of this convention was to render inescapable the punishment of the crimes committed against persons entitled to special protection.

(iii) **Taking of Hostages** :- The main object of this convention was to control the offences against the Taking of Hostages and to take effective measures for prevention, prosecution, and punishment of all acts of taking of hostages and manifestation of international terrorism.70

(iv) **Convention to Ensure the Safety and Security of the United Nations and Associated Personnel, 1994** :- The primary object of this convention was to oblique to states to establish jurisdiction in respect of the united nations and associated personnel and quickly to conclude agreements on the status of United Nations operations and personnel.71

(v) **Convention for the Suppression of Terrorist Bombings, 1997** :- The main object of this convention was to prevent the activities of the terrorists, who unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a state government facility, a public transportation system or an infrastructure facility, or with intent to cause death, serious bodily injury, or to cause extensive destruction of such

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70 See General Assembly Resolution 34/116.
71 General Assembly Resolution 49/59.
place, facility or system such person shall be considered as terrorist and punishable under the convention.72

(vi) Convention for the Suppression of the Financing of Terrorism, 1999 :-
The primary object of this convention was to suppress the funds to be used to carry out acts that are considered terrorist activities. The funds and finances the means, assets of every thing/kind, whether tangible or intangible, movable or immovable, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit etc.73 Without the funds, it is impossible to carry out the activities. Therefore, to control the terrorism suppression of funds is very necessary.

2. National Legal Principles

After attaining Independence, India has been continuously witnessing the violence in one form or the other. According to an estimate, India has lost over 80,000 lives to terrorism till now. For curbing this irregular war/terrorist violence in the country, the Government of India has enacted certain laws or legal principles from time to time. These prominent are as follows :-


72 Id. Resolution No. 51/164.
73 Id. Resolution 54/109.
(xii) The Terrorist and Disruptive Activities (Prevention) Amendment Act, 1993.

All these laws were enacted to tackle the special situation of terrorism and insurgency. But, most of them were not directly directed against the major menace of terrorism. The Terrorist and Disruptive Activities (prevention) Act, 1987 and the prevention of Terrorism Act, 2002 are the only Acts, which could be termed as anti-terrorism laws in real sense. The state, through these two laws, attempted to curb the terrorism in the country recognizing the fact that terrorism was a special crime that needed special laws for an effective response.74

Recently, the Government of India has repealed the POTA, 2002 and revived the Unlawful Activities (Prevention) Act, 1967 along with the amendments of the Prevention of Terrorism (Repeal) Act, 2004. At present, the Unlawful Activities (Prevention) Amendment Act, 2004 is in force. Now, it is to be seen that how long this Act would be effective to tackle the menace of terrorism? Whether we would be able to achieve the desired goals by this Act?

E. Review

India has been facing the problem of terrorism for past few decades and has made many attempts to raise the issue at international level but of no avail. The Kashmir problem is kept aside with loose remarks that it was an internal matter. It was only after 9/11 strike at the World Trade Centre and Pentagon at United States, the world opened their eyes and recognized the menace of international terrorism.75

Both, the United Nations at global level and India at local level have made their best efforts to combat terrorism but it appears that the terrorism is increasing day by day both at local as well as international levels. Therefore, in this study, an attempt has been made to find out the possible reasons of failure to control

74 Supra n. 69.
terrorism at local level as well as global levels because it is very difficult to isolate and study the problem at local level alone, since, it is well accepted truth that terrorism is a global problem having local implications and vice versa. It is global threat to peace, harmony and brotherhood of global village.

Therefore, the present study is an inquiry to find out;

(i) The gravity of the problem of terrorism both at national as well as international level.

(ii) Profile of ‘Terrorists’ and Terrorist Organizations.

(iii) Weapons used by Terrorists.

(iv) Designated and non-designated Terrorist Organisations.

(v) Legal Principles against Terrorism

(vi) Concept of Terrorism

(vii) Definition of Terrorism

(viii) Causes and effects of Terrorism

(ix) Kinds and methodology of Terrorism

(x) Global scenario of Terrorism and efforts to combat.

(xi) Terrorism in India specially the issue of Kashmir and North East states. Insurgency and Naxalism in some parts of the country.

(xii) Statutory safeguards for prevention, control and Abatement of Terrorism

(xiii) Terrorism vis a vis Human Right violations

(xiv) Role of judiciary in combating Terrorism.