CHAPTER - II
CHANGING CRIME SCENARIO

2.1 Introduction

“Whatever views one holds about the penal laws, no one will question its importance to society. This is the law on which men place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. Nowhere in the entire legal field is more at stake for the community or the individual”.¹

Criminal law has to be strong enough both in its contents as well as in its implementation, without being oppressive. This quality is needed in all branches of law but too crucial in criminal law since the stakes involved are exceptionally high in terms of social injuries of various kinds. The primary purpose or function of the criminal law is to maintain security and stability. Bentham defines security, the paramount end of law, is terms of expectation. “Without law, there is no security” and without security the values of substances, abundance and equality cannot be perused through law.²

The first and simplest idea is that law exists in order to keep the peace in given society, to keep the peace at all events and at any price.³ It is an interest in the general safety, long recognized legally in the maxim that the safety of the people is the highest law.⁴ Friedman has listed five functions of state based on its activity. Those are, as

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Protector, as Provider, as Entrepreneur, as Economic controller, fifthly as Arbitrator. Out of these, State as protector is foremost.\(^5\)

On these premises the following functions of criminal law are deduced.

1. The criminal law must identify which conduct be brought within its ambit. On what basis this decision is to be made.

2. Criminal law based on seriousness of offences classifies and grades the offences.

3. A critical function of criminal law is to reduce crimes, which ultimately depend on the degree of actual enforcement of the criminal law; a law that is never enforced would soon become dead letter. Efficiency of criminal law is most vital to society.

4. The final function of Criminal law is that of determining how much punishment is appropriate. In this respect, there are conflicting theories of punishment.

### 2.2 Definition of Crime

Various authors have offered different definitions of crime at different point of time, which are found to have some deficiencies. As long as jurists have no consensus over the definition of law the confusion over the definition of crime continues to persist. The very definition and concept of crime varies not only according to the values of a particular group and society, its ideals, faith, religious attitudes, custom, traditions and taboos, but also according to the form of government, political and economical structure of the society and number of other factors.

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Blackstone, in his classical work “Commentaries on the laws of England” defines crime as “An act committed or omitted in violation of a public law forbidding or commanding it.”\(^6\) This definition is not satisfactory. The word public law is not free from the ambiguity. Authors like Austin consider that only Constitutional Law is public law. On the other hand, if public law includes every kind of positive law then every legal wrong would become crime that will be too wide. Later Blackstone modified it and stated, “A crime is a violation of the public rights and duties due to the whole community, considered as a community.”\(^7\) In his new definition, he deleted the word “public law” and added the word “public rights and duty to the whole community.” However, the same confusion continues as to of what constitutes public rights and duties, the ambiguity persisted. Further, he said crime applies to violation of rights only; this is also not right because the crime includes omissions also.

Stephen has molded the definition of crime of Blackstone and defined crime, as a ‘violation of a right, considered in reference to the evil tendency of such violation as regards the community at large.’\(^8\) Stephen’s definition of crime has also some flaws. Criminal law puts criminal liability even on those persons who fail to perform the duty imposed by the law. It is not only violation of right but omission of duty also amounts to crime.

Austin has defined the crime based on its proceedings. “A wrong which is pursued by the sovereign or his subordinates is a crime. A wrong which is pursued at the


discretion of the injured party and his representatives is civil injury”.  

Offences like adultery under Sections 497 and 498 of the Indian Penal Code (herein after referred as IPC) can be initiated only on the complaint made by the husband of the woman. According to Kenny “Crimes are wrongs whose sanction is punitive, and is no way remissible by a private person, but is remissible by the crown alone, if remissible at all”. This definition suggests that the crime is compoundable only at the instance of the crown. Generally, the law allows parties to make compromise between the accused and the victim of the crime in respect of those crimes that are not serious because they would not threaten the fabric of the society.

General Clause Act, 1897, Section 3(38) states: “Offence shall mean any act or omission made punishable by any law for the time being.” Thus, once a penal statute prescribes punishment for some act or omission it becomes crime. Offences are whatever the legislator has prohibited, whether for good or bad reasons. Doctrine of *Nulla poena sine lege* means, no person shall be punished except in pursuance of a statute, which fixes a penalty for criminal conduct. In another sense interpreted as *nullum crimen sine lege*, means no conduct shall be held criminal unless it is described in the hypothesis of a penal statute. Section 40 of IPC states: “… the word “offence” denotes a thing made punishable by this code… or under any special or local law…”

From the above discussion, it is very clear that the definition of crime has changed from time to time and is not amenable to a precise definition. Since the concept of crime

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10 Act No 45 of 1872.  
13 Act No 10 of 1897.  
14 *Supra* note 2., at 147.  
is subject to change from time to time, it seems to have been a wise step not to define the term in the Code. Nevertheless, a student embarking on a study of principles of criminal law must understand the chief characteristic and attributes of a crime.

It can be stated that in a crime, at least three attributes are present, namely, first, crime is an act of commission or result of omission on the part of human being, which is considered harmful by the state. Secondly, the preventive measures taken by the state appears in the form of threat of a sanction or punishment, and thirdly the legal proceedings, wherein the guilt of the accused is determined, are in accordance with special provisions of law.

2.3 Punishment

Punishment is an important aspect of criminal law. According to Jeremy Bentham punishment is evil in the form of remedy which operates by fear.\(^{17}\) John Finnis has said that delinquent behavior of person needs to be taught a lesson not with melody but with iron hand. “There is the need of almost every member of society to be taught what the requirement of the law—the common path for pursuing the common good—actually is: and (relatively!) vivid drama of the apprehension, trial, and punishment of those who depart from that stipulated common way.”\(^{18}\) Various reasons justify the punishment but criminal law as sanctions has one important object, is to eradicate the self-help and private sanctions.\(^{19}\) Once society realized the need of sanction, it must be applied collectively, officially, legally and publicly.\(^{20}\) Different authors have offered various theories of punishment but those can be broadly classified as consequentialist, non-

\(^{17}\) Jeremy Bentham, \textit{op. cit.}, p.167.


\(^{20}\) \textit{Ibid.}, at 103.
consequentialist and mixed theories that contain both consequentialist and non-consequentialist elements. What distinguishes these theories is their focus and goals: Consequentialist theories are forward looking concerned with the future consequence of punishment; non-consequentialist theories are backward looking, interested in the past acts, and mixed theories are both forward and backward looking.

Punishment is awarded to reduce the crime and used as a means to an end, is the claim of consequentialist or utility theory. George Hegel and Immanuel Kant criticized and rejected the utility theory, presented the contrast retributive theory of punishment, which is non-Consequentialist on the premises that punishment, it is not a means but an end in itself. This tug of war between the George Hegel and Immanuel Kant on one side and Jeremy Bentham on the other side is carried even by 20th century scholars. In 1949, Lord Denning appearing before the Royal Commission on ‘Capital punishment’ expressed the following view:  

“It is a mistake to consider the object of punishment as being deterrent or reformatory or preventive and nothing else…. The ultimate justification of any punishment is not that it is a deterrent, but that it is the emphatic denunciation by the community of a crime: and from this point of view, there are some murders which, in the present state of public opinion, demand the most emphatic denunciation of all namely the death penalty.”

Professor Glanville Williams of Cambridge University appreciates the utilitarian opinion that punishment is either preventive or deterrent. Both agree punishment is essential but disagree in respect of its purpose. Utility doctrine has further classified

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22 Supra note 5., at 225.
23 Glanville Williams, op, cit., p.41.
punishment as Preventive (Restraint), satisfactory (compensatory), reformatory (Therapeutic or corrective), and deterrent.\textsuperscript{24}

2.4 Modern Approach to Crime

Above discussion proves the traditional approach to the crime had been to formulate a definition of crime. Therefore all the eminent jurist beginning with ‘Blackstone’ down to ‘Kenny’ attempted to define crime, but they failed to bring it within the narrow compass of a definition the flexible notion of a crime, because it was conditioned by the changing moral values and social opinion of the community from time to time. Moreover, the traditional approach to crime may have well-suited to a society which had not developed into a complex society. The crimes known to them in the beginning of the society may have been fewer in number, which could have been roped in the four corners of the definition. With the rise of industrial revolution and rapid means of communication and modern scientific investigations, crimes also have taken new turn. Defining crime, being a traditional approach, has to be given up. The modern conception is that crime is a public wrong, i.e., a wrong which offends against the public generality. The modern approach is not to bother about a definition of a crime but to lay stress on its functions.

2.5 Emergences of New Kinds of Crime in the Society

2.5.1 White-Collar Crimes or Socio-Economic Offences

Industrializations and commercialization of mid 18\textsuperscript{th} Century across Europe and North America gradually started to show effect even in the developing nation of third world country. Further invention in science and technology has boosted the expansion of trade and commerce across the Universe. Prof. Sutherland highlighted the serious

\textsuperscript{24} Supra note 15, at 169.
repercussions of white-collar crimes in 1940. White-collar crimes are more serious threat to the existence of society than Blue-collar crimes. Blue-collar crime is a crime of the under-privileged; white-collar crime is crime of upper or middle class.\textsuperscript{25} Locke’s philosophy of inalienable of natural rights and doctrine of \textit{laissez faire} created conducive environment for breeding the socio-economic offences. The \textit{laissez faire} which had come to be accepted as the base of State activity was increasingly used as a license by the industrialists, business persons and traders and even men in professions to do whatever they would to further their interests, howsoever dishonest, and unethical the means, to accumulate wealth. The relationship between the means and ends was thrown to the winds and ends came to justify all means, howsoever ignominious the means might have been.\textsuperscript{26}

Modern Societies under the impact of science and technology have transformed human urges, revolutionized human values and perverted human character investing man with powers and infecting him with vices on an unprecedented scale.\textsuperscript{27} Not a single day passes without hearing of big defalcation or embezzlement, a shady deal or a scandal in public administration. In 1993, the Vohra Committee appointed by Home Ministry of Government of India after Bombay serial blasts reported the links between organized crime and politics. The report observes:

“…not that it was unknown -the powerful nexus between those who broke the laws especially economic laws, the politicians and some of the functionaries of the Government especially in the Police, Customs and direct and indirect taxes, all which resulted in protection of large scale economic crime and in those cases which became

\textsuperscript{26} Mahesh Chandra, \textit{Socio-Economic Crimes}, (Bombay: N.M. Tripati Pvt. Ltd, 1979), p.27.
public, nominal action was taken against the offenders which borne no relationship to the benefits from the crime.”

It may suffice to mention that the prohibited conduct of Socio-Economic offence is based on changing social policy. Further, object of such prohibition is to preserve certain standard those are considered as most essential to society. The fact that socio-economic crime is punished in less degrading ways than ‘ordinary crime’ does not imply that former is pity; in fact former is more serious than latter. The Common Lawyers characterized these wrongs as ‘public welfare offences’. Social offences are offences, which affect the health or material welfare of the community as a whole, and not merely of the individual victim. Similarly, economic offences are those, which affect the country’s economic, and not merely the wealth of an individual victim. Therefore, Socio-economic offences are intersecting circle with White Collar crimes and offences of absolute liability. Salient features of the socioeconomic offences are summarized as follows:

1. Motive of the criminal is avarice or rapaciousness (not lust or hate).

2. Background of the crime is non-emotional. There is no emotional reaction as between the victim and the offender.

3. The victim is usually State or section of the public. Even where there is an individual victim, the more important element of the offence is harm to the society.

29 Supra note 25.
32 Ibid., at 2.
4. Mode of the operation of the offender is fraud, not force.

5. Usually the act is deliberate and willful.

6. Interest protected is two-fold. One, preservation of property, wealth, health of individual members and natural resources. Secondly, preservation of general economic system as whole from exploitation and waste by individual and groups.

Within a very short period, the socio-economic offence gained momentous heights and magnitude. Consequences of these offences are neither immediate nor aimed to any individual. They are intentional acts for one’s own profit at the risk of others, which are called as “Socio-Economic Offences”. Traditional criminal jurisprudence of the Indian Penal Code was considered deficient and ineffective to fully meet the challenges and cope with the new criminality. In June 1962 the Central Government *inter alia* to suggest changes in the law and make a law more effective, constituted a committee known as Santhaam Committee after its Chairperson Shri K. Santhanam, M.P. The Committee had submitted its final report in March 1964; it recommended *inter alia* amendment of certain enactments. The Committee on Reformations of Criminal Justice System, defined economic crime is an illegal act (or set of acts) generally committed through misrepresentation or outright deception by an individual or group with specialized skill, whether professional or technical with a view to achieve illegal, financial gain, individually or collectively.  

The concept of white-collar crime was first conceived by Edward Ross (1907) and approximately 30 years later white-collar crime was born in the ideas of Edward H. Sutherland (1939-40). He defined white-collar crime as “… a crime committed by a

33 *Supra* note 28, at 233.
person of respectability and high social status in the course of his occupation”. The white-collar crime has come to stay and dominated the society that is proved by the following data.

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<th>Year</th>
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<th>SLL</th>
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<tbody>
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<td>2005</td>
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<td>50,26,337</td>
</tr>
<tr>
<td>2010</td>
<td>29,85,719</td>
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</tr>
</tbody>
</table>

In this table, SLL means the crimes under special and local laws that are called as white-collar crimes. Society is familiar with conventional offences like murder, rape, etc, but it takes time for the society to realize the seriousness of non-conventional crimes.

2.5.2 Organized Crime

Organized crimes are a part of socio-economic offences but differ from them in some respects. Organized crimes are known as Mafia universally. The purpose of organized crime is to earn profits from the society by making available illegal goods and services to the society. Organized crime, in the backdrop of the legal and non-legal definitions, is for graver in nature as it is a “non-ideological enterprise” which functions as a “continuing enterprise that rationally works to make a profit through illegal activities” and is marked by a “distinguishing component” “within the term itself, mainly

36 Supra note 25., at 4.
organization.” 37 Thus, organized crime is not just a manifestation of deadly gangsterism but also a “manifestation of criminals consolidated to commit several crimes in pursuance of conspiratorial deliberations”.38 The Interpol definition, adopted by the member countries of Interpol in 1988, is as follows: “Any enterprise or group of persons engaged in a continuing illegal activity which has as its primary purpose the generation of profits irrespective of national boundaries.” The United Nations recognized the adverse effect of the organized crime as serious social pathology and its impact on economy of many nations and resultantly on the global economy. It deliberated on the issue of the Trans-Border organized crime, and has concluded a convention under which strict measures have been suggested.39

Organized crime is not a recent phenomenon in India. Organised Crime in its avatar began at Mumbai after Independence. Gradually it spread to other parts of India. The anti-social elements could strike terror in an organized manner anywhere, any time, at their own sweet will. Today organized crime is extensive in its network, often transcending national boundaries, and using the most high-tech communication system, transport, arms and so on. These gangsters operate in nexus with anti-national elements and, with their money power, fund terrorism in the country.

The N.N. Vohra Committee appointed in 1993 to take stock of all available information about the crime syndicate/mafia origins, which had developed links with and were being protected by the government functionaries and political personalities

37 Supra note 28, at 195.
38 Ibid.
accepted the nexus between the dons and the executives and politicians and explained in the following words:

“CBI has reported that all over India, crime syndicates have become a law unto themselves. Even in the towns and rural areas, musclemen have become the order of the day. Hired assassins have become a part of these organizations. The nexus between criminal gangs, the police, bureaucracy, and politicians has become evident in various parts of the country. The existing criminal justice system, which was essentially designed to deal with individual offences/crimes, is unable to deal with the activities of the mafia”.

2.5.3 Terrorism

Terrorism has become the most worrying feature of the contemporary life even though violent behavior is not new. “Terrorism” is of the manifestation of increased lawlessness and cult of violence. It has been identified with anarchists, with revolutionaries and with fundamentalists. Terrorism has attained such menacing proportions to threaten the very existence of a civilized society. Terrorism is essentially a faceless and a bodiless phenomenon. The rule of law is predictable but rule of terror is unpredictable. The attack of September 11 2001 on the World Trade Centre in New York City, the attack on tourist facilities on Bali in 2002, on commuter trains in Madrid in 2004, suicide bombings in London in 2005 and attack on the Taj hotel in Mumbai on November 26 2008 all demonstrate the continuing threat that terrorism can pose. The perpetrators have come from all lifestyles and have used a variety of deadly and diabolic weapons to carry out their plans. It is difficult to trace the origin and history of terrorism because it is so deeply embedded in the human experience.

41 Peoples Union for Civil Liberties v. Union of India, AIR 2004 SC 456, at 464.
2.5.3.1 History and Growth of Terrorism: Ancient Era

The term ‘Terrorism’ has shifted its meaning through the centuries, Zealot, Thug, assassination- illustrates the changing stress terrorists have placed upon their objectives.\textsuperscript{44} The Zealots were religious nationalists in the first century Judea who revolted against the Roman occupation. Hidden in crowds, they would stab secular officials, priests, and soldiers with their draggers and then escape by merging back into the crowds. His or her actions created an environment of fear where no one was to be trusted and everyone was feared. The Zealots pioneered the techniques of pure terror that would be used by future generations of true believers.\textsuperscript{45} The assassinations of Roman Emperor – Julius Caesar in 44 BC, Caligula in 41 CE, Galba in 68 CE, are often cited as examples of early acts of terrorism.\textsuperscript{46}

2.5.3.2 Middle Ages

One of the more celebrated terrorist was Genghis Khan the early 13\textsuperscript{th} c. Military Leader who was known for his ruthlessness in assaulting and destroying ethnically diverse enemy tribes in the land that is now Mongolia. Named “Temujin” at birth, he assumed the title Genghis Khan (“Universal Ruler”) in 1206.\textsuperscript{47} The world “assassin” came from another religious-political group, in the 11\textsuperscript{th} and 12\textsuperscript{th} century Shiite Muslim activist in Southwest Asia organized corps of assassins, known as the Fedayeen, literally the “self-sacrificers”.\textsuperscript{48} These assassins were willing to undertake attacks against Sunni rulers despite the certainty of their own death or capture, as they were assured of their

\textsuperscript{46} Brian Forst, \textit{Terrorism, Crime, and public Policy}, (New York; Cambridge University Press, 2009), p.43.
\textsuperscript{47} \textit{Ibid.}, at 44.
place in heaven if they fell as martyrs fighting in the path of God. Another group, which provided base for the terrorism is thug, now used to describe those, engaged in common criminal behavior has more sinister beginning. The thugs in both India and Asia, operating from the 13th to 19th centuries, were organizations of assassins who would often use a silk scarf to strangle their victim as the calling card of their activities.\footnote{Harvey W. Kushner, *Encyclopedia of Terrorism*, (London: Sage Publications, 2003), p.22.} While they had a religious base, the thugs hold a particular significance to contemporary terrorist in that they were professionals for hire.

\subsubsection*{2.5.3.3 Origin of Modern Terrorism}

The French Revolution is the best point at which the history of modern terrorism commences. There, for the first time ever, terrorism was at the core of a comprehensive political philosophy and strategy to gain and retain power.\footnote{Barry Rubin, *Modern Terrorism*, (New York: M.E. Sharpe, 2008), p.4.} Many of the critical elements of terrorism are clearly expressed and implemented during the French Revolution; the deliberate instilling of fear, the elimination of entire social groups, the use of terror against others as a way of mobilizing one’s own supporters, and incitement to murder as a means of political expression and to achieve utopian goals.\footnote{Ibid.} It was no accident that the revolutionary activist journalist Gracchus Babeuf coined the very world “terrorist” in 1793.\footnote{Ibid.} The regime *de la terreur* of 1793-94 gave birth to the English world “Terror”. Radical leader Maximilien Robespierre claimed that it was essential for establishing a virtuous regime.\footnote{Ibid.}

The “region of terror” was referred to brutal acts committed during the French Revolution including the beheading of as many as 40,000 “enemies” by France’s
radical Jacobin government in 1973-74. Terrorism was adopted as a means to establish order during the transient anarchical period of turmoil and upheaval that followed the uprising of 1789. Ironically, terrorism in its original context was closely associated with the ideals of virtue and democracy. Maximilien Robespierre said, “Virtue, without which terror is evil; terror, without which virtue is helpless” and proclaimed: “Terror is nothing but justice, prompt, severe and inflexible; it is therefore an emanation of virtue.”

Robespierre and his closest followers themselves met the same fate that has befallen some forty thousands others: execution by guillotine. The terror was at an end; thereafter ‘terrorism’ became a term associated with the abuse of office and power.

Anarchist, often with socialist agendas, stimulated the shift in Europe from State terrorism to individual terrorism in the mid-nineteenth century. The advent of nationalism, and with it notions of statehood and citizenship based on the common identity of a people rather than the lineage of a royal family was base of new era of terrorism in nineteenth century. Italian republic extremist Carlo Pisacane said, violence was necessary not only to draw attention to, or generate publicity for, a cause, but also to inform, educate, and ultimately rally the masses behind the revolution. Pamphlets, wall posters or assemblies could never effectively replace the purpose of violence.

Terrorism as an instrument of revolutionary transformation developed more fully in Imperial Russia. Perhaps the Narodnaya Volya or (People’s Will) was first organization to put the practice of Pisacane Philosophy. The Narodnaya Volya organization employed dynamite and bombings in its assassination campaigns against the

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56 Barry Rubin, *loc. cit.*
57 Bruce Hoffman, *op. cit.*, p.5.
officials of the Tsarist regime. To this group, “propaganda by deeds” meant the selective targeting of specific individuals whom the group considered the embodiment of the autocratic, oppressive state. Ironically, the assassination of Czar Alexander II on March 1, 1881 by Narodnaya Volya led to its burial. During this period, the followers of anarchism further developed terrorism as a weapon of propaganda and communication, which was called as “propaganda by the deeds”.

2.5.3.4 Contemporary Terrorism

The concept of revolution, maintained that a state could not be legitimate unless it represented the community of the nation. Nationalists and separatists maintained terrorism as means or methodology to outlaw the foreign rule. The profound impact of the French Revolution in the creation of modern terrorism and the ongoing calls for self-determination by those who seek their own national identity remains a very salient aspect of the causes of contemporary terrorism. Nevertheless, there are two significant changes: first, the development of terrorism, which goes beyond the call for self-determination in the context of a national state, and secondly, the emergences of non-state actors who challenge the primacy of the nation-state system in contemporary international affairs. In the 1960s, the terror continued as a new generation of revolutionaries attempted to overthrow what they regarded as repressive regimes. The newly created Third World countries advanced the argument that their fight against colonial oppression was not terrorism but rather the hard work of dedicated freedom fighters. These countries justified their actions by believing that the end justified the means.

59 Ibid.
The hijacking of aircrafts in order to achieve political goals became part of the repertoire of international terror immediately upon the introduction of the use of terror as an instrument to gain political achievements in the international arena. The Palestinian secular terror organizations were the first to employ aircraft hijackings as a central and effective weapon aimed at positioning the Palestinian problem as a focal point on the global agenda. They perpetrated large-scale attacks and killings against civil aviation targets in order to shake up world opinion. The Irish group, Irish Revolutionary Brotherhood or Irish Republic Army were among the first to recognize the importance of establishing a foreign base beyond the reach of their enemy in order to better sustain and promote a protracted terrorist campaign. Their use of time-delayed explosive devices so that the perpetrator could easily effect and escape, and thereby ensure the terrorist campaign’s sustainment, was another important innovation that became a standard feature of twentieth century terrorism.

Finally, terrorists targeting public places including mass transport-and subway systems-along with an almost callous disregard of innocent life have become commonplace. A significant turning point in the history of terrorism was the formation of Hezbollah (Party of God) formed in 1982 in response to the Israeli invasion of Lebanon. This Lebanon-based radical Shia group takes its ideological inspiration from the Iranian revolution and the teachings of the Ayatollah Ruhollah Khomeini. Sheik Ahmad Yassin formed Hamas, the main Islamic movement in the Palestinian territories in 1987 during the uprising against Israeli occupation of the territories. Hamas seek their identity in their Islamic roots. When the Soviets invaded the Afghanistan in 1979, thousands of Muslims under the banner of Mujahaddin declared the jihad against the Soviet Union. Pakistan
becomes the epicenter of the terrorism that led to the formation of Al-Qaida terrorist organizations.

The enlistment of Fundamentalist terror cells and organizations of the Sunni Stream, led by the Afghan ‘alumni’ in terror activity within the international arena, turned them into the dominant component in the international field, starting from the early 1990s to the present. The Afghan alumni mainly from within the Egyptian and Al-Qaida organizations adopted the suicide pattern within their terror repertoire. The targets of the Afghan alumni, as conceived by Osama Bin-Laden and his fellow leaders in “The International Islamic front for Jihad” dictated a world wide, violent and relentless struggle between Islam and its foes, and the battlefront was defined as the entire globe.62

The new terrorists are less hierarchically organised than their secular predecessors and consequently more difficult to spot, track and intercept. In the past terrorist groups organized themselves very much like a large corporation, that is, pyramidally and linearly, with a discernible descending or ascending power structure. Knowing the structure of the terrorist group made the fighting terrorism is easier.63 Islamic groups, such as Bin Laden’s Al-Qaida, that are fluid and not structured the same manner as secular groups of earlier periods. These new terrorist organizations carry the terrorist acts in hours rather than days because of modern transportation. Their global reach is further enhanced by instantaneous financial transactions, economical telecommunication system, and continuous worldwide media coverage.

Unfortunately, extraordinary technological advances that further enhance humankind’s capabilities also open up new venues for terrorists use and abuse.

63 Harvey W. Kushner, loc. cit.
Innovation and invention in this new century will clearly necessitate international cooperation to deal with scourge of terrorism. The use of the Internet to recruit potential terrorist is widely practiced throughout the world. The willingness of several terrorist factions currently active in the international arena to escalate their activities and cause mass carnage, without any restraints as to applied means and operation method, is an existing reality. In general, the direction in which terror is heading is a clear escalation that dictates the need to confront its threats directly and accurately.

2.6 Problem of Defining Terrorism

There is little agreement on what constitutes and who practices terrorism even among academics, intelligence agencies, militaries, and judicial systems and governments. Finding a definition of terrorism has haunted countries for decades. It is not possible to define the expression terrorism in precise terms or lay down what constitutes terrorism.64 Terrorism is very subjective and complex and it largely depends on an individual’s perceptions.65 One may relate to the victim or one may relate to the perpetrator, particularly if the perpetrator is from one’s own ethno-national, religious or ideological group. Noted terrorism scholar Bruce Hoffman suggests, “If one identifies with the victim of the violence, for example, then the act is terrorism. If however, one identifies with the perpetrator, the violent act is regarded in more sympathetic, if not positive light; and it is not terrorism”66.

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By nature, terrorism is a complicated and emotionally laden phenomenon. At one point of time, terrorists were proud in calling themselves as terrorists but later terrorists never admit that they are terrorists. Abraham Stern who was founder of terrorist organization of Stern Gang, who tried to liberate the Israel from the occupation of English rule, admitted that they were using the terrorist tactics, but they never considered themselves as terrorists.\textsuperscript{67} Terrorists perceive themselves as reluctant warriors, driven by desperation-and lacking any viable alternative to violence against a repressive state, a predatory rivals ethnic or nationalist group or an unresponsive international order. This characteristic of self-denial distinguishes the terrorist from the other types of political extremist. A communist or a revolutionary, for example, would likely readily accept and admit that in fact they are communist.

The terrorist, by contrast, will never acknowledge that he is a terrorist and will go to great lengths to evade and obscure any such inference or connection. The terrorist will always argue that it is society, the government, or the socioeconomic system and its laws that are the real terrorist, and if it were not for this oppression, he would not have felt the need to defend either himself or the population he claims to represent.\textsuperscript{68} Sheikh Muhammad Hussein Fadlalah, the spiritual leader of the Lebanese terrorist group said that “We don’t see ourselves as terrorists”, further explained, “We see ourselves as mujihadeen (Holy Warriors) who fight a Holy war for the people”\textsuperscript{69}.

After the massacre of Israeli athletes in Munich during the 1972 Olympics by PLO, United Nations and Western Countries wanted to condemn the terrorism based on violence but opposed by the Arab and African countries by saying “People who struggle

\textsuperscript{67} Georl Frank, \textit{The Deed}, (New York: Simoom and Schuster, 1963), p.34.
to liberate themselves from foreign oppression and exploitation have the right to use all methods at their disposal, including force".70

Arab and African countries argue that all _bona fide_ liberation movements are invariably decried as terrorist by the regime against which their struggles for freedom are directed. Further, their argument is that, it is not the violence itself that is germinating terrorism but its underlying causes, that is the misery, frustration, grievance and despair that produces the violent act. One man’s terrorist is another man’s freedom fighter theory was developed by Regan Government of USA during the Cold War by supporting the “All anti-Sandinista counter-revolutionary and insurgent armed bandits” in Nicaragua.71 Soviet Union in retaliation supported the Palestinian Liberal Organization (herein after referred as PLO) terrorist organization in the West bank and Gaza strip in Israel that is main ally of USA along with Arab world on the premises of Regan slogan “One man’s terrorist is another man’s freedom fighter”. Syria even went to the extent that “the international community is under legal and moral obligation to promote the struggle for liberation and to resist any attempt to depict this struggle as synonymous with terrorist and illegitimate violence”.72

Western states wanted to condemn the terrorism merely on the violence, in contrast the non-western world wanted to condemn the terrorism on the ground of motive or purpose of the violence. The world community failed in its attempt to define the terrorism. Even in India, the Law Commission of India while drafting the definition of terrorist act on the ground of violence in _the Prevention of Terrorist Act, 2002_ 73 (herein

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70 Bruce Hoffman, _op. cit._, p.24.
73 Act No 15 of 2002.
after referred as POTA) the People’s Union for Democratic Rights cautioned the Commission by saying that, “We should remember that what is called ‘terrorism’ is not always a matter of mindless violence. Often its roots are socio-political and governed by distinct and conflicting ideologies”.

Washington based RAND foundation commissioned by the USA Cabinet Committee to combat the Terrorism suggested that it is necessary to define the terrorism according to the quality of the act, not the identity of the perpetrator or the nature of the cause. For terrorism definition, the act of terrorism should not blend with the cause of terrorism otherwise the P.N. Ghatate; member of Law Commission rightly said that, “Those who draw circles around it are merely playing around with words beyond a point”. Jenkins said that, contemporary terrorism uses violence, or more appropriately the threat of violence, as instrument to propagate its ideology. Therefore, the terrorism should be defined “by the nature of the act, not by the identity of the perpetrators or the nature of their cause”.

Communities across the world after experiencing the horror of terrorist violence made major break through in arriving at a consensus to condemn terrorism in 1995. The U.N. General Assembly after considering the question of eliminating the terrorism in depth, in its forty-ninth sessions passed unanimous resolution condemning the terrorism under the title of “Measures to Eliminate International Terrorism”. General Assembly deeply concerned by the act of terrorism based on the intolerance or extremism decided to eliminate the international terrorism in all its forms and manifestations. All the State

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75 Ibid., at 19.
76 Bruce Hoffman, *op. cit.*, p.25.
77 General Assembly Resolution No 49/60, February 17 1995.
Members of the United Nations empathetically declared their condemnation of all acts, methods and practices of terrorism, as criminal and unjustifiable, wherever and by whomever committed. Further, the resolution unambiguously declares that the terrorist’s violence cannot be sheltered on the ground of political, philosophical, ideological, racial ethnic, religious or any other justifiable ground.

The General Assembly resolution no 49/60 is undoubtedly historical milestone in combating terrorism. Further, the same kind of resolutions were passed on the December 11 1995, December 17 1996, December 15 1997, and December 8 1998. Nevertheless, the spirits of the resolution were never matched by the actions of the states and absence of uniform definition of terrorism at international level is continued which is considered major flaw in combating terrorism at international level. On September 9 2001 Bin Laden’s Al-Qaida organization by its knowledge of technology and professionalism stunned the entire world by using the Airplanes as terrorist missiles, attacked the World Trade Centre and Pentagon buildings in USA and caused the massive casualties of human beings that was unparallel in the history of terrorism. The USA passed the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* that is called as USA PATRIOT ACT. UK passed the *Terrorism Act, 2000* in the place of earlier existing terrorist laws. India enacted the POTA.

Formulating the definition and typology of terrorism remains problematic, the search for common terrorist traits, operational patterns, mindset and motivation presents an equally difficult task. Political terrorism research guide, Alex Schmid said that, if we

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cannot define terrorism, then we could at least usefully distinguish it from the other type’s violence and identify the characteristics that make terrorism the distinct phenomenon. He analyzed 109 definitions of terrorism that are found in different laws across the world in order to discover the percentage of the key elements in those definitions.

<table>
<thead>
<tr>
<th>SN</th>
<th>Element</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Violence, force</td>
<td>83.5</td>
</tr>
<tr>
<td>2</td>
<td>Political</td>
<td>65</td>
</tr>
<tr>
<td>3</td>
<td>Fear, terror</td>
<td>50</td>
</tr>
<tr>
<td>4</td>
<td>Threat</td>
<td>47</td>
</tr>
<tr>
<td>5</td>
<td>Psychological effects</td>
<td>40.5</td>
</tr>
<tr>
<td>6</td>
<td>Victim-target differentiation</td>
<td>37.5</td>
</tr>
<tr>
<td>7</td>
<td>Purposive, planned, systematic, action</td>
<td>32</td>
</tr>
<tr>
<td>8</td>
<td>Method of combat, strategy, tactic</td>
<td>30.5</td>
</tr>
<tr>
<td>9</td>
<td>Breach of rules without humanitarian aspect</td>
<td>30</td>
</tr>
<tr>
<td>10</td>
<td>Coercion Extortion</td>
<td>28</td>
</tr>
<tr>
<td>11</td>
<td>Public aspect</td>
<td>20.5</td>
</tr>
<tr>
<td>12</td>
<td>Arbitrariness: Indiscrimination character.</td>
<td>20</td>
</tr>
<tr>
<td>13</td>
<td>Civilians, non-combatants as victim</td>
<td>17.5</td>
</tr>
<tr>
<td>14</td>
<td>Intimidation</td>
<td>17</td>
</tr>
<tr>
<td>15</td>
<td>Innocence of victim</td>
<td>15.5</td>
</tr>
<tr>
<td>16</td>
<td>Group movement, of perpetrator</td>
<td>14</td>
</tr>
<tr>
<td>17</td>
<td>Symbolic aspect, demonstration to others</td>
<td>13.5</td>
</tr>
</tbody>
</table>

81 Ibid.
The first five elements found in the definition of terrorism are more than 40%. Therefore, general understanding that the terrorism involves (1) an act in which violence or force is used or threatened, (2) it is primarily a political act, (3) it is intended to cause fear or terror in order to achieve, (4) psychological effects and reactions. These provide an objective understanding of what constitutes terrorism. First, the victims of terrorist attacks are usually civilians because they are easy target. Second, the perpetrators are not recognized as combatants- they do not carry arms openly and does not wear the warfare dress code. Third, the terrorists do not respect the norms of war of Geneva Convention for the Protection of Civilians in Time of War, 1949. Fourth, terrorist acts are by nature symbolic and not instrumental, the act itself is not sufficient to bring about the desired change. Fifth, the immediate victims of the attack are not necessarily the intended targets- the intended targets are the wider audience. It is the reactions of the wider audience, reaction of fear and terror, which are sought to influence government to bring about the desired change. The USA’s various agencies have adopted the different definitions.\textsuperscript{82}

<table>
<thead>
<tr>
<th>SN</th>
<th>Agency</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Department of defense.</td>
<td>The calculated use of unlawful violence to inculcate fear, intended to coerce or to intimidate governments or</td>
</tr>
</tbody>
</table>

\textsuperscript{82} Bruce Hoffman, \textit{op. cit.}, pp. 30-31.
societies in the pursuit of goals that are generally political, religious, or ideological.

<table>
<thead>
<tr>
<th>2</th>
<th>FBI</th>
<th>[T]he unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>State Department, (CIA), uses Title 22 of the U.S. Code-Section 2656f (d) of 1983.</td>
<td>[P]remediated, politically motivated violence perpetrated against noncombatant targets by sub national groups or clandestine agents, usually intended to influence an audience.</td>
</tr>
</tbody>
</table>

Not surprisingly, each of the above definition reflects the priorities and particular interests of the specific agency involved.\(^{83}\) The State Department definition describes that the violence must be premeditated and victims of violence must be noncombatants. The word noncombatant in the definition includes even the military personal who are not involved in the state of military hostility affairs at the site. Terrorist attack on the U.S. Air Force housing complex in Khobor in Saudi Arabia and seaborne suicide assault on a U.S. Navy destroyer in October 2000 in Yemen were considered as terrorist acts. This definition does not address the psychological effect of the terrorism and fails to mention the illegal nature of act.\(^{84}\) Terrorism is deliberately conceived to have far-reaching psychological repercussions beyond the actual target of the act among a wider, watching ‘target’ audience. “Terrorism” as Jenkins rightly observed is a “Theater”.\(^{85}\) Perpetrator of terrorism has to be sub national character under this definition.

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\(^{83}\) Ibid.  
\(^{84}\) William G. Cunningham, *op, cit.*, p.22.  
FBI’s object is to investigate and solve the crime; naturally, the definition of terrorism has to be in wider sense. Therefore, it includes military and police personnel under the target of terrorism. FBI definition addresses the illegitimate nature of acts but does not mention the actor of terrorism. It does suggest the political, social must be objectives of violence of terrorism, and considers the psychological effect of terror. The Department of Defense definition of terrorism is arguably the most complete one. It focuses on the terrorist threat as much as the actual act of violence and highlights the terrorism’s targeting of entire societies including government and its force. The Department of Defense adds religious and ideological objectives and eliminates general social ones. It mentions the unlawful nature of act but fails to address the issue of actor.

*UK Terrorism Act, 2000* defines terrorism,

1) In this Act “terrorism” means the use or threat of action where—

   a) the action falls within subsection (2),
   
   b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and
   
   c) the use or threat is made for the purpose of advancing a political, religious or ideological cause,

2) Action falls within this subsection it---

   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

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86 Section 1 of the *Terrorism Act, 2000.*
e) is designed seriously to interference with or seriously to disrupt an electronic system.

3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosive is terrorism whether or not subsection (1) (b) is satisfied.

4) In this section –
   a) ‘action’ includes action outside the United Kingdom,
   b) a reference to any person or to property is a reference to any person, or to property wherever situated,
   c) a reference to public includes a reference to the public of a country other than the United Kingdom and
   d) ‘the government’ means the government of the United Kingdom, of a Part of the United Kingdom or of a company other than the United Kingdom.

The UK definition of terrorism is wider than the USA’s definition. The components of this definition are, the victims of terrorist may be either civilians or non-civilians, the violence might have been used or threaten to be used, and the object of terrorism may be political, religious, ideological, and psychological effect of violence on the people and government. This definition added the disturbance of electronic hardware or software system to the concept of terrorism that is plausible because the society much depends upon those systems.

Bruce Hoffman British political expert on terrorism defines terrorism\(^{87}\) as under:

> “[It] is the deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change. All terrorist acts involve violence or the threat of violence. Terrorism is specially designed to have far-reaching psychological

\(^{87}\) Bruce Hoffman, *op. cit.*, pp. 39-40
effects beyond the immediate victim[s] or object of the wider “target audience” that might include a rival ethnic or religious group, an entire country, a national governmental or political party or public opinion in general. Terrorism is designed to create power where there is none or to consolidate power where there is very little. Thorough the publicity generated by their violence, terrorist seeks to obtain the leverage, influence, and power they otherwise lack to effect political change on either a local or an international scale”.

Paul Wilkinson, a political expert on terrorism from UK defines: “Terrorism is the systematic use of coercive intimidation, usually to service political ends. It is used to create and exploit a climate of fear among wider target group than the immediate victims of the violence, often to publicize a cause as well as to coerce a target into according to terrorist aim”.88 Supreme Court while upholding the Constitutional validity of POTA endorsed the definition of terrorism given by Paul Wilkinson.89 Above two definitions describes the following characteristics,

1. It is premeditated and designed to create a climate of extreme fear.
2. It is directed at a wider target than the immediate victims.
3. It inherently involves attacks on random or symbolic targets, including civilians.
4. It is considered by the society in which it occurs as ‘extra-normal’.
5. It is used primarily, though not exclusively, to influence the political behavior of government, communities or specific social group.

Indian legislators did not attempt to define the terrorism because they are aware of the inherent difficulty in the definition of terrorism but defined the terrorist act.90 The Supreme Court in Hitendra Vishnu Thakkur and Others v. State of

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89 People’s Union for Civil Liberties v. Union of India, AIR 2004 SC 456, at 464.
Maharashtra and others,\(^91\) explained the problem of defining the terrorism and nature of terrorism and quote,

“Terrorism” has not been defined under the TADA nor is it possible to give a precise definition of “terrorism” or lay down what constitutes ‘terrorism’. It may be possible to describe it as use of violence when its most result is not merely the physical and mental damage of the victim but the prolonged psychological effect it produces or has the potential of producing on the society as a whole”.

In *Devender Pal Sing v. State of N.C.T of Delhi*,\(^92\) the Supreme Court observed that it is difficult to define terrorism. However, it proceeded to quote Walter Laqueur’s definition, which reads - “Terrorism constitutes the illegitimate use of force to achieve a political objective when innocent people are targeted.”

The prima facie difference between the terrorism and terrorist act is blurred because of the General Assembly resolution that condemns the terrorism in its entire format wherever and by whoever committed.\(^93\)

Section 15 of the IV chapter of *the Unlawful Activities (Prevention) Act, 1967* \(^94\) is amended by the *Unlawful Activities (Prevention) Amendment Act, 2008* \(^95\) that defines “terrorist act” as follows:

“It means, whoever does any act with intent to threaten or likely to threaten the unity, integrity, security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,

a) By using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances [whether biological radioactive, nuclear or otherwise] of

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\(^92\) AIR 2002 SC 1661, at 1665.

\(^93\) General Assembly Resolution No 49/60 dated February 17 1995.

\(^94\) Act No 37 of 1967.

\(^95\) Act No 34 of 2008.
a hazardous nature or by any other means of whatever nature to cause or likely to cause,

(i) death of, or injuries to, any person or persons; or
(ii) Loss of, or damage to, or destruction of, property; or
(iii) Disruption of any supplies or services essential to the life of the community in India or in any foreign country; or
(iv) Damage or destruction of any property in India or in a foreign country used or intended to be used for the defense of India or in connection with other purposes of the Government of India, any State Government or any other agencies; or

(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or

(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a Foreign country or any other person to do or abstain from doing any act, commits a terrorist act.

This definition is wider than that of the USA and UK terrorist laws. The USA and UK defines the ‘terrorism’ and Indian legislation defines the ‘terrorist act’. The FBI, State department and department of defense of USA does not expressly mention the disruption of essential service and supplies as terrorist act, where as UK mentions only disruption of electronic system is terrorist act. Further, the USA and UK legislations are silent on the mode of executing terrorist act. However, Indian Act prescribes the mode of
executing terrorist act, that is by means of explosive or chemical substance or intimidation or kidnapping of persons. Striking terror from the Indian soil to foreign country and compelling such country to perform or not to perform an act is also terrorist act under Indian statute. The definition has expanded terrorist act to international terrorist acts.

2.7 Terrorism and Crime

Undoubtedly, terrorism is part of crime but it ought to be distinguished from the crime because it is measured by different parameters. The Supreme Court rightly observed that, every ‘terrorist’ may be a criminal but not every criminal can be given the label of a ‘terrorist’. The following table brings out the difference between terrorism and crime.

<table>
<thead>
<tr>
<th>SN</th>
<th>Terrorism</th>
<th>Crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Motive is political, ideological, or social</td>
<td>Motive is personal satisfaction</td>
</tr>
<tr>
<td>2</td>
<td>Use of highly technical weapons</td>
<td>Use of conventional weapons</td>
</tr>
<tr>
<td>3</td>
<td>Act effects abnormal violence</td>
<td>Act effects normal violence</td>
</tr>
<tr>
<td>4</td>
<td>Intention to strike terror</td>
<td>Intention not to strikes terror</td>
</tr>
<tr>
<td>5</td>
<td>Victims of terrorist act are persons who are watching or hearing that act.</td>
<td>Victims of crime are immediate target</td>
</tr>
<tr>
<td>6</td>
<td>Victims selected randomly or indiscriminately.</td>
<td>Victims not selected randomly or indiscriminately.</td>
</tr>
</tbody>
</table>

2.8 Terrorism and Typologies

Modern terrorism has more than 200 years of history in which it developed different types of terrorism at different point of time due to various reasons. Moreover, terrorism is a global phenomenon and what may be an accurate observation of terrorist groups in the Middle East may not be necessarily true in Latin America or Asia. This is due to the socio-economic, political and cultural context in which these groups operate. Therefore, Professor Paul Wilkinson observed, “terrorism is dynamic and should be situationally defined”.\(^\text{97}\) Further, the phenomena of terrorism changes over time while our understanding of theory remains static. Professionals and scholars have described different types of terrorism. Nevertheless, because of definitional problem of terrorism, there are no universally accepted types of terrorism.

The Kinds of terrorism as follows.

1. State terrorism
   a) State sponsored terrorism
   b) Internal repression
2. Non-State terrorism
   a) Political ideological terrorism
   b) Ethno-nationalism terrorism
   c) Religious terrorism.
3. International terrorism
4. Domestic terrorism
5. Bio-terrorism
6. Cyber terrorism

2.8.1 State Terrorism

Based on actor of terrorism, the terrorism is divided into state and non-state terrorism.\(^{98}\) State terrorism needs to be recognized that throughout history, states and regimes with their overwhelming preponderance of coercive power, which have shown the greatest propensity for terror on a mass scale. State terrorism is committed by government and quasi-government agencies and personnel against adversaries in the international domain or internally against domestic enemies. This form of terrorism is referred to as “terror from above”.\(^{99}\) The democratic as well as authoritarian governments have practiced and sponsored the state terrorism in its various forms since the upsurge of terrorism in the 1960. Walter Laqueur has said, “Acts of terror carried out by police states and tyrannical governments have been responsible for a thousand times more victims and more misery than all actions of individual terrorism taken together”.\(^{100}\)

The United States has been the most “rogue” of “rogue-sates,” having conducted almost 70 ‘interventions’ in other countries since 1945, almost half of which have involved bombings.\(^{101}\) Government would choose to use terrorism as a viable foreign policy option.\(^{102}\) Virtually mighty governments “justify” their terrifying acts of violence against “enemies” and the “state” that harbor them by lofty appeals to “national security” the “right to self-defense,” and, ironically “for the sake of peace.” For weak nations, terrorism is associated with type of covert or surrogate warfare whereby weaker states could confront powerful rivals without the risk of retribution.

\(^{98}\) Ibid., at 25.
\(^{101}\) Ibid.
\(^{102}\) Bruce Hoffman, op. cit., p.27.
State terrorism takes in three kinds of form. First, State performed terrorism. Second, State-sponsored terrorism. Third, State terrorism in internal repression. In State performed terrorism, the state government directly carries out the terrorist activities and rules out the use of any external group as proxy terrorism. Terrorism by States is characterized by official support for polices of violence and intimidation. This violence and coercion is directed against perceived enemies. State terrorism incorporates many types of violence like, genocide, assassinations, torture and kidnappings. The Hitler regime carried out the terrorist acts in other states during his period. The Taliban government with assistance of the Al-Qaida organization carried out the terrorist acts in the western countries. Saddam Hussein the then ruler of Iraq committed the terrorist acts in Kuwait. Libya’s then the ruler Gaddafi’s officials were involved directly in bombing the Pan America Airline in Luxberg.

2.8.1.1 State-Sponsored Terrorism

State sponsored terrorism is not always a straightforward process. It can be defined as a government lending support to kindred external groups engaged in terrorism, whether that state defines that group’s behavior as terrorist or not. Frequently a covert, secret policy allows states to claim ‘deniability’ when accused of sponsoring terrorism. Governments never claim that they support terrorists, but they often claim to support ‘liberation struggles’ and ‘independence movements’. A distinction must be made between state terrorism and state sponsored terrorism. State terrorism is that in which the state is overtly and directly linked to terrorist behavior. On the other hand, state sponsored terrorism is that in which the state is tacitly and indirectly linked to terrorist behavior. This can take the form of ideological support, finical support, military support,
and providing the safe haven to the terrorist organizations. State sponsored terrorism is externally directed and its purpose is to influence the behavior of target groups outside of the sponsoring state. This is often viewed as a form of proxy warfare. An example of this would be Pakistan supporting various Kashmiri terrorist organizations in their soil on the ground that they are freedom fighter.\textsuperscript{103} Syria and Iran sponsored the Hezbollah and Hamas terrorist organizations and other Arab countries supported PLO terrorist organizations against Israel government.\textsuperscript{104}

2.8.1.2 Internal Repression

The third form of state terrorism is internal repression. State terrorism as domestic policy refers to the state’s politically motivated application of force inside its own borders. The state military, law enforcement authorities, and other security institutions are used to suppress perceived threats. Their methods include trials with predetermined verdicts on political opponents, punishing family or friends of suspected enemies of the regime, and extra-legal use of police or military force against the population. These activities are further assisted by the death squads. The purpose of domestically focused terrorism is to demonstrate the supreme power of the government and to intimidate or eliminate the opposition from its own people. Violent State repression against reformers and revolutionaries has been a common occurrence that has been justified by rulers since the dawn of the nation-state. Stable democracies with strong constitutional traditions will usually enforce state authority with measured restraint. Regimes of total authoritarian or weak constitutional traditions enforce the state authority with little or no restraint. Examples of these kinds are Hitler’s regime against his opponents, Saddam Hussein  

atrocities on Kurdish people, and Afghanistan Taliban regime’s atrocities on the non-Muslims and others who opposes the government.

2.8.2 Non-State Terrorism

Non-state terrorism is generally called as ideological terrorism that is further divided as political ideological terrorism, ethno-nationalism terrorism and religious terrorism.\textsuperscript{105} Non-State terrorism is for some time referred as “terrorism from below”.\textsuperscript{106} There are number of non-state player involved in terrorism with multifarious purposes and objects. These groups obliviously have different motivation for terrorism. They include left wing communists to right wing neo-Nazis in Europe. This would further include multitude ethnic and sub-national groups that seek autonomy and independence. There is growing trend in religiously motivated groups across the universe to propagate and impose their religion over other persons of other religions that has given birth to recent religious terrorism.

Numbers of researchers have tried in different ways to categories these divergent groups on above-mentioned manner. Contemporary terrorism is more complex phenomenon. There may be several reasons for the emergence of terrorism. Some of may be genuine and some may be made to appear genuine by the vested stake. Some of the genuine causes of terrorism may be listed as economic deprivation, political frustration, regional disparities and intervention into religious, social and personal freedom of the people. Motivation of terrorist group is more scientific criteria to categories them. The reason why motivation is key factor in categorizing them because understanding motivation will provide insight into how to develop appropriate counterterrorism and

\textsuperscript{105} Supra note 95.
\textsuperscript{106} Gus Martin, \textit{op. cit.}, p.113.
conflict management and resolution. Broadly, non-state terrorist groups are primarily motivated by political ideology, ethno-nationalism or religious extremism. The one underlying factor to all of these is the perception that their ideology, identity or religion is under threat. One must always remember that a group that one views or labels as a terrorist organization may also be viewed by others as freedom fighters. It has been stated that almost all ideologically inspired terrorists believe that any means is justified to carry out his or her ideological objectives.

Terrorists who purpose to replace what they see as a corrupt or useless system of government with another model or idea, which is known, as political ideology. Marxist ideologists are described as “extreme left wing” and more liberals and capitalist are described as “extreme right wing”. Left-wing group seeks a more inclusive governing system and greater rights and equality for individual members of the society. Right-wing group seeks a more elitist form of government where appropriate persons govern, and they accept inequality as a principle of nature. Ethnic terrorism is terrorism involving an ethnic group. Ethnic groups are often minorities and they usually feel themselves as oppressed or threatened by the majority or government. Ethnic terrorism is often product of government interventions against ethnic minorities. When a government acts with force to stifle the dissent of an ethnic minority against government rule, the actions tend to polarize the opposition and induce a stronger-than anticipated reactions. Ethnic terrorism enjoys more public support compare to the support of political terrorism.

The goals and objectives of ethnic terrorism are to secure some level of autonomy or independence from the majority dominated state structures. Violence committed in the

107 William G. Cunningham, *op. cit.*., p.27.
name of the faith is feature of religious terrorism that the terrorist organizations feel that it is desirable and please their God. “I have no regrets, I acted alone and on orders from God”.” said Yigal Amir, the young Jewish Extremist who in 1995 assassinated Israeli Prime Minister.\textsuperscript{110} Sheik Muhammad Hussein Fadlallah justifies the Islamic terrorism on the ground of self-defense in the name of “Jihad” which means in Islam is a defensive movement against those who impose violence.\textsuperscript{111} The birth of Hamas and Hezbollah gives rise to religious terrorism. Al-Qaida the most notorious, deadliest religious terrorist organization ever known in the history of humankind. Religious terrorism is more dangerous than other form of terrorism because terrorist not only believes in moral authority to take life but they have authority from the God.

2.8.3 International Terrorism

Another classification of terrorism is either domestic or international terrorism. International terrorism involves citizens of more than one state. The United States Department of State defines international terrorism as “terrorism involving citizens or the territory of more than one country”.\textsuperscript{112} The Kashmiri terrorist organizations like Hizabul Mujahideen, Indian Mujahideen and Lashkar-E-Tayabba are called international terrorist organizations because they chalk out the terrorist attack from Pakistan soil; they recruit the perpetrators from different nations and execute the terrorist plan in India. The Al-Qaida, PLO, LTTE are some other examples of international terrorist organizations.

\textsuperscript{110} Bruce Hoffman, \textit{op. cit.}, p.82.
\textsuperscript{111} \textit{Ibid.}, at 90.
2.8.4 Domestic Terrorism

Where the indigenous terrorists target the domestic people and carry the terrorist attack inside the state territory, it is called as domestic terrorism. Here all the perpetrator of terrorist acts and victim of terrorism belong to the nation in which the terrorist violence is executed. The Malegon bomb blast by the Hindu fundamentalists is an example of domestic terrorism because the actors and victims both belong to India. The terrorist act by the ethnic community in the eastern northern place is another example of domestic terrorist act.

2.8.5 Bioterrorism

During the 1990s, the terrorism is further classified on the ground of its destruction as Bioterrorism and Cyber Terrorism. The group’s targets as well as their areas of operation determine these categorizations. The release of deadly nerve gas in the Tokyo metro in March 1995 by Aum Shinrikyo terrorist group raised the alarm of Bioterrorism that become a subject of widespread concern. Terrorist are attracted to biological weapons because it could cause mass casualties on an unprecedented scale.

There is no commonly accepted definition of bioterrorism. Bioterrorism is assumed to involve the threat or use of biological agents by individuals or groups.\textsuperscript{113} Biological Diseases are those most likely to do the most damage. They include Anthrax, Botulism, Plague, Smallpox, Tularemia, and Hemorrhagic fever.\textsuperscript{114}

Bioterrorism differs significantly from the other forms of terrorism. In the traditional terrorist attack, there is immediate evidence that something has happened. In contrast, a biological agent attack is unlikely to generate any visible signatures, and the

\textsuperscript{113} Seth Carus, W. Bioterrorism and Bio-crimes, (Centre for Counter Proliferation Research National Defense University Washington, D.C. 2001), p.3.

\textsuperscript{114} Ibid.
first evidence of a biological attack is likely to be the onset of diseases. Thus, it might be
days or even weeks before the consequences of a biological attack become evident and
some times, it becomes impossible to determine that an outbreak resulted from an
intentional act. Terrorist have used the biological agents, but rarely and with relatively
little effect and only five groups, that used or tried to use biological agents. Overall, the
CIA concluded, “The current WMD terrorist threat is considered low but increasing.”

2.8.6 Cyber Terrorism

The global information infrastructure has become vital to economics all over the
world, so much that it presents itself as a primary targets for terrorist attacks. Cyber
terrorists use information technology to attack civilians and draw attention to their cause.
More often, cyber terrorism refers to an attack on information technology itself in a way
that would radically disrupt net worked services. In 1998, Centre for Strategic and
International Studies defined cyber terrorism as “premeditated, politically motivated
attack by sub national groups or clandestine agents or individuals against information and
computers programs, and data that results in violence against noncombatant targets.”

As a nation’s economy becomes more dependent on computes, and the Internet becomes
an increasingly integral part of society, new digital vulnerabilities make computerized
network system potential targets to an increasing number of terrorist attacks.

2.9 Conclusion

Enduring terrorism may be as unreachable as a goal as ending warfare; human
conflict, in terrorism’s case bloody and indiscriminate, shows little sign of resolution.

115 Ibid.
116 United States Senate, Select Committee on Indigence, Current and Projected National Security Threats
to the United States, p.94.
117 Andrew Micheal Colarikm, Cyber Terrorism: Political and Economical Implication, (London: Idea
Even should Al-Qaeda be destroyed, terrorism will continue, displaying the common characteristics bequeathed by its predecessor. Poverty, social injustice, ethnic and cultural conflict and political inequality, exploited by religious and ethnic intolerance and radicalism, egged on by maniacal leaders show no sign of abating in the future. The fundamental characteristics and principles of terrorism will not change either. This should not be taken to imply terrorism is a static phenomenon, subject to predictable routine or slavish adherence to past doctrines. Rather terrorist adapt to the changing conditions it confronts and molds itself to the unique cultural, political, and social situation in which they find themselves. There is changing trend in contemporary terrorism that seems to be moving away from terrorism as symbolic violence, as a communicative act, to instrumental violence or a form closer to actual warfare. Emergence of state sponsored terrorism and religious terrorism has changed the face of terrorism. Unlike, traditional terrorism, the modern terrorism is more innovative, interested in weapons of mass destruction (WPD), indiscriminate attack on the innocent people, and finally, less defined aims or objectives. New Terrorism is more amorphous, more diffuse, and often planned and committed by “freelance” or “walk-on” terrorist.\textsuperscript{118} State sponsored terrorism has enhanced the capabilities and operational capacity of otherwise limited terrorist group. It must be clearly understand that terrorism or terrorist is not of one type. There is no single cause that unite them all. The only single variable that is common is their willingness to resort to violence. The lack of agreement on a definition of terrorism has been a major obstacle to meaningful International Counter measures because the old adage, “one man’s terrorist is another man’s freedom fighter” is still alive.\textsuperscript{119} The simple definition of

\textsuperscript{118} Paul Wilkinson, \textit{op. cit.}, p.134.

\textsuperscript{119} Devandra Pal Sing \textit{v. Union of India}, AIR 2002 SC 1661, at 1665.
terrorism is use of violence or the threat of violence to create an atmosphere of fear and alarm in society, to terrorize- and thereby bring about some social or political changes. Therefore, it is difficult but not impossible to offer any comprehensive definition of terrorism unless international community resolves its differences.