
TRACING EVOLUTION OF INTERNATIONAL TERRORISM AND IT'S CORELATION WITH ORGANISED CRIME

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ABSTRACT

The trajectory of international terrorism has undergone profound shifts over the past few decades, transitioning from state-sponsored actors to decentralized networks and lone wolves. This evolution has been catalysed by various factors including geopolitical dynamics, technological advancements, and socio-economic disparities.

Simultaneously, along with the rise in terrorist activities to combat the same multiple roles have been undertaken by the United Nations General Assembly and the United Nations Security Council through multiple conventions and resolutions. Further, the minimal intervention by the International Criminal Court due to its statutory drawbacks reflects the loophole existing in the current system. Concurrently, organized crime groups have adapted and diversified their operations, leveraging globalization and technological innovation to expand their illicit activities across borders.

Terrorist organizations often engage in criminal activities such as drug trafficking, arms smuggling, and human trafficking to finance their operations and procure resources. Conversely, organized crime syndicates exploit terrorist networks for protection, logistical support, and access to ideological motivations.

By elucidating the interplay between these phenomena, this abstract seeks to inform academic discourse and policy deliberations aimed at fostering global security and resilience in an increasingly interconnected world by analysing the roles undertaken by the United Nations, International Criminal Court, and the syndicate with organised criminal groups.

Keywords: Terrorism, United Nations, Organised Crime, Conventions, and security.

INTRODUCTION

Ideological warfare, fundamental extremism, or challenge to the concept of sovereignty, the ongoing debate merged with activities of violence and constant fear or state of fear has led to the emergence of several so-called pressure groups. These groups tend to use terror as a medium to enforce and impose the fundamentals they preach and profess. Here is the issue, in an era characterized by unprecedented global interconnectedness the impact of these groups is felt universally. The issue is no longer between two or three pressure groups impacting other groups, now, it is a worldwide crisis having effects on economics, resources, cultural identities, political will, and ultimate impact on individuals.

The plague of international terrorism threatens global peace, security, and human rights. International terrorism is a complicated phenomenon that crosses geographical boundaries, using sophisticated methods and ideologies to perpetrate violence and spread fear. Understanding and effectively countering this threat requires a thorough investigation from a variety of angles, including legal frameworks, sociopolitical processes, and security precautions. *“The phenomenon of international terrorism has become a major threat to global peace and security, as evidenced by the numerous terrorist attacks that have occurred in different parts of the world in recent years.”*¹ For instance, any discussion on this subject-matter is incomplete without mentioning the unimaginable damage caused on September 2001 in the United States by destroying the twin towers allegedly by Al Qaeda, a terrorist organisation that is based in Afghanistan².

The concept of terrorism has a long and contentious history, with definitions and views shifting over time, countries, and settings. However, in the modern day, terrorism has come to be defined as the intentional use of violence, frequently against civilians, to achieve political, ideological, or religious goals. What separates international terrorism is its transnational nature, which includes attacks that cross national borders and affect numerous states or areas.³

¹ Callistus Azubuike, Shedrack Igboke and Arinze Okonkwo, ‘Globalization and International Terrorism: Its Implications on Global Peace and Security’.

² 1615 L. St NW, Suite 800 Washington and DC 20036 USA 202-419-4300 | Main 202-857-8562 | Fax 202-419-4372 | Media Inquiries, ‘International Terrorism - Research and Data from Pew Research Center’ (*Pew Research Center*) <<https://www.pewresearch.org/topic/international-affairs/international-issues/international-terrorism/>> accessed 29 March 2024.

³ Katharine Petrich, ‘Transnational Organized Crime and Terrorism’, *Oxford Research Encyclopedia of International Studies* (2022)

International terrorism has evolved during the latter part of the twentieth century, with major instances including commercial airline hijackings in the 1970s and the formation of militant groups such as the Palestine Liberation Organization (PLO) and the Red Army Faction (RAF). However, the events of September 11, 2001, were a watershed point in the worldwide understanding of terrorism, propelling it to the forefront of international security concerns and causing a paradigm shift in counterterrorism efforts.⁴

The current paper shall delve to understand the basic concept of the term terrorism, expand on the idea of how it adopts an international character, analyse the resolutions and conventions adopted by the United Nations and develop its correlation with organised crime.

Objective of the Study-

- To analyse the evolution of international legal frameworks addressing terrorism and their effectiveness in combating contemporary threats.
- To evaluate if organised crimes and terrorism collaborate to increase vulnerabilities.

Hypothesis-

International legal frameworks provide essential tools for addressing terrorism. However, significant gaps and challenges persist, particularly in defining terrorism, establishing jurisdiction, and differentiating it with organised crimes.

Research Questions-

- How has the concept of terrorism evolved in international law?
- How does the United Nations handle the issue of terrorism through the conventions and resolutions adopted?
- What is the co-relation between transnational organised crimes and terrorism?

<<https://oxfordre.com/internationalstudies/display/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-c-705>> accessed 25 March 2024.

⁴ Hannah Hartig and Carroll Doherty, 'Two Decades Later, the Enduring Legacy of 9/11' (*Pew Research Center - U.S. Politics & Policy*, 2 September 2021) <<https://www.pewresearch.org/politics/2021/09/02/two-decades-later-the-enduring-legacy-of-9-11/>> accessed 25 March 2024.

Research Methodology-

This research will adopt a doctrinal analytical approach, drawing on legal analysis, and explore the complexity in the international terrorism. Primary sources such as international treaties, legal documents, and case law will be examined, supplemented by secondary sources including academic literature, policy reports, and expert analyses.

Scope of the Study-

Terrorism is a multifaceted issue emerging in several domains with the advancement in technology and globalisation. However, for the purpose of this research, the research is restricted to only conventions adopted by the United Nations and the co-relation between terrorism and organised crime. It is imperative to acknowledge the fact that terrorism from an academic perspective has several other branches such as decoding on a national front of the Unlawful Prevention Activities Act along with the latest Bhartiya Nyaya Sanhita and addressing new aspects such as cyber terrorism. However, for the purpose of this paper these aspects have not been discussed.

EVOLUTION OF TERRORISM

Renowned author Jacques Chirac quoted that, *“Terrorism has become the systematic weapon of a war that knows no borders or seldom has a face.”* Now here comes the factors along with subjectivities towards understanding the term terrorism in its true sense. The underlying issue can be varying to multiple dimensions. For instance, for some nations terrorism might be seen as religious radical groups, for others it may be imperialistic groups and military organisations as well might be terrorist groups for some nations. This makes the issue complicated resulting in the fact that there is no universal accepted definition of terrorism.⁵

The term's meaning has altered constantly during the past 200 years. Historically, freedom fighters fought for their countries' independence from colonial oppression. It had a favourable element. Then it was viewed as a groundbreaking concept. Minority groups used violence to express their strength in response to perceived threats from the majority. Many individuals mistake terrorism for guerilla warfare. Then, state-sponsored terrorism increased. A terrorist

⁵ Shubhra Sanyal, 'International Laws to Control Terrorism: A Comparative Study' (14 September 2015) <<https://papers.ssrn.com/abstract=3232739>> accessed 25 March 2024.

outfit received financial and training support from the state. That group's area of operation was easy to identify. Identifying the perpetrators of such attacks has become increasingly challenging. Today, terrorists are supported by private persons rather than states, making it a society-sponsored phenomenon.⁶

Terrorism and Intersection with Criminal Law-

For an offence to be placed under the ambit of international criminal law, it has to be categorized whether the conduct or offence in question is international, which means if it is against the world community, or whether the act has transnational effect, affecting the interests of more than one state. To further categorise, the classification can be bifurcated into two separate categories of offences, first, the heinous crimes to the international community i.e. *delicta juris gentium*, which are crimes against mankind, such as genocide, crimes against humanity and piracy. Second, offences only affect the interest of more than one State and that to resolve the same it requires international legal cooperation in criminal matters for their effective prosecution. For instance, the case in crimes relating to terrorist acts, money-laundering, financial crimes, wilful damage to the environment, or child pornography.

Defining Terrorism-

The term 'terrorism' originated during France's Reign of Terror in 1793-94. Initially, the organizers of this systematic campaign to purge "traitors" from the revolutionary ranks extolled terror as the best means to defend liberty, but as the French Revolution deteriorated, the word quickly took on dark overtones of state violence and guillotines. The term terrorist came into general use to denote those revolutionaries who sought to use terror systematically either to further their views or to govern whether in France or elsewhere.⁷

The word terror is of Latin origin (from *terrere* and *deterre* which means to tremble). When combined with the French suffix "*isme*" referencing "to practice," it becomes more like "to practice trembling" or "to cause or create the trembling." According to Walter Lacquer, 109 definitions of terrorism were presented from 1936 to 1981.⁸ The author defines terrorism as the use of violence as a strategy to achieve specific goals, instilling fear in victims, violating

⁶ Fareed Zakaria, "Terrorists don't need States", Indian Express, Chandigarh, March 31, 2004.

⁷ Paul Wilkinson, *Political Terrorism*, (The Macmillan Press Ltd., London, 1976), p. 9

⁸ Shruti Gupta, 'Terrorism an Analytical Study of International and National Legal Control Regimes' [2005] University <<https://shodhganga.inflibnet.ac.in:8443/jspui/handle/10603/88144>> accessed 25 March 2024.

humanitarian norms, and relying heavily on publicity. The author argues that the goal of terrorism is to instil fear, whether through threats or violence. However, to legal declare it as an illegal act one must legally define what terrorism might mean.

The United State Department's definition of terrorism was adopted in the wake of the 1972 tragedy at the Munich Olympics where Palestinian terrorists from the Black September Organisation brutally murdered nine Israeli athletes. As per the United States State Department, *"terrorism means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents usually intended to influence an audience."* This definition reflects the perspective of the United States, herein, they focus on the deliberate and calculated acts of terror, rather than spontaneous acts. Further, it focuses on the political aspects of terrorism.⁹

Later President Bush signed Executive Order 13224 on September 23, 2001 where for the order the term terrorism was defined to be, *"An activity that involved a violent act or an act dangerous to human life, property, or infrastructure; and appeared to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking."*¹⁰

Prevention of Terrorism Act, 1976 of the United Kingdom defines terrorism as, *"The use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the community in fear."*¹¹ Therefore, terrorism's subjective nature and contextual unpredictability make it difficult to categorize. Scholars and politicians, on the other hand, have presented a variety of definitions, each representing a unique intellectual framework and ideological stance.

One widely cited definition of international terrorism is provided by the United Nations General Assembly in its Resolution 49/60, which characterizes what acts shall constitute as terrorism. They define the act of terrorism as *"Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons, or particular persons for political*

⁹ *Ibid.*

¹⁰ 'Executive Order 13224' (United States Department of State) <<https://www.state.gov/executive-order-13224/>> accessed 24 March 2024.

¹¹ 'Prevention of Terrorism (Temporary Provisions) Act 1976' <<https://www.legislation.gov.uk/ukpga/1976/8/contents/enacted>> accessed 25 March 2024.

purposes."¹² The underlying concept places importance on, *"the use of violence or intimidation to achieve political goals,"* distinguishing terrorism from other types of violence. This definition underscores the political nature of terrorism and its use of violence or intimidation to achieve ideological, religious, or political objectives. Moreover, by emphasizing the impact of terrorism on a broad audience, it acknowledges the psychological dimensions of terror as a tool of coercion and disruption.

Furthermore, experts such as Alex Schmid and Albert Jongman have offered a broad definition that incorporates both the nature and aim of terrorism. Schmid and Jongman define terrorism as "The use or threat of violence by individuals or subnational groups, for the realization of political goals, through intimidation of a large audience beyond that of the immediate victims."¹³ This concept emphasizes terrorism's psychological influence on a broader audience, as well as its political aspect.

Further, regional organisations such as the European Union has initiatives such, Counter-Terrorism Monitoring, Reporting and Support Mechanism (CT MORSE), which defines terrorism as *"The unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims."*

The Global Terrorism Database, is developed and maintained by the United States National Consortium for the Study of Terrorism and Responses to Terrorism (START). Herein, terrorism is defined as, *"The threatened or actual use of illegal force and violence to attain a political, economic, religious, or social goal through fear, coercion, or intimidation."*

In the framework of the United Nations, there are several notions of "terrorism" that provide varying concepts surrounding terrorism. One of them is contained in General Assembly resolution 49/60, which criminalize armed activities which are considered to be "terrorist" in nature. It specifies that *"Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them."*

¹² United Nations General Assembly, "Measures to Eliminate International Terrorism," A/RES/49/60, 9 February 1995.

¹³ Schmid, A. P., & Jongman, A. J. (1988). Political terrorism: A new guide to actors, authors, concepts, data bases, theories, and literature. Transaction Publishers.

There are numerous challenges in these definitions, with some scholars claiming that they are extremely broad and fail to reflect the complexities of terrorism in various situations. For example, academician Mia Bloom contends that terrorism should be defined not only by its political goals, but also by its purposeful targeting of civilians and noncombatants.¹⁴ Similarly, Martha Crenshaw highlights the strategic aspect of terrorism, emphasizing the use of violence to achieve specific objectives.¹⁵ This definition underscores the asymmetrical nature of terrorism, where non-state actors employ violence as a tool to challenge established power structures and advance their political agendas. By targeting civilians and non-combatants, international terrorists seek to maximize the psychological impact of their actions and undermine public confidence in government authorities.

These perspectives highlight the complexities of defining terrorism, as well as the importance of considering its various manifestations and objectives. Thus, while these definitions provide useful insights into the nature and scope of international terrorism, it is critical to acknowledge the dynamic evolution of this phenomena in a continually changing global scene. In recent years, the rise of new technologies, such as the internet and social media, has allowed the dissemination of extremist ideology and the recruitment of foreign fighters, blurring the distinction between domestic and international terrorism. Furthermore, the interconnection of global networks and the ease of travel have allowed terrorist groups to operate across borders and exploit weaknesses in international security frameworks.

Therefore, international terrorism is defined by its transnational nature and political aims. It includes a wide range of acts aimed at generating fear and uncertainty on a worldwide scale. While there are numerous definitions, all emphasize the strategic use of violence by non-state actors to achieve political goals and destroy established power structures by impacting the religious, psychological and sovereignty or challenging national identity of a state. Thus, as stated by Indian Ambassador, T.S. Trimurti in the 75th UN session in 2021, *“The world’s collective understanding and calling for agreement on a universal definition of the term “terrorism”, continues to hamper countries’ ability to eliminate it together.”*¹⁶

¹⁴ Bloom, M. (2004). Dying to kill: The allure of suicide terrorism. Columbia University Press.

¹⁵ Crenshaw, M. (1981). The Causes of Terrorism. Comparative Politics, 13(4), 379–399.

¹⁶ ‘Speakers Stress Need to Address Root Causes of Terrorism, Violent Extremism amidst Fallout from Pandemic, as General Assembly Continues Debate on Global Strategy | Meetings Coverage and Press Releases’ <<https://press.un.org/en/2021/ga12344.doc.htm>> accessed 25 March 2024.

CAUSES OF TERRORISM

The Global Terrorism Database (GTD)¹⁷ is an open-source database that tracks terrorist occurrences worldwide from 1970 to 2016. The GTD is unique in that it collects systematic data on local, transnational, and worldwide terrorist attacks from this time span, with over 170,000 cases recorded. There is information accessible for each GTD incident, including the date, location, weapons used, target type, number of casualties, and identifying the culpable organization or individual. The Global Terrorism Database uses statistical data from several free media sources.¹⁸ By drawing a comparison with war, renowned author Brian Michael Jenkins stated, *“Although the actual amount of violence caused by international terrorism is small compared with war, it has had a destabilizing effect on international order and could become a surrogate for conventional warfare against a nation.”*¹⁹

Based on the data provided by the website, multiple categories were identified such as country, target, weapon, region, and injuries. By analysing this authentic data, the underlying causes for terrorism have been identified and chalked out. The three root causes of international terrorism are identified which mostly revolve around the idea of radicalization, extremist ideologies, and establishing hegemonic status. However, this list is not exhaustive in nature, as seen in the discussion above terrorism has diverging causing depending upon the region is tends to dominant or target.

Socioeconomic marginalization- includes aspects such poverty, unemployment, and limited educational prospects which are contributory factors to international terrorism. According to data provided, those who feel alienated or disenfranchised are more vulnerable to extreme views and recruitment by terrorist organizations. Further, according to the United Nations Development Programme (UNDP)²⁰, poverty and inequality are important drivers of terrorism, with economic imbalances serving as a source of social grievances and resentment that terrorist groups can exploit.

Social and political culture- Government officials and policymakers must get a deeper

¹⁷ ‘Global Terrorism Database’ <<https://www.start.umd.edu/gtd/>> accessed 25 March 2024.

¹⁸ Dr Saroj Choudhary, ‘Terrorism: Concept, Consequences and Causes’ (2018) 4.

¹⁹ Brian Michael Jenkins, ‘International Terrorism: A New Kind of Warfare’ (RAND Corporation 1974) <<https://www.rand.org/pubs/papers/P5261.html>> accessed 25 March 2024.

²⁰ United Nations Development Programme (UNDP). (2009). Human Development Report 2009: Overcoming Barriers - Human Mobility and Development. New York: UNDP.

understanding of why the social and political settings matter in areas that are prime targets for terrorism. They must also be willing to learn about the social, political, and geographical norms that shape extreme ideology.²¹ Further, political alienation and complaints over perceived injustice, discrimination, or persecution can all contribute to the rise of international terrorism. Authoritarian regimes, political corruption, and a lack of political liberties can intensify sentiments of disenfranchisement and foster extremism among underprivileged communities. According to research, a lack of political engagement and representation can provide ideal ground for extreme views to take hold, especially in places typified by political instability and authoritarian control.²²

Religious Radicalism- *“To say that any religion is inherently evil and a harbour for violence is unfair and wrong, as this denies the individuals the Freedom of Religion or Belief.”*²³ Article 18 of the UN Universal Declaration of Human Rights, adopted in 1948, states that, *“Everyone has the right to freedom of thought, conscience, and religion.”* When freedom to profess religion is threatened, other human rights are made vulnerable, including deprivations of freedom of expression and detention without trial. Respect between religious groups can hinder the spread of extremism. Religion or belief-based discrimination hurts society and obstructs economies. Religious extremism has long been considered as a major fuel for terrorism, igniting global wars. The relationship between religious doctrines and acts of violence has aroused controversy, with scholars and analysts looking into the complex reasons of this phenomena.

Religious extremism has emerged as the primary driver of terrorism in recent years, according to this year's Global Terrorism Index. The report revealed 18,000 deaths in 2013, a 60% increase over the previous year. The vast majority (66%) of these were attributed to just four groups: Islamic State (Isis) in Iraq and Syria, Boko Haram in Nigeria, the Taliban in Afghanistan, and al-Qaida. Overall, terrorism-related deaths have increased fivefold since the

²¹ Reem Zaia Originally published on Policy Options October 28 and 2016, ‘Understanding the Factors That Lead to Terrorism’ (*Policy Options*) <<https://policyoptions.irpp.org/magazines/october-2016/understanding-the-factors-that-lead-to-terrorism/>> accessed 24 March 2024.

²² Al-Rasheed, M. (2002). A history of Saudi Arabia. Cambridge University Press.

²³ Jannah Aishah Maysun, ‘Are Religious Beliefs Truly the Root Cause of Terrorism?’ (2023) 10 Journal of Global Fault Lines 252.

9/11 suicide attacks.²⁴

Religious extremism has long been considered as a major fuel for terrorism, igniting global wars. The relationship between religious doctrines and acts of violence has aroused controversy, with scholars and analysts looking into the complex reasons of this phenomena.²⁵ Religious extremism develops in circumstances where people feel alienated or face an identity crisis. Economic deprivation, political tyranny, and social marginalization all contribute to feelings of disenfranchisement, driving people to radical ideologies that promise a sense of belonging and purpose.²⁶

Terrorist organizations frequently use religious feelings to further their political agendas and strategic goals. By framing their actions inside a theological narrative, these groups hope to rally support from sympathetic communities and recruits for their cause.²⁷ Furthermore, state actors may use religious extremism as a geopolitical tool, supporting proxy groups to destabilize enemies or keep control of contested territory.

Thus, the nexus between religious extremism and terrorism is a complex and multifaceted phenomenon rooted in ideological rigidity, identity crises and political manipulation. Initiatives aimed at promoting religious tolerance, addressing socio-economic disparities, countering online radicalization, and fostering inclusive governance are imperative in mitigating the threat posed by religiously motivated terrorism.

To site a few examples of terrorism-

Case 1- The 2008 Mumbai attacks, commonly known as 26/11, were a series of coordinated terrorist assaults carried out in Mumbai, India, between November 26 and 29, 2008. The attacks targeted several areas throughout the city, including luxury hotels, a train station, a café, and a Jewish community centre. The terrorists, from the Pakistan-based Islamist group Lashkar-e-Taiba (LeT), carried out shootings, bombings, and hostage-taking, killing 166 people and

²⁴ George Arnett, 'Religious Extremism Main Cause of Terrorism, According to Report' *The Guardian* (18 November 2014) <<https://www.theguardian.com/news/datablog/2014/nov/18/religious-extremism-main-cause-of-terrorism-according-to-report>> accessed 25 March 2024.

²⁵ Juergensmeyer, M. (2003). *Terror in the Mind of God: The Global Rise of Religious Violence*. University of California Press.

²⁶ Krueger, A. B., & Maleckova, J. (2003). Education, poverty, political violence, and terrorism: Is there a causal connection? *Journal of Economic Perspectives*, 17(4), 119-144.

²⁷ Sageman, M. (2004). *Understanding Terror Networks*. University of Pennsylvania Press.

injured hundreds more.²⁸

Case 2- In January 2015, two gunmen from the terrorist group al-Qaeda in the Arabian Peninsula (AQAP) attacked the headquarters of the French satirical magazine Charlie Hebdo in Paris, France. The attackers, armed with assault rifles, killed twelve people, and injured eleven more in retribution for the magazine's publication of cartoons depicting the Prophet Muhammad. The Charlie Hebdo shooting prompted international anger and reignited arguments over free expression, religious extremism, and counterterrorism tactics.²⁹

Case 3- On July 7, 2005, four suicide bombers launched coordinated strikes on London's public transit system. Three explosives went off on London Underground trains, while one exploded on a double-decker bus. The attacks killed 52 individuals and injured more than 700 others. The attackers, who were motivated by jihadist ideology, were connected to extremist networks.³⁰

INTERNATIONAL CONVENTIONS TO COUNTER TERRORISM

International law provides the framework for national counter-terrorism actions, allowing states to successfully collaborate in preventing and countering terrorism. This framework includes instruments that address specific aspects of counter-terrorism, as well as other international instruments designed for international cooperation in criminal law, the protection of human rights or refugees, or the establishment of laws of war, all of which provide a broader context for counter-terrorism activities.³¹ The need to place actions to combat terrorism in the broader context is clear from the text of United Nations Security Council resolutions,³² which states that, “*States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law.*” Currently, there is a set of nineteen, international conventions and protocols which relate directly to the prevention and suppression of terrorism. They deal with specific criminal conducts rather than addressing the more general notion of “terrorism” as such. Most

²⁸ Raman, B. The Lessons of Mumbai. In The Lessons of Mumbai, (Lancer Publishers, 2009) (pp. 1-4).

²⁹ Simpson, J. The Threat from International Terrorism and Extremism, (House of Commons Library, UK, 2015)

³⁰ Committee of Inquiry into the London Bombings of 7 July 2005. (2006). Report of the Official Account of the Bombings in London on 7th July 2005. The Stationery Office.

³¹ ‘International Legal Framework’ (United Nations: Office on Drugs and Crime) <<http://www.unodc.org/unodc/en/terrorism/expertise/international-legal-framework.html>> accessed 26 March 2024.

³² Security Council resolution 1456 (2003)

are penal in nature with a common format. On an analysis it can be traced that the adoption of convention in a domestic legislation must typically include the understated parameters-

- Define a particular type of terrorist violence as an offence under the convention;
- Require State Parties to penalize that activity in their domestic law;
- Identify certain bases upon which the Parties responsible are required to establish jurisdiction over the defined offence;
- Create an obligation on the State in which a suspect is found to establish jurisdiction over the convention offence and to refer the offence for prosecution if the Party does not extradite pursuant to other provisions of the convention. This last element is commonly known as the principle of *aut dedere aut judicare*.³³

Tracing evolution of the Conventions-

The contemporary foundation for countering terrorism through international conventions which dates to the mid-twentieth century. Following a series of terrorist actions in the 1960s and 1970s, such as plane hijackings and attacks on diplomatic missions, the need for international collaboration became clear. The United Nations (UN) was instrumental in creating and implementing the first anti-terrorism conventions.³⁴

The International Civil Aviation Organization (ICAO) adopted the Convention on Offenses and Certain Other Acts Committed on Board Aircraft in 1963, making it one of the pioneering conventions. This convention sought to prevent and punish actions such as hijacking and sabotage against civil aircraft. Subsequently, the Convention for the Suppression of Unlawful Seizure of Aircraft (1970) and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971) expanded the legal framework against aviation terrorism.³⁵

The 1970s also saw the establishment of conventions addressing specific types of terrorism,

³³ UNODC has produced a set of Technical Assistance Tools, including the Legislative Guide to the Universal Anti-Terrorism Conventions and Protocols, see www.unodc.org/unodc/en/terrorism/technical-assistance-tools.html

³⁴ 'UNITED NATIONS TREATIES AGAINST INTERNATIONAL TERRORISM' (OHCHR) <<https://www.ohchr.org/en/press-releases/2009/10/united-nations-treaties-against-international-terrorism>> accessed 26 March 2024.

³⁵ *Ibid*

such as hostage-taking and terrorist bombs. Notable instances in this regard include the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973) and the Convention on the Physical Protection of Nuclear Material (1979). The 1980s and 1990s saw an increase in the number of international terrorism treaties, reflecting increased worries about new forms of terrorism, such as state-sponsored terrorism and terrorist finance. During this time, key conventions included the International Convention Against the Taking of Hostages (1979), the Convention on the Marking of Plastic Explosives for Detection (1991), and the International Convention for the Suppression of Terrorist Bombings (1997).³⁶

Measures by General Assembly- United Nations Global Counter-Terrorism Strategy-

The General Assembly has approved resolutions on terrorism that serve as soft legislation and have significant political impact, despite not being legally enforceable. The United Nations Global Counter-Terrorism Strategy was unanimously adopted in September 2006, marking a significant milestone.

The United Nations Global Counter-Terrorism Strategy, enacted as a General Assembly resolution with an appended Plan of Action, is a one-of-a-kind global instrument designed to strengthen national, regional, and international efforts to combat terrorism.³⁷ This is the first time that all Member States have agreed on a single strategic approach to combating terrorism, committing to take real steps both individually and collectively to prevent and resist it. It is composed of four pillars:

- Measures to counteract the factors that contribute to the spread of terrorism.
- Measures to prevent and combat terrorism.
- Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard.
- Measures to ensure respect for human rights for all and the rule of law as the

³⁶ *Ibid*

³⁷ United Nations, 'Securing Our Future: A Decade of Counter-Terrorism Strategies' (*United Nations*) <<https://www.un.org/en/chronicle/article/securing-our-future-decade-counter-terrorism-strategies>> accessed 26 March 2024.

fundamental basis of the fight against terrorism.³⁸

Thus, the General Assembly developed an international legal framework which aimed at fostering cooperation against terrorism and encouraging nations to collaborate more closely in handling the issue of terrorism.

Measures by Security Council After-math of 9/11-

Following the September 11, 2001 terrorist attacks in the United States, there was increased push to improve the international legal framework against terrorism. The UN Security Council passed Resolution 1373, which urged states to strengthen their legal and operational counterterrorism measures, including becoming party to relevant agreements.³⁹ The convention contained provisions related to criminalization, extradition, mutual legal assistance, and the freezing of terrorist assets. The conventions further urged to establish a legal framework for states to cooperate in preventing terrorist acts, prosecuting perpetrators, and disrupting terrorist networks.

The Security Council has set up three Committees, which keep a check on the implementation of specific resolutions relating to terrorism. Membership of the Committees consists of all 15 Security Council Members. The three subsidiary bodies established by the Security Council that deal with terrorism-related issues are the Al-Qaida and Taliban Sanctions Committee, the Counter-Terrorism Committee (the “CTC”), and the 1540 Committee, all three of which have distinctively different mandates as described below-⁴⁰

- *The Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and Taliban and associated individuals and entities (1267 Committee)*- The aim and purpose of the committee is to oversee the implementation of sanctions on Taliban-controlled Afghanistan for its support of Usama bin Laden.
- *The Counter-Terrorism Committee and its Executive Directorate*- In the resolution the Security Council established how the acts of international terrorism, constitute a threat to international peace and security. It further reaffirmed the inherent right of individual as well as collective self-defence as recognized under the Charter of the United Nations.

³⁸ www.un.org/terrorism/strategy-counter-terrorism.shtml

³⁹ ‘Security Council Resolution 1373 - UNSCR’ <<http://unscr.com/en/resolutions/1373>> accessed 25 March 2024.

⁴⁰ *Ibid.*

Further, to raise the counter-terrorism capacities of Member States were facilitated by providing for provision of technical assistance, and promote closer cooperation and coordination with international, regional, and subregional organizations.

- *The 1540 Committee*- The 1540 Committee was established by resolution 1540 (2004) with the aim to monitor Member States' compliance with obligations in the resolution. Further, the committee aimed to prevent weapons of mass destruction getting into the hands of non-state actors, including terrorist groups. The Committee is supported by an expert group.
- The Council created a list of individuals and entities associated with these organizations that are subject to a travel ban, assets freeze, and arms embargo.⁴¹

CIRCUMSTANCES UNDER WHICH INTERNATIONAL CRIMINAL COURT CAN CLAIM JURISDICTION

The ICC was established by the Rome Statute of the International Criminal Court, so called because it was adopted in Rome, Italy on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. The Rome Statute is an international treaty, binding only on those States which formally express their consent to be bound by its provisions. These States then become "parties" to the Statute. In accordance with its terms, the Statute entered into force on 1 July 2002, once 60 States had become parties.

Under the Rome Statute, the ICC may exercise jurisdiction over genocide, crimes against humanity and war crimes, as defined in detail in the Rome Statute. A supplementary text of the "Elements of Crimes" provides a breakdown of the elements of each of these crimes. The ICC has jurisdiction over individuals accused of these crimes. This includes those directly responsible for committing the crimes as well as others who may be liable for the crimes, for example by aiding, abetting or otherwise assisting in the commission of a crime. Therefore, the ICC Statute does not provide jurisdiction for prosecuting an offence of "terrorism" but may prosecute terrorist acts if they amount to war crimes, crimes against humanity, or genocide within the definition provided in the Statute. To understand the application of the ICC one

⁴¹ *Supra* 37

needs to analyse terrorism if it classifies under any of the above three crimes stated under the Rome Statue. Thus, the terrorism may or may not be considered as Sui Generis under delicta juris gentium of the Rome Statue. Further, there is ambiguity whether it is a war crime or a crime against humanity. One reason for this is the lack of international agreement on a definition of terrorism. Terrorism is not considered a distinct offense under the statutes of the several tribunals.

Terrorist acts as a war crime-

For acts of terrorism to be considered as “war crimes” they would necessarily have to take place within the context of armed conflict. War crimes are serious violations of the rules of international humanitarian law. Therefore, if the act of terrorism is combined during a war crime such as seen in Gaza now it might classify as war crime and fall under the jurisdiction of ICC.

Terrorist acts as crime against humanity-

"Crimes against humanity" refer to widespread or systematic atrocities against civilians, whether during war or peacetime. Examples include murder, torture, and inhumane acts. Crimes against humanity are defined differently depending on the jurisdiction and context involved. Terrorist attacks may be considered "crimes against humanity" if they are widespread or systematic enough. According to the ICC Statute, crimes against humanity must be committed in support of a State or organization's policy to target civilians, but not necessarily by a State.

Terrorist acts as genocide-

Genocide presupposes a mental element, meaning the “intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such,” and a physical element which includes five acts described in sections. Terrorist acts may only fall under the scope of genocide when the perpetrator acts with the necessary intent “*to destroy, in whole or in part, a national, ethnical, racial or religious group, as such*” and if the terrorist acts committed fulfil the requirements set out in the listing of prohibited acts in the second part of the genocide definition.

Thus, the ICC might have limited role to play for acts of terrorism can be adjudicated within

the framework of international criminal law in the sense of *delicta juris gentium* only if the terrorist act can also be subsumed under the crimes of genocide, war crimes or crimes against humanity. Therefore, it can be concluded that even though the crime has essence of international law it largely remains domestic and gets governed by the national law operative.

INTERSECTION BETWEEN TRANSNATIONAL ORGANISED CRIME AND INTERNATIONAL TERRORISM

Convention on Organised Crime-

Similar to the concept of terrorism, there is no single uniformly accepted definition of organized crime. The Organized Crime Convention⁴² does not define organized crime because the illicit activities are often evolving and a definition would quickly become out-dated. Instead, it defines an organized criminal group as, *“Structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.”*⁴³

The Organized Crime Convention also lays out a definition for the transnational aspect of organized crime. The Convention in its Article 3 defines transnationality, *“As an offence is transnational in nature if- (a) it is committed in more than one State; (b) it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) it is committed in one State but has substantial effects in another State.”*

Although the scope of application of the Convention is limited to crimes that are transnational in nature, it also specifies in Article 34.2 that the transnational element and the involvement of an organized criminal group are not to be considered elements of those offences in domestic legislation for criminalization purposes. Therefore, States parties are called to pass legislation which does not include the transnational elements, to avoid possible loopholes in domestic

⁴² ‘UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOLS THERETO’.

⁴³ Article 2- UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOLS THERETO.

systems.

The transnational organised crime convention is further supplemented by 3 optional protocols, namely-

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)- To prevent and combat trafficking in persons, paying particular attention to women and children and to protect and assist victims of such trafficking, with full respect for their human rights.
- Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)- The aims of this Protocol are to prevent and combat smuggling of migrants, promote State party cooperation, and protect rights of smuggled migrants. The Protocol presents similarities to the Trafficking in Persons Protocol. It requires that States criminalize certain conducts, namely the smuggling of migrants and enabling the illegal stay of a migrant for a financial gain and by illegal means.
- Protocol against the Illicit Manufacturing of Trafficking in Firearms, Their Parts and Components and Ammunition (2001)- The Firearms Protocol is the first legally binding instrument on small arms at the global level. The objectives of the Protocol are: to promote, facilitate and strengthen cooperation amongst States Parties and to prevent, combat and eradicate the illicit manufacturing and trafficking in firearms, their parts, components, and ammunition.

Theoretical Co-relation Between Organised Crime and International Terrorism-

Williams, a pioneer in the crime-terror nexus hypothesis, proposed three models for the relationship between organized crime and terrorism (Williams, 1998). The "convergence" argument views organized crime and terrorism as a single phenomenon. The "organized crime-terrorism nexus" thesis suggests a collaborative relationship between organized crime and terrorism. Williams' third sort of interaction is "transformation," which refers to the transition from criminal actions to political terrorism and vice versa.⁴⁴

⁴⁴ Williams, P. (1998). "Terrorism and Organized Crime: Convergence, Nexus or Transformation?" in Jervas ed. Report on Terrorism, Swedish Defence Research Establishment.

Makarenko (2004) identified four sorts of linkages along the "crime-terror continuum". Makarenko (2004) describes a continuum that shows how a group can move between organized crime and terrorism based on their environment. The first relationship is built by alliance building between criminal groups by creating partnerships with terrorist organizations, while terrorists seek *alliances* with criminal organizations.⁴⁵

The Second Relationship Makarenko defines as operational motivations by the criminal and terrorist groups who integrate the strategies to improve operations and enhance organisational security. Convergence, the third relationship, involves the transformation and mixing of tactics and motivations.⁴⁶ For example, criminal and terrorist organizations may merge into a single entity with characteristics of both groups, but may eventually transform into an entity at the opposite end of the continuum. Makarenko defines the fourth type of crime-terror relationship as a "black hole," where weak or failed states foster the convergence of transnational organized crime and terrorism, creating a heaven for convergent groups to operate. Thus, Makarenko's crime-terror continuum highlights the dynamic nature of criminal and terrorist groups, making it challenging to develop effective law enforcement and counter-terrorism strategies.

Terrorism and Drug Trafficking Links-

According to the UNODC's 2018 World Drug Report, cannabis remains the most widely produced and consumed drug globally, while cultivation of opium poppy and cocaine bush has increased significantly. Opium poppy cultivation has doubled globally since 2006, with Afghanistan accounting for 86% of global production in 2017.⁴⁷ Evidence suggests that the illicit drug trade is thriving, with rising markets for cocaine, heroin, and synthetic substances. Scholars have linked several terrorist and paramilitary organizations to the drug trade.

Example- The Taliban- According to UNODC, Afghanistan accounts for 86% of global opium cultivation, with opium poppy cultivation playing a significant role. Afghanistan is presently controlled by the Taliban.⁴⁸ The Taliban's involvement in the opium trade suggests a link between illegal narcotics trafficking and terrorism. Between 2000 and 2015, the Taliban profited from the drug trade and gained control over opium cultivation in Afghanistan.

⁴⁵ Makarenko, T. (2004). "The Crime-Terror Continuum: Tracing the Interplay between Transnational Organised Crime and Terrorism" 6:1 Global Crime 129-145.

⁴⁶ *Ibid*

⁴⁷ United Nations Office on Drugs and Crime (2018(a)). World Drug Report. Vienna: UNODC.

⁴⁸ *Ibid*.

However, they were also responsible for 73% of all terrorism-related deaths in Afghanistan and approximately 13% of all terrorism-related deaths globally.

Terrorism and Weapon Trafficking Links-

In recent years, there has been increased focus on the links between terrorism and organized crime, specifically the financing, sourcing, and trafficking of weapons. It is unclear whether terrorists directly engage in such behaviour or indirectly collaborate with criminal groups. Terrorists are increasingly adopting automatic firearms in attacks, raising concerns that organized criminal gangs may be supplying them.

Terrorists' use of weaponry has received increased attention in political debates and international organizations, such as the European Union and the United Nations. Terrorist groups rely heavily on weapons, especially rifles. Terrorists are increasingly using trucks and knives to carry out attacks in nations with strong firearm prohibitions. Terrorist organizations rely on firearms to maintain control over individuals and regions.⁴⁹ Cutting the supply of firearms and ammunition reduces terrorist groups' strength and authority, as other techniques cannot be used on a big scale.

While weapons trafficking is not usually done by organized criminals, terrorists' access to firearms highlights the potential relationship between the two. Research suggests that persons who commit terrorist attacks may have grown up in a criminal environment and continue to associate with criminals after radicalization.⁵⁰

Terrorism and Human Trafficking Links-

Human trafficking is a global phenomenon that affects every country in the world irrespective of the country of origin. The UNODC has collected data on victims, despite the difficulty in determining the precise number due to the crime's often-hidden nature. Since the implementation of the United Nations Trafficking in Persons Protocol in 2003, there has been an increase in the number of cases of human trafficking. UNODC has identified around 225,000

⁴⁹ Europol (2017). European Union Terrorism Situation and Trend Report. European Union Agency for Law Enforcement Cooperation 2017

⁵⁰ Europol (2016). Changes in Modus Operandi of Islamic State (IS) Revisited, The Hague.

victims of trafficking worldwide.⁵¹

Although sexual exploitation and forced labour are the most common forms of trafficking, victims might also face other forms of abuse. Victims are trafficked for various purposes, including beggars, forced marriages, benefit fraud, pornographic production, and organ removal. Most victims of trafficking for sexual exploitation are female, while men make up more than half of those trafficked for forced labour.

According to UNCTED's 2019 report⁵², armed groups worldwide profit from human trafficking. There is, however, no proof that these armed groups are directly involved in global terrorist actions. Local and regional armed forces frequently tax smuggling and tracing routes, but there is scant proof of their backing or affiliation with terrorist organizations. Terrorists use violence, including people trafficking, to attain their strategic goals. Terrorist groups utilize abduction, rape, sexual slavery, and enslavement to advance their ideas.

Example- Recent actions by ISIS, ISIL, and Boko Haram in Nigeria highlight the link between terrorism and human trafficking (UN Secretary General, 2017). Terrorist groups trade people for three main reasons: finance, fear, and recruitment.⁵³ Boko Haram (Nigeria) and Al-Shabaab (Somalia) have been accused of trafficking youngsters as fighters and suicide bombers. ISIL defended enslaving women as a kind of protection. According to reports, ISIL has established a profitable business for terrorizing women. Women trafficked through the ISIL market are referred to as "Sabaya" or slaves, and are purchased by wholesalers who photograph and advertise them to potential customers.⁵⁴

However, the relationship between terrorist organizations and smuggling/trafficking gangs is questionable. Evidence suggests that smuggling and trafficking groups may lose earnings due to the link between irregular migration and terrorist organizations.

CONCLUSION

It is evident from the discussion above that international terrorism has multiple facets which

⁵¹ United Nations Office on Drugs and Crime Global Report on Trafficking in Persons. Vienna UNODC (2018)

⁵² 'UNCTAD Annual Report 2019' (UNCTAD) <<https://unctad.org/annualreport/2019/Pages/index.html>> accessed 26 March 2024.

⁵³ Welch, "Human Trafficking and Terrorism: Utilizing National Security Resources to Prevent Human Trafficking in the Islamic State", (2018, Duke Journal of Gender Law and Policy vol: 24, 165 – 188)

⁵⁴ Callimachi, R. (2015). ISIS Enshrines a Theology of Rape, The New York Times (14 August 2015)

must be considered for holistic understanding of the concept to combat the same. Terrorism as a phenomenon does not survive in isolation rather it has deep roots emerging from an existing issue such as socioeconomic disparities or religious radicalism as seen above. Thus, the issue is beyond the act of violence by a group, it is an out blow from various discriminations which had persisted since a lengthy duration.

Despite the growth of legal frameworks addressing terrorism, major problems and controversies still exist in the implementation and enforcement of counterterrorism measures. One such problem is defining terrorism itself, as different regimes and organizations may have differing views on what constitutes terrorism vs lawful acts of resistance or self-defence. In response to the growing threat of terrorism, the international community has established a strong legal framework to prevent and combat terrorist acts. At the heart of this framework is the principle of state sovereignty, which holds governments accountable for preventing terrorism within their borders while adhering to international law and human rights.

The United Nations in its international capacity to uphold the virtues it preaches of peace, security and safety has attempted in multiple conventions to act against international terrorism. However, due to a lack of precise definition of the act of terrorism the executive ability of the conventions and resolutions adopted becomes compromised. The evolving nature of the act of terror from state to state further complicates the definitional issue.

The ICC as well is handicapped in the matters of terrorism since in its charter it does not specify what shall be constituted as a terrorist act. This has limited the jurisdiction of the ICC. Therefore, until the act of terrorism does not fall coincide with the ambit of offences mentioned under the Rome Statute the act of terrorism cannot be punished or even prosecuted. This makes the functioning of ICC hampered.

Lastly, the intersection and overlap between the organised crime and terrorist organisations and acts poses a significant threat to the sovereignty and security of nation states. As stated above, there are multiple links where the two combines such as terrorist act and drug trafficking resulting in narco-terrorism. This has led to the complications in the domain of prosecution since the jurisdictional issue shall clash with reference to the nature of offence. Concludingly, the act of international terrorism has multiple challenges from arriving to an general consensus definition to the adoption of universal policies and ultimately its cross merger with other criminal acts.