

ORGANIZED CRIME AND EMERGING CHALLENGES
TO
CRIMINAL JUSTICE FUNCTIONARIES;
MEASURES FOR PREVENTION AND CONTROL

DISSERTATION

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UNDER SUPERVISION OF:

MRS.SARITA SINGH
ASSISTANT ROFESSOR
SoLS, BBDU

SUBMITTED BY:

ABHAY PRATAP SINGH
ROLL No.:1190990772
LL.M-2 SEMESTER

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ABSTRACT

The research study on “**Organised Crime and Emerging Challenges to**

Criminal Justice Functionaries: Measures for Prevention and Control (A Socio-

legal Study)” has been conducted with the five objectives to be achieved i.e., (1) to

study recent trend of organized crime and its ramifications in India, (2) to analyze

diverse forces operative in the process of the perpetration of organized crime in India,

(3) to identify the problems and constraints faced by Criminal Justice Functionaries

while investigating, prosecuting and sentencing organized crime offenders in India,

(4) to analyze the effectivity and implementation of the existing laws in India enacted

for the prevention and control of organized crime and to study different United

Nations Instruments relating to organized crime in terms of their relevance to

international and regional co-operation, mutual assistance, extradition of offenders,

investigation, sharing of database and other related matters for prevention and control

of organized crime in India, (5) to suggest modalities for scientific investigation,

effective prosecution and sentencing of organized crime cases as well as amendment

in the existing legislation for prevention and control of organized crime in India .

The study was conducted in the city of Mumbai and Delhi and the period of

study was from 2008 to 2015. An exploratory research design was chosen for the

study. There were five categories of samples i.e. i) Investigating Officers involved in

investigation of MCOCA cases, ii) Special Judges designated to conduct trial of

MCOCA cases, iii) Special Public Prosecutors involved in prosecution of MCOCA

cases, iv) officers from CBI and INTERPOL wing in India, v) High Court Judges,

Experts and Academicians.

The study report is spread over seven chapters. While introducing the main

theme of the study, the first chapter on "*Introduction*" covers the emerging

phenomenon of organised crime in Italy starting from 12th century peasants revolt in

Sicily against French Rulers till the year 2006. Thereafter, the origin of organised

crime in United States of America starting from the olden day when Irish people

immigrated to USA before prohibition and then the changing pattern of modern

organised crime after prohibition have been delineated in detail. The emergence of

organised crime in Russia has also been the part of this chapter. Origin of organised

crime in India starting from traditional crime relating to *thuggee* cult in ancient times

followed by emergence of organised crime gangs in the modern days have been

enumerated.

Defining organised crime is difficult task, keeping that in mind traditional as

well as modern definitions including definitions by thinkers, definitions under

national and international instruments and under legislations of few sovereign nations

including India are analysed in great detail in the next part of the chapter. Statement

of the problems, research methodology adopted in study, research questions,

objectives of the study, conceptual clarifications etc. have been discussed in part four

of this chapter. The first chapter is concluded by delineating limitations of the study.

An attempt has been made to review the maximum possible literature

(international as well as national) related to the subject alongwith detailed theoretical

framework in 2nd chapter of the study entitled "*Review of Literature and Theoretical*

Framework".

Content of the 3rd chapter devoted to "*Forms, Magnitude, Trend, Etiology*

& Ramifications" explains forms and magnitude of organised crime in United

Kingdom, USA and India. Changing trend of organised crime are analysed in this

chapter with special reference to Mumbai and Delhi. Organised crime has been

increasing due to various reasons. Thus, forces operative behind perpetration of

organised crime including socio-psychological, legal, administrative, economic &

political factors are discussed in detail followed by ramifications of organised crime

on individual, society and the State.

4th Chapter entitled to "*Challenges faced by Investigating Officers in*

Investigation of Organized Crime Cases", is devoted to identification of challenges

faced by Investigating Officers while conducting Investigation under MCOCA. In this

chapter views of Investigating Officers in Mumbai and Delhi are analysed. This

chapter focuses on the special provisions of investigation prescribed under MCOCA

and problems faced by Investigating Officers in implementing provisions. How far

these provisions are helpful to them have been analysed in detail.

5th Chapter entitled "*Challenges Faced by Special Judges & Prosecutors in*

Prosecution and Sentencing of Organized Crime Cases", is devoted to issues relating

to prosecution and sentencing of organised crime cases after delineating procedure of

trial and sentencing under Cr.PC and MCOCA, views of Special Public Prosecutors

and Special Judges trying MCOCA cases in the city of Mumbai and Delhi are

analysed. Aim of analyzing the views is to identify problems and constraints faced by

them in prosecution and sentencing of organised crime cases.

Chapter 6 entitled "*Analysis and Relevance of Indian Legislations and United*

Nations Instruments for the Prevention and Control of Organised Crime" contains

analysis of international legal instruments including the United Nation Convention

against Transnational organised crime, The Model Treaty on Extradition and The Model Treaty on Mutual Assistance in Criminal Matters in terms of international

regional cooperation, mutual legal assistance, extradition of offenders, sharing of data

base etc. Analysis of MCOCA and the Extradition Act, 1962 in India are also forming

the part of the chapter.

7th and the last chapter entitled "*Summery, Findings, Recommendations and*

Conclusion" delineates summary and the outcome of the research study alongwith

practical recommendations for effective investigation, prosecution and sentencing of

organised crime cases as well as amendment under MCOCA and the Extradition Act

in India. Modalities for effective implantation of the United Nation Convention, The

Extradition Treaty and The Treaty on Mutual Assistance in Criminal Matters are also

suggested. The Chapter has been ended with conclusive remarks by researcher.

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LIST OF ABBREVIATIONS

Abbreviation Full Form

AIR All India Reporter

BCC Bombay Criminal Cases

Bom. C.R. Bombay Case Reporter

CBI Central Bureau of Investigation

CIROC Centre for Information and Research on Organized

Crim
e

CJF Criminal Justice Functionaries

Cr.L.J Criminal Law Journal

Cr.PC The Criminal Procedure Code, 1973
CST Chhatrapati Shivaji Terminus (Railway Station in
Mumba
i)

DLT Delhi Law Times

FEMA Foreign Exchange Management Act, 1999

FIR First Information Report

FSU Former Soviet Union

IOs Investigating Officers

IPC The Indian Penal Code, 1860

JCC Journal of Criminal Cases

LEAs Law Enforcement Agencies

MCOCA The Maharashtra Control of Organised Crime Act, 1999

NDPS Narcotic Drugs and Psychotropic Substances Act, 1985

OCDETF Organised Crime Drug Enforcement Task Force

PP Public Prosecutors

SOCA Serious Organised Crime Agency

UAPA Unlawful Activities Prevention Act, 1967

UNODC United Nations Office on Drugs and Crime

USA United States of America

USSR Union of Soviet Socialist Republics

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Introduction and Research Methodology

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INTRODUCTION AND RESEARCH METHODOLOGY

1. Introduction

The phenomenon of organized crime has been assuming disturbing proportions, all over the world. Increasing trend of Globalization, Urbanization and

Industrialization has been helping organized crime offenders to develop transnational

linkages. Organized crime offenders belonging to one country have been getting

involved into the crime committed, in another country. Not only this, but with the

advent of new technologies, criminals have been using modern gadgets to commit

crime in a more sophisticated and complicated manner in comparison to traditional

criminals. Organized crime offenders need huge amount of money to operate from

various locations and to purchase modern equipment. As a result, they have been

involved into crimes like trafficking of drugs and human being, counterfeiting of

currency notes, scams and other economic frauds etc to make easy money. The

organized crime offenders collect black money. They are also involved in the transfer

of money through illegitimate channels, in evasion of taxes, and in manipulation of

prices and hoardings (Organized Crime, 2008). Two adverse effects of generation of

black money are quite evident. One is the emergence of parallel economy that runs as

per its own norms, trusts, rules, culture and permeates in all spheres of life. The other

is the money power that influences people, corrupts politicians, wins over many

authorities, and affects the smooth governance of any country (Smriti Chand,

[http://www.yourarticlelibrary.com/economics/money/black-money-in-india-different-](http://www.yourarticlelibrary.com/economics/money/black-money-in-india-different-sources-and-effect-of-black-money/23435/)

[sources-and-effect-of-black-money/23435/](http://www.yourarticlelibrary.com/economics/money/black-money-in-india-different-sources-and-effect-of-black-money/23435/)). The channelization of black money into

legitimate business with the help of laundering techniques gives social status to the

organized crime offenders. Investment in real estates, film production and various

other types of business activities are also helping the organized crime offenders in the

process of legitimization of black money. (Sharma Purshottam, 2000). All these types

of crimes have emerged, as a serious threat to existing social orders.

Organized crime racketeers are rich, sophisticated and well qualified. They

have been committing the crime in a very well organized manner. The Mafia have

been functioning in a highly secretive and organized manner. Even the members of

group holding higher position are not recognized by the criminals operating at lower

hierarchy. Organized crime syndicates have been using violence, or threat of violence,

intimidation or coercion as a means to commit crime. Organized crime Mafia have

been functioning under the cover of legitimate business, using force, fraud, blackmail,

corruption, inducement etc. to get their work done (informed by experts on organized

crime). It seeks to corrupt the Social and Economic Institutions, Business

Organizations, Politicians, the Police, the Judicial System, and every other segment,

in ruthless pursuit of its criminal activities and profit motive. One of the

manifestations of organized crime is the absolute power of gang leader, and their

boundless capacity to exert influence through corruption, coercion or selective use of

violence, on those who are concerned with their activities, socially, commercially or

politically.

Global Profits from people smuggling are estimated to be \$100 billion annually. There are around 400 organized crime bosses in the United Kingdom with

an amassed criminal wealth of approximately \$440 million. The economic and social

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costs of organized crime are estimated to be at least \$20 - \$40 billion per year (One

Step Ahead: A 21st Century to Defeat Organized Crime, 2007).

The cost to the World community caused by organized crime groups and

transnational crimes includes not only loss of billions of dollars, loss of life and

physical injuries, but also breeds substantial public corruption. As a result, it weakens

the government machinery including Law Enforcement Agencies, Prosecuting

Agencies and Judicial Agencies by way of corrupting officials (Juliet Berg, 1998).

The combined effects of these adverse consequences tend to undermine the security

and stability of State government (Sharma Purushottam, 2000).

Members of organized crime syndicates have been infiltrating into the power

system in a subtle manner by giving donations, seeking respectability and making

inroads into the structure of power and get penetrated into lower level bureaucracy at

the ground level for satisfying their purposes. Even legitimate business activities are

criminalized. Tentacles of underworld have been infiltrating into trade and industry in

a big way. Criminal groups have established international network to carry out their

activities effectively through open borders. The ever increasing global threat posed by

transnational organized crime, in all its varied manifestations, was acknowledged by

the Secretary General of the Eleventh United Nations Congress on Crime Prevention

and Criminal Justice (2005) at Bangkok in the opening message to the Congress, he

emphasized that organized crime has been a leading threat to the international peace

and security (A/CONF-203/18 PP-22).

2. Emerging phenomenon of organized crime at National and International level

The origin of organized crime may be traced back to ancient times in different

ways like; political empowerment, peasants revolt against French Rulers, *thuggee* etc.

In medieval times, feudal lords were not usually engaged in what we would consider

—criminal activities|| today, yet their hierarchical Courts, monopoly of violence,

extension of protection to their serfs in exchange for labor and a percentage of

harvests and durability are structurally similar to classic organized crime groups.

Pirates, Highwaymen and Bandits used to attack people in trade routes and on roads

during olden days. (criminal organization, <http://en.wikipedia.org/wiki/criminal->

organisatio
n).

To understand the origin of organized crime its history has to be understood in

the social set up of various nations.

a) Emerging phenomenon of organized crime in Italy

Long back in 12th century, peasants in Sicily revolted against French Rulers.

Those group of people were called Mafia. During the revolt, many French officials

were killed by the Mafia in Sicily with the intention to throw French out of Sicily

(The Mafia, 2008).

After the revolution in 1848 and the revolution of 1860, law and order in Sicily

became very weak. The Mafia (small groups of people who were not law abiding)

revolted against law Enforcement Agencies. They tried to burn police records and

evidence and to kill police informers. They had to stop their activities against

government after the formation of new government in Rome. Palermo (Palermo is

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located in the northwest of the island of Sicily) was initially the main area of operation by the Sicilian Mafia but their activities soon spread all over the Sicily

(The Mafia, 2008) .

In 1860, the Pope became hostile to the government. In 1870, the Pope himself

was besieged by the Italian State. He strongly suggested Catholics to refuse to

cooperate with the State. In the mainland Italy, this did not lead to violence. Sicily

was strongly catholic (in a strongly tribal sense rather than in an intellectual and

theological sense). The friction between the church and the State gave a great

advantage to violent criminal groups in Sicily who could suggest to peasants and

town's people that cooperating with the police (representing the new Italian State)

was an anti-Catholic activity. Protection rackets, cattle rustling and bribery of State

officials were the main sources of income for the Mafia in those days (The Mafia,

2008
).

In 1926, during the Fascist period in Italy, *Cesare Mori*, *Prefect of Palermo*,

used special powers granted to him to prosecute the Mafia. More than 1000 Mafia

were arrested and brought to trial in large groups. Out of them more than 300 were

convicted in the year 1926 and further arrests were made in 1931, forcing many other

Mafia to flee out of Italy (Funk & Wagnalls, 1931). Many of the Mafia who escaped

from arrest fled to the United States of America (USA). Out of them *Joseph Bonanno*,

nicknamed *Joe Bananas*, came to dominate the United States of America's branch of

the Mafia. However, when Mori started persecuting the Mafia involved in the Fascist

hierarchy, he was removed, and the Fascist authorities proclaimed that the Mafia had

been defeated. As a result, though the Mafia were weakened, it had not been defeated

(Mafia Trial, 2008).

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United States of America used Italian Mafia for intelligence gathering to ease

the way for advancing troops. In exchange famous Mafia *Luciano*, who was imprisoned in USA jail, permitted to run his crime network from his jail cell. After

World War II *Luciano* was rewarded by being released from prison and deported to

Italy, where he was able to continue his criminal career unhindered. *Luciano* developed crucial alliance with the Corsican Mafia, leading to the development of a

vast international heroin trafficking network, initially supplied from Turkey (The

Mafia, 2008).

Later, when Turkey began to eliminate its opium production, *Luciano* in

collaboration with leading American Mafia bosses including *Santo Trafficante* and his

successors took advantage of the chaotic conditions in Southeast Asia and started

obtaining drugs from South Asia. He used to supply drugs in USA, Australia and

other countries which was funneling huge amount of Asian heroin in the United States

(Alfred W. Mc. Coly, 1972).

The second Mafia war in the early 1980s was a large scale conflict within the

Mafia that also led to the assassinations of several politicians, police chiefs and

Magistrates in Italy. *Salvatore Riina* (A Mafia) and his group ultimately prevailed

upon in the war. The new generation of Mafia placed more emphasis on —white

collar|| criminal activities as opposed to more traditional racketeering enterprises. In

reaction to these developments, the Italian press had come up with the phrase *Cosa*

Nuova (—the new thing||) (The Mafia, 2008).

The first major *Pentito* (The Pentito is the term used for Mafia bases who

turned informer) was *Tommaso Buscetta* who had lost several allies in the war. He

became informer and came in contact with Prosecutor Falcone Giovanni in Italy in

1983. However, thereafter, various other Mafia who lost members of gang also

became informer to police in Italy. Major action against Mafia in Sicily was Maxi

Trial (1986-87) which resulted in several hundred convictions of leading Mafia. When

the Italian Supreme Court confirmed the convictions in January 1992, *Riina* (a leader

of organized crime syndicate) took revenge. The politician Salvatore Lima was killed

in March 1992. He had long been suspected of being the main government connection

of the Mafia (later confirmed by testimony of *Buscetta*) and the Mafia was displeased

with his services. *Falcone* and fellow Anti-Mafia Prosecutor *Paolo Borsellino* was

killed after a few months later. This led to a public outcry and a massive government

crackdown, resulting in *Riina*'s arrest in January 1993 (Dickie John, 2004).

The existing Mafia retaliated with a campaign of terrorism, a series of bombings at several tourist spots on the Italian mainland and Rome, which left 10

people dead and 93 injured and caused severe damage to cultural heritage such as the

Uffizi Gallery. *Bernardo Provenzano* took over as boss of Mafia. This campaign has

allowed the Mafia to slowly regain the power it once had. *Bernardo Provenzano* was

arrested in 2006, after 43 years on the run. (The Mafia, 2008). Still organized crime

persists in Italy (The Mafia, 2008).

b) Emergence of organized crime in United States of America

In fact, organized crime in America is the product of an evolutionary process

extending more than a century (Tyler, 1962). The roots of organized crime may be

traced back to 1820's in United States of America prior to Prohibition. Large number

of Irish people mostly from Catholic districts immigrated to the United States of

America during 1820 to 1850 (Howard Abadinsky, 2003). These urban immigrants

were forced to live into slums and they found employment in most of the dangerous

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and poorly paid industries. The Irish immigrants were restricted from mixing with

middle class people. In response, they remained in close-knit neighborhoods, where

they joined the Democratic Party as an outlet for social and economic advancement.

However, instead of using politics as an avenue to integration into the middle class,

politics enveloped the Irish, and the Irish social structure became an integral part of

the process of recruiting other Irishmen into both the party and government. As the

Irish swarmed into city politics, political office was recognized as the career among

them, and politics became the secular extension of their essentially religious identity

(Levine,
1966).

Politics and government employment provided the Irish immigrants
most

readily available road to social mobility. The Irish, the most numerous and
advanced

section of the immigrant community, took over the political party (the
Democratic

Party) at the local level and converted it into virtually a parallel system of
government

(Shannon, 1989,). The Irish people were capable of acting in concert while

disregarding the formal governmental and legal structure (Reedy, 1991).
Irish

politicians used to look after the welfare of common people by way of
providing food

to destitute, getting things repaired etc (Howard Abdinsky,
2003).

Until the late 1880s, a political party was a private association and as
such

used to determine the method for nominating candidates. The methods used
lacked

State control; they were informal and often effectively disenfranchised the
electorate

(Howard Abdinsky,
2003).

The political representatives used to have direct quasi-feudal
relationship with

voters in their neighborhood (Abdinsky, 2003). The political leader used
repression

to weaken their opponents. It used to control bureaucrats and Judges also.
The big-

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city democratic politicians were controlled by Irish bosses. The political leader used

to mediate among unorganized urban masses and the underworld, and the upper world

(Erie, 1988).

The functioning of Irish political leaders got similar characteristics as organized crime syndicates. But, organized crime syndicates had been involved into

continuing illegal activity for monetary pecuniary or gain while aim of political party

was to channelize votes and power. Just as the political party used to perform services

for legitimate business, it used to perform services for illegitimate business also. In

fact, the relationship between the political party and criminal gangs was symbiotic

(Howard Abadnsky, 2003).

Members of political party used to get crime committed by hiring criminals at

grass-root level, like organized crime Mafia (Audett, 1954). Petty criminals including,

owners of gambling houses, burglars, pick-pickers, pimps, etc. used to get order

from the politically strong bosses for getting the vote casted in favor of them.

Prostitutes, thieves, floaters etc. used to be in the voter list. Irish people used to

mobilize them to cast votes. The political leader, used to function like organized

crime bosses. These political leaders used to bribe policeman for not taking action

against gambling house owners, burglars, pimps, pick-pickers etc. A special grand

jury in Philadelphia found that certain members of that city's police department

received a total of \$2 million in bribe annually (Haller, 1985). Nearly all of the large

cities in USA suffered from an alliance between politicians and criminals. The

acrimony between —native|| Americans and Irish immigrants, reached a pinnacle with

the ratification of Eighteen Amendment to United States Constitution in the year

1919. The Constitutional amendment though was an off shoot of prohibition

movement.

The year by 1785 by Dr. Benjamin Rush, Surgeon General of the Continental

Army and a signer of the Declaration of Independence, wrote a pamphlet declining

the use of alcohol. The pamphlet helped people to start a movement prohibiting use

of alcohol in the year 1808. The movement was supported by Protestant churches

throughout the country (Hamm, 1995). The national prohibition was a measure

accepted by people living in villages of United States of America against people

living in the cities in United States of America (Coffey, 1975; Gusfield, 1963).

Ten months after the ratification of Eighteen Amendment to the Constitution

of United States of America, over a veto by President Woodrow Wilson, Congress

passed the Vol Street Act. The Act strengthened the language of the amendment and

defined as intoxicating all beverages containing more than 0.5 percent alcohol

(Howard Abadinsky, 2003). Under the Act the Prohibition Bureau, an Arm of the

Treasury Department, was created. Prohibition agents used to set up illegal road

blocks and people who used to protest, were killed by them (Woodiwiss, 1988).

Until Prohibition, leaders of criminal gangs were of less importance for the

politicians (Katcher, 1959). Prohibition changed the relationship among the

politicians, and gang leaders. Prohibition turned criminal gangs into empires (Logan,

1970
).

Although America had organized crime before Prohibition, it —was intimately

associated with shabby local politics and corrupt police forces|| there was no

‘organized crime’ activity —in the syndicate style|| (King, 1969, p.23).
Prohibition

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mobilized criminal elements in an unprecedented manner and gave birth to
new level

of criminal organizations (Howard Abadinsky, 2003,
p.57).

After prohibition, legal liquor industry did not remain in business. As a
result,

violent young men entered into illegal liquor business to make easy money.
The

illegal liquor business demanded large scale organizations including
purchase of raw

material, manufacturing efficiency, and place. If the liquor had to be
smuggled, ships,

boats crews were required. The people involved in illegal business had to
learn to use

legal institutions to serve their illegal enterprises (Haller, 1985). Furthermore,

prohibition encountered cooperation between gang leaders from various
regions. The

liquor business was international in scope. Smuggled Rum and Whiskey
from

Canada, the Caribbean and Europe had to be transported from the Atlantic to
the East

Coast. Shipments then had to be trucked intra and Inter-State to warehouses at

distribution points. At each juncture, the shipment required political and physical

protection. Only the criminal organization dominant in the local area could provide

such protection. Syndication arose out of those needs. The prohibition ended in 1933,

that time bootleggers who were mostly wealthy and powerful, used their national

contacts, diverse interests and available capital to cooperate in a variety of

entrepreneurship activities, legal and illegal (Haller, 1985).

In 1934, the leaders of organized crime gangs in the East, gathered at a New

York hotel, with *Johnny Torrio* presiding the meeting. In the meeting, they came to an

understanding that each boss would be the leader of his own territory. No one local or

foreigner could be killed in his territory without his approval. The leader of the gang

would have the right to commit the crime himself or permit an outsider to come in but

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only at his invitation. In fact, no lawlessness on an organized scale could take place in

his domain without his sanction and entire consent (Turkus & Feder, 1951).

By the end of World War II, it became clear that *modus operandi* (method of

committing crime) of organized crime offenders was changing. Ethnic diversity was

declining – Irish and Jewish communities were no longer providing candidates

sufficient to replace ageing and imprisoned gangsters. This was reflected in the first

important congressional investigation of organized crime. The importance of

organized crime as a national political issue was recognized by Tennessee Senator

Easter Kefauver in 1950 when he introduced a resolution to investigate gambling and

racketeering activities by a special committee. On May, 10, 1950 Easter Kefauver

became chair of the special committee to investigate organized crime In Inter-State

commercial activity, by way of launching the first major Congressional investigation

into the phenomenon (Moore, 1974). The first hearing was conducted on May 26,

1950 before Easter. The committee heard more than 600 witnesses in 14 cities. On the

basis of the hearings, the committee realized that crime was a syndicate basis to a

substantial extent in many cities (Howard Abadinsky, 2003).

According to the Kefauver committee, the organized crimes Mafia were direct

descendants of criminal organization originating in the Island of Sicily. The committee further explained that Mafia have been loose-knit organization specializing in the sale and distribution of narcotics, the conduct of various gambling enterprises, prostitution and other rackets based on extortion and violence. The Mafia used to tie together the two major criminal syndicates as well as numerous other criminal groups throughout the country (Kefauver, 1951).

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According to the Task Force on Organized Crime (1967:6) the core group of organized crime in the United States of America consisted of 24 groups operating as criminal cartels in large cities across the nation. Their membership was exclusively men of Italian descent, they were in frequent communications with each other, and other smooth functioning was insured by a national body of offenders. (Howard Abadinsky, 2003). The major income for organized crime gang was derived from gambling, loan sharking, drug trafficking and labor racketeering. Little attention was given to other sources of income. In 1983, drug trafficking and labor racketeering

were the greatest moneymaker for organized crime gang in USA (Howard Abadinsky,

2003
).

The American Mafia (also known as *La Cosa Nostra*) is an offshoot of the

Sicilian Mafia that emerged on the East Coast of the United States of America during

the late 19th century following waves of Sicilian and Southern Italian emigration. In

North America, the Mafia often refers to Italian organized crime in general, rather

than just traditional Sicilian organized crime (Howard Abadinsky, 2003).

Now in the present day society, organized crime racketeers are functioning in

syndicate style having territorial monopoly. But, they are using modern gadgets and

advance means of communication to commit crimes like drug trafficking, cigarette

smuggling, scams, frauds and joining hands with terrorists' organizations.

c) Emergence of organized crime in Russia

The breeding and training ground for Russian organized crime was established

during the communist era when citizens of the Former Soviet Union (FSU) were

deprived of suitable employment. Government in Russia both under the rule of Tzars

and that of the Communist State represented totalitarianism in one form or another

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where individual freedom was suppressed. As such, like the invading foreigners of

Sicily, the internal government system of Russia has made the Russian, like the

Sicilian, distrustful of government (Albini, 1995).

In 1991, the Soviet Union broke into 15 independent States. The collapse of

communist system brought fundamental changes in social and political order; overall

standard of life was deteriorated. The legal system failed to keep pace with the

changes, and Law Enforcement Institution became fragmented lacking coordination.

They were unable to cope with the sheer volume of work in processing mountains of

information. The turnover of investigative staff had been high and technological

provision low. Without professionalism, morale declined and corruption increased

rapidly. People particularly vulnerable businessmen began relying on the suddenly

increasing private protection services, a large number of which were operating

without proper registration of licenses. Many resorted to taking justice into their own

hands, often with assistance from the criminal fraternity. As a result, a kind of

—Shadow justice|| appeared, dominated by criminals (Frisby, 1998). The line between

the private security forces and organized crime became very narrow or nonexistent.

(Howard Abadinsky, 2003).

During the Soviet era, three tiers of organized crime developed :
—The first tier

was high-level government and party bureaucrats; the second was shadow economy

operators who used to produce goods and services by using illegitimate means and the

third was professional criminals, including the *Vory V Zakone* (thives with a code of

honor)¹ (Finkenauer and Waring 2001, p.3). During world war II, the *Vory V Zakone*

split into two groups; one (patriots) supported efforts to defeat the invading Nazis,

¹ Former Soviet Union did not have organized crime in the pattern of the American racketeers, it did have an extensive professional under world-the *Vory V. Zokone* —thieves with a code of honor|| the vory developed among the inmates of hard-core prison camp (Friedman, 2000).

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while the other (traditionalists) remained aloof. By 1953, the patriots had been driven

out of the —thieves world|| for their disloyalty to its traditions (Chalidge, 1977;

Friedman, 2000).

The collapse of the Soviet Union in 1991 created a vacuum of authority. As

new government began grappling with the awesome problems of developing laws,

regulations and business practices to govern emerging private businesses, economic

activities and greater political opportunities in the absence of comprehensive legal

strictures. In particular, Russia's effort to privatize the economy, that is the sale of

State owned industries to the private sector, had been fertile ground for criminal

exploitation. The new environment was a very permissive one for organized crime

with laws against criminal associations and with the continued inefficiencies in the

economic system. *Vory (thieves)* groups emerged as an important element in Russian

organized crime. Each was headed by a *Vory V Zakanye*, who was recognized by all

others as the authority in his territory (Handelman, 1995). Organized crime gangs in

Russia were like American organized crime gang where each group got its own

territory. There were at least 20 to 25 major Russian organized crime groups operating

in the former Soviet Block countries. There were relatively large organizations, with

key members ranging from 1,000 active criminals. They had hierarchical structure

and were divided into brigades or crew members. These criminal enterprises were

engaged in a wide variety of criminal activities, including murder extortion,

kidnapping, trafficking in drugs and weapons, money laundering, prostitution, fraud,

theft and bribery and related public corruption. The most productive activities of

Russian organized crime group have been described to be theft of antiques and its

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smuggling to the West, car theft, Arms trade etc. Russian organized crime group were

operating in domestic and international markets. Like Sicilian Mafia they concentrate

at the local level on keeping control over their territory by excluding criminal rivals,

and at the transnational level on using their capabilities in smuggling or otherwise

illegally dealing in anything which presents the opportunity of a profit, from cars to

Arms, medicines to raw materials. (Masahiro Touchi, 1998).

d) Emerging phenomenon organized crime in India

In India, criminal gangs have been operating since ancient times.
Thugs

(Thugs is a Hindi word a group of people used commit robbery followed by murder to

the travelers in India) used to travel in forest without arms in the form of pilgrims

and ascetics. First of all, they used to gain confidence of people by way of genius

tricks and on the false pretexts and then used to take money and other valuable goods

and murder them. (Sharma Purshottam, 2000). Profession of „*thug*ee“ used to continue

from one generation to another. The leaders of long-established, „*thug*“ groups used

to come from hereditary lines. Getting membership of *thug*ee gang was difficult.

Upcoming criminals used to try hard to get recruited themselves as a member of

“*thug*ee gang” (Dash Mike, 2005). Many „*thugs*“ used to worship Goddess Kali (one of

the Hindi Goddess). Some „*thug*ee groups“ claimed that they were the descendants of

Muslim tribes. But the majority of „*thugs*“ were followers of Hinduism and staunch

worshippers of Goddess Kali. At a time of political unrest, with changes from Hindu

Rajput Rulers to Muslim Mughal Emperors and Viceroys, usually group of *thugs* used

to display their allegiance to both religion including Hindu and Muslim, but their

ultimate loyalty was probably only to themselves (Sleeman Ramaseeana J, 239-400

as quoted by Dash Make, 2005).

Sometimes, the young children of the travelers used to be spared while killing

travelers to groom them to become *thugs*. The presence of children on a mission used

to help allay suspicion. (Dash Mike, 2005). Another way to become thug was by

training with a *_guru* (a teacher). This was like an apprenticeship for profession,

during which the candidates used to be assessed for reliability, courage, discretion and

discipline (Sleeman Ramaseeana J, 239-400 as quoted by Dash Make, 2005).

Thugs used to be in the group. They used to choose travelers far from home to

gain more time until the alarm might be raised. Due to longer distance people were

not able to reach for rescue. They used to strangle people after extorting money

and valuable goods. „*Rumaol*“ (yellow scarf) used to be the tool of strangulation.

Thereafter, they used to bury the dead body at nearby place. Sometime the *thugs*

used to mix up with travelers and used to develop a good understanding with them

(*Thugee*, 2009). According to the Guinness Book of Records the *thugee* cult was

responsible for approximately 2,000,000 deaths. Based on the assumption that *thugee*

only started exist 150 years before their eradication in the 1830s. British historian Dr.

Mike Dash estimated that they killed 50,000 persons in total (Dash Mike, 2005).

It was difficult to prosecute them because they used to operate in a highly

secretive manner. High degree of teamwork and coordination both during the

infiltration phase and the moment of attack made the task of Law Enforcement

Agencies tough. They were sophisticated criminal elite that knew their business well

and approached each 'operation' like a military mission (Dash Mike, 2005).

The *thugs* as a criminal 'tribe' seem to mirror many aspects of Italian Mafia.

The format had different names and autonomous organizations, but the style and

methods were common to them. In Sicily, the format used to be called the Mafia, in

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Cannabia was the Ndrangheta in the Naples area it was the Camorra and in the USA

it was the Cosa Nostra (our thing: our business). In New York, the format was

organized as 'five families', which were not biological families, but 'regiments' or

'business houses' to which members belong. Those families last longer than the

careers of the individual members. The leader used to get changed over the period of

time, though certain real families prevailed across the generations within each 'crime

family'. A code of 'omerta' or 'silence' was the norm. All of this illustrates the way

the *thug* groups used to operate in various territories and across the various

religions. Organized crime is often a transnational corporation and often transcend

religious boundaries, where legitimate organizations cannot (Dash Mike, 2005).

The initiative to suppress *thug* was done largely by the efforts of the civil

servant William Sleeman, who started an extensive campaign against *thug*

involving profiling and intelligence. A police organization known as the *thug* and

dacoity Department was established within the Government of India, and William

Sleeman was appointed Superintendent of the department in 1835. Thousands of men

were either put in prison, executed, or expelled from British India. The campaign was

heavily based on informant ions received from captured thugs who were offered

protection on the condition if they tell everything that they knew.

By the 1870s, the *thug* cult was extinct, but the concept of 'criminal tribes'

and 'criminal castes' is still in use in India. The Department remained in existence

until 1904, when it was replaced by the Central Criminal Intelligence Department

(CID) ((Dash Mike, 2005). After —*thuggee*” was extinguished modern organized crime

emerged in India.

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In India, Mumbai being the financial capital of the country became playground

of several organized crime gangs. After Independence, due to prohibition policy

adopted by the State of Maharashtra, bootlegging or trade in illicit liquor, became a

lucrative business for the criminal gangs. They started making money by supplying

illicit liquor to the local citizens in Mumbai (Sharma Purshottam, 2000).

Varada Rajan Mudaliar, who started his career as a porter at VT (Victoria

Terminus) now known as CST Railway Station in Mumbai took to thievery at the

Mumbai Docks and graduated to bootlegging in the 1960's. He acquired considerable

wealth through this activity. In the mid 1980's he became so influential that he used to

hold ‘*durbars*’ (a Hindi terminology which means holding a meeting under the

headship of one person where the head listens the problem of people and give orders)

in his areas of influence to settle disputes. He died on 2nd January in Chennai (Vardarajan Mudaliar; A Case Study, 2014). Similarly, Hazimastan and Yusuf Patel

began to commit small scale crime in Mumbai. Slowly and gradually they entered into

the illegitimate business of gold and silver smuggling (informed by experts).

Thereafter, big Mafia namely, Dawood Ibrahim (here in after would be referred as Dawood), a son of Mumbai Crime Branch Head Constable, started as a

petty offender and became a big Mafia of organized crime in 1970s. He took to

smuggling of gold and silver in a big way and started committing crime at large scale

with his other brothers. In the year 1980s Dawood became the most feared gangster

of Mumbai. Later he shifted to Dubai due to fear of Law Enforcement Agencies in

India (stated by experts from Mumbai police, 10/6/2013). Dawood's gang consists of

4000 to 5000 men approximately (stated by experts from Mumbai). Out of them, 50%

belong to Mumbai and neighboring districts and 25% from U.P. including Abu

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Saleem. The main activities of the group are extortion, contract killing, film

financing, drug trafficking, smuggling of computer parts and illicit trade in Arms and

Ammunition. He has also invested a lot of money in various legitimate businesses.

The annual turnover of Dawood's company is around 2,000 cores per year. After

1993 Bomb blast in Mumbai, offenders belonging to Hindu community have got

separated from Dawood. Thereafter, Abu Saleem and Chota Shakeel became partners

of Dawood Gang (Sharma Purshottam, 2000).

Another Gang headed by Arun Gawli in Mumbai was having around 200-300

persons in the gang. The gang has been involved in collection of protection money

from rich businessmen and contract killing. He has been convicted for murder on 31st

August 2012 (stated by experts in Mumbai -June 2013).

Amar Naik another gangster originated in Mumbai in the year 1980. The main

activity of the gang was to collect '*haftas*' (hafta is a Hindi terminology which means

weekly collection of money from hawkers) from hawkers, vendors etc. There were

around 200 criminals in his gang. Amar Naik was killed and his brother is now

looking after the gang (informed by D. Shivandan, IPS Retired, Former

Commissioner of Police Mumbai).

Chota Rajan another organized crime offender started his career with

Dawood's gang in Mumbai. After 1993 Mumbai blast Chota Rajan left Dawood's

gang and formed his own gang in the year 1994-95. His gang consisted of 800

members, Drug trafficking and contract killing are the main activities of the gang

(Informed by Shri T. S. Bhall Former I.G. (CID) Mumbai).

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Crimes like extortion, kidnapping, getting flats vacated by force, settling

dispute amongst merchants, etc. have become main source of organized criminal

gangs operating in Mumbai. In the year 1990 no one could perform a marriage on a

lavish scale in Mumbai without paying protection money to the member of Dawood's

gang (Sharma, Purushottam, 2000). From Mumbai organized crime racketeers have

spread their activity in Delhi.

Delhi being the Capital of India has become center of attraction for them.

Kidnapping for ransom is lucrative business for organized crime offenders in Delhi.

In addition land grabbing and murder have also become the part of their criminal

activity in Delhi. Rate of ransom ranges from Rs 1 crore to 5 crores.
Srivastava alias

Babloo, a Law Graduate, (now imprisoned in Bareilly jail in India) had been an active

organized crime Mafia, consisting of 50 members in the gang, operating in Delhi

(Under World don Babloo Srivastava, 2014).

The increasing activity of organized crime offenders in the city of Mumbai has

become the matter of concern to the government of Maharashtra. Therefore, special

legislation was adopted entitled The Maharashtra Control of Organized Crime Act in

the year 1999 (MCOCA) and it had been extended in Delhi vide G.S.R. 6 (E) dated

2nd January 2002. Different forms of economic crimes, committed in a well-organized

manner have become troublemaker, as they are very difficult to be detected and

controlled.

3. Meaning & Definition of Organized Crime

Defining organized crime is a difficult task. There is little agreement by

experts on the definition. In some countries the term —organized crime|| is

synonymous with professional crime. In many countries organized crime has emerged

due to social change and immigration where a group of people try to achieve power

(views of experts, obtained during the research study). However, in this part, various

definitions of organized crime have been analyzed, mainly in two perspectives i.e.

traditional and modern.

Traditional definitions are divided under the title sociological and professional

perspectives and modern definitions are divided into three categories;

1) Definitions by thinkers

2) Definition under International instruments and organizations

3) Definitions under national legislations of various countries.

a) Traditional Definition

i) Social and economic perspective

According to **Block** organized crime is —*both a social system and a social*

world. The system is composed of relationships binding professional criminals,

politicians, law enforcers, and various entrepreneurs|| (Block, 1983, vii).

Definition by Block (Block, 1983) indicates that organized crime syndicates

form a social system among themselves. The system is such where reciprocal services

are performed by criminals, their clients and politicians. Crime cannot be committed

without connivance of the law enforcement machinery and by corrupting politicians.

This is not a complete definition. Politicians are not always reciprocating to organized

criminals. Sometime organized crime syndicates bribe politicians and take advantage

of the system. But, always it is not possible. Block has compared organized crime

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syndicates with a social system which is composed of professional criminals, law

enforcement agencies and politician, is not factually true.

Organized crime syndicates take the advantage of loopholes of law

enforcement agencies. But, law enforcement agencies are not part of organized crime

syndicates. They may bribe or influence law enforcement agencies to know the secret.

The same is applicable with politicians. Politicians may give them protection. They

may use them against their rivals, but they cannot become part organized crime

syndicates. Definition does not include other elements of organized crime which is

continuing illegal activity to achieve monetary or pecuniary gain. The author does not

mention about use of threat or violence to achieve monetary or pecuniary gain which

is main motive of the syndicate.

ii) Professional perspective

Early sociologists used the term organized crime to describe professional

criminals. According to sociologist **Alfred Lindesmith** —*organized crime is usually*

professional crime, involving a system of specially defined relationship with mutual

obligations and privilege|| (*Encyclopedia of crime and justice, 1983*).

According to above definition organized crime has following ingredients;

1) First ingredient of above definition is that organized crime is usually

professional crime. It means that organized crime becomes a profession for

criminals who are involved in it. Whenever, a person adopts any activity as

profession he continuously remains engaged in that profession for sometime.

This shows that organized crime is a continuing activity. When it is treated as

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a profession, it is obvious that more than one person would be involved in the

activity because a single person cannot run the profession alone,

2) Second ingredient of the definition is that it involves a system of specially

defined relationship. This indicates that the criminals usually operate on strong

networking, but the relationship with each other is defined. Every criminal

knows his/her role clearly. There is no doubt or confusion,

3) Thirdly, author stated that the relationship has got mutual obligation and

privileges. This shows that criminals among themselves obliges each other and

take advantage of the gain or profit. No outside group or government

machinery is involved into it,

This definition, to some extent includes few characteristics of organized crime,

i.e. continuing illegal activity, involvement of more than one person. But, it is not a

complete definition as the author himself is not clear whether all the organized crime

racketeers accept it as a profession. Usually, criminals operating at higher level may

accept it as a profession while criminals operating at grass root level may be

professional criminals or may not be professional criminals. Sometimes, they get

involved into crime for some monetary gain or for any other short term gain also.

Definition also does not include the motive or goal of organized criminals as R.K.

Merton (1938) opines that criminals try to achieve goals by way of denying socially

acceptable means. There is no indication about the goals of criminals for which they

get involved into an illegitimate profession.

Another thinker **Donald R. Gressey** stated that —*An organized crime is any*

crime committed by a person occupying, in an established division of labor, a position

designed for the commission of crimes providing that such division of labor includes

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at least one position for a corrupter, one position for a corruptee, and one position

for an enforcer (Donald R. Gressey, 1969).

Gressey's definition is wider in comparison to Alfred's definition.
While

explaining the ingredients of Gressey's definition, it may be summarized that;

1) Organized crime is any crime which may be committed in an organized

manner. It means if any crime is committed after proper planning that may be

treated as organized
crime,

2) The crime is committed by a person occupying a position in an
established

division of labor. Any person who commits the crime is holding a
position in

the group which is involved into the business of illegal activity. This
indicates

that organized crime racketeers form an organization and its members
are

involved into criminal
activity,

3) The position which is occupied by a person is designed to commit the
crime.

This itself shows that organized crime Mafia have got proper division
of labor,

working like professionals whose duties and responsibilities are
predefined,

4) There should be three positions in the organized crime gang one for
corrupter,

one for corruptee and one for an enforcer. One of the person should
be able to

spread corruption who can easily make inroads into bureaucracy to
make them

corrupt by way of bribing or other means to take the advantage of the loopholes into existing system. Another person should be the one who has

become corrupt. It is a new point included by Gresse (1969). He wants to

indicate that the persons who take bribe or become corrupt by other means are

also a member of organized crime syndicate. One person should be there to

enforce or commit actual crime.

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This is not a very clear definition as the author tries to emphasize that organized crime syndicates should have at least three positions. There may be more

than three positions. Corruption is not only means to commit the crime. The author

also did not include threat or violence which is one of the essential elements of

organized crime. Organized crime racketeers are also involved into crime to achieve

some monetary or pecuniary gain. This is also not a complete definition. Above

definitions include small group of criminals who get organized to commit crime in

professional manner. (Reid, 2006).

iii) Common elements in Sociological and Professional perspectives

Both the perspectives to the concept of organized crime have some common

elements. In both the perspectives, activity is committed in organized manner and

goes on beyond the life of any one particular member. Both the definitions see need

for some degree of protection which is obtained by corrupting public officials or

keeping faith in politician (Reid, 2006). These similarities may be seen in the

following definition.

According to **Ianni and Reuss Ianni** —*organized crime as an integral part of*

American social system that bring together public demands certain goods and

services that are defined as illegal, an organization of individuals who produce or

supply those goals and services, and corrupt public officials who protect such

individuals for their own profit (Ianni and Reuss Ianni, 1974).

Ianni's definition has got following components;

1) Organized crime is a persisting form of criminal activity which means that

organized crime is continuing illegal activity. It may function like corporate

or an organization which keeps on providing services to its clients,

2) Syndicates provide illegal services means that the aim of the organization is to

provide illegal services for monetary or pecuniary gains. For example,

organized crime racketeers are involved in various types of criminal activities

like narco-terrorism, drug trafficking, auto theft. They are involved in these

activities to provide illegal services. Murder is best example of illegal

services if it committed for monetary gain,

3) The gangs are operating on a network basis. Member of one organized crime

gang may have networking in another State or country. These activities are not

confined to one area or place. It has got networking at State, national and

international level,

4) Organized crime syndicates have been corrupting public officials to gain profit

and to get
protection.

This is a wide definition which includes many elements of organized
crime.

But, it is not a complete definition. Whether organized crime is committed by
a

person singly or jointly either himself or on behalf of the syndicate is not
clarified in

the definition. Organized crime racketeers, some time, use violence or threat
to

achieve the
means.

They corrupt public officials not only to gain protection, but to seek
inroads

into the system and to take advantage of existing loopholes in the system to
commit

crime. They also seek protection from
politicians.

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b) Modern definitions

Traditional definition of organized crime has changed with the
changing phase

of society. New types of criminal gangs emerged during prohibition
(Prohibition

movement has been discussed in this chapter under the heading emerging

phenomenon of organized crime in America). The huge profit earned by
criminals due

to prohibition together with the increasing Globalization, Urbanization and Industrialization have changed the *modus operandi* (method of committing crime) of gangs. In the present day society the most dangerous criminal gangs are not confined to only one type of crime but have been getting engaged into varied forms of criminality.

The key to successful gang operation is the monopoly of illicit enterprises or illegal operations from which they earn huge profit. In the big cities, the syndicates decide which mobsters are to have what rackets. In cities, where it is not well organized, the attempt by one mobster to take over the territory from another mobster inevitably breeds trouble. In modern times criminal syndicates rely on 'muscle' and murder to a far greater degree than anything else.

Modern crime syndicates and criminal gangs have copied some of the organizational methods found in modern business. They seek to expand their activities in many different fields and at international level.

i) Definition by social Scientists/Thinkers

According to **Huber** — *Organized crime constitutes any enterprise, or group of*

persons, engaged in continuing illegal activities which has as its primary purpose the

generation of profits, irrespective of national boundaries” (Huber, 2001, p. 216)

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Huber's definition has following ingredients;

- 1) Organized crime syndicates are group of persons. Author gave it a nomenclature of enterprise which indicates that the gangs have got the feature of a corporate. Every member has defined role which he has to perform,
- 2) continuing illegal activity is another feature of organized crime which is accepted worldwide feature of organized crime Mafia,
- 3) Generation of profit is one of the main motives of criminals. The profit motive has been accepted as important goal of organized crime offenders by United States Task Force report in the year 1967,
- 4) Irrespective of national boundaries, organized criminals have been functioning on strong networking. They have got close linkages with criminals operating in another country. Mafia from one country try to move to another country.

For example; Italian Mafia have been operating in USA. Dawood Ibrahim,

organized criminal has started his carrier in Mumbai, but later due to fear from

police he moved to Dubai (informed by Former Commissioner of Police

Mumbai
10.06.2013).

This is a wide definition where various aspects of organized crime have been

covered. But, author did not mention what should be the minimum number of persons

to constitute an enterprise. Whether, a single person can commit crime or crime

should be committed by more than one person. Only profit is not the motive.

Sometime criminals are involved into illegitimate activities due to pecuniary gain

also. How long the criminal enterprise should be in existence to be declared as

organized crime enterprise, is not clear in this definition.

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According to **Albini** —*Organized crime as any criminal activity involving two*

or more individuals, specialized or non-specialized, encompassing some form of

social structure, with some form of leadership, utilizing certain modes of operation, in

which the ultimate purpose of the organization is found in the enterprises of the

particular group|| (Albini 1971, p.37-38).

Albini believed in two or more number of persons to formulate a gang. The

criminal may be specialized criminals or they may be unskilled person. This shows

that organized crime syndicates get specialization also in commission of a particular

type of crime. He also believed that the gang has got a social structure where these

criminals are jointly working. Leadership quality is for the first time brought by

Albini. But he did not talk about profit motive.

This definition permits us to view organized crime on a vast continuum,

allowing for freedom of analyzing and defining a particular criminal group as an

entity in itself possessing a variety of characteristics, as opposed to a rigid

classification based upon certain specific attributes. Viewed from this wide

perspective there are many forms which organized crime can take, with variations, of

course, to be found within each form.

The description of a criminal group is based upon the nature of a specific

criminal act which it has committed at any given time, not on the basis of its possession of certain traits. Criminal groups are dynamic entities, not static ones. As

such, they change with the nature of the criminal acts they commit.

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For getting wider perspective we may consider Howard Abadinsky's definition. Abadinsky's definition seems to be wide which included important features of organized crime.

According to **Abadinsky** "*Organized Crime is a non-ideological enterprise*

involving a number of persons in close social interaction, organized on a hierarchical

basis, with at least three levels/ranks, for the purpose of securing profit and power by

engaging in illegal and legal activities. Position in the hierarchy and positions

involving functional specialization may be assigned on the basis of kinship or

friendship, or rationally assigned according to skill. The positions are not dependent

on the individuals occupying them or any particular time. Permanency is assumed by

the members who strive to keep the enterprise in legal and active in pursuit of its

goals. It eschews competition and strives for monopoly on an industry or territorial

basis. There is a willingness to use violence and/or bribery to achieve ends or to

maintain discipline. Membership is restricted, although nonmembers may be involved

on a contingency basis. There are explicit rules, oral or written, which are enforced

by sanctions that include murder” (Abadinsky, 1990, p.6).

The main elements of Abadinsky’s definition are as follows:

- 1) Non-ideological enterprise indicated that organized criminals are not motivated by social doctrine, political beliefs, or ideological concerns, its goals are money and power. They try to get involve into political power to gain protection or immunity from illegal activities,
- 2) Persons involved in close social interaction indicate that criminals are involved in interaction with each other closely. Like Sutherland’s theory of

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Differential Association, they learn criminal activities among intimate friends.

These groups are closely linked with one another,

3) Organized crime syndicates have a vertical power structure with at least three

permanent ranks—not just a leader and followers—each with authority over the

level beneath,

4) The position is assigned on the basis of kinship or, friendship or on the basis

of skill. There are two ways to assign position; firstly on the basis of

friendship or kinship, secondly according to the skill,

5) Permanency is assumed by members. This provides an important basis for

attracting people to the group. Gressey (1969) states that an order for an

organized crime group to service has —an institutionalized process for

including new members and inculcating them with the values and ways of

behaving in the social system||,

6) Completion and monopoly is one of the essential element of organized crime

syndicates. It tries to have monopoly over a particular type of crime (for

example, gambling etc). It may have a monopoly on a particular territory and

a particular type of offence,

7) The members of organized crime syndicates use violence as a means to

achieve illegitimate goals. They also resort to bribery in order to protect its

operations or members. Use of violence or bribery is not restricted by ethical

considerations, but is controlled only by particular limitations,

8) Membership of organized crime syndicate is usually passed on the basis of

criminal record, kinship or friendship. Those who are willing to become

member of organized crime syndicates they have to prove it by their behavior,

for example, willingness to commit crime, obey rules, follow orders and

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maintain secrets. There is a period of apprenticeship, which may range from

several months to several years,

9) In an organized crime group, a rule violating member is not fired, but more

likely, fired upon.

This is a very good definition having maximum features of any organized

crime syndicate. But, at the very beginning author has said that organized crime

syndicates are working to secure profit or power by illegal and legal activities.

Organized Crime syndicates are involved into illegal activities. They are not securing

profit or power by legal activities. If they adopt a legitimate goal to achieve power

and it is legally approved then it cannot be considered as crime.

He did not focus on the minimum number of persons necessary to formulate a

syndicate. Three levels of hierarchy is not always common in each group. It may

involve more than three layers. Ongoing or repeated way is again not very clear how

many times a person should commit crime to be held liable for organized crime.

ii) Definition under United Nation's Instruments and other organizations

Since the impact of organized crime is observed at the global level, some

definitions of organized crime have been adopted by international bodies which also

deserve attention.

Article 2 of the **United Nation Convention Against Transnational**

Organized Crime provides that "*organized criminal group shall mean a 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

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accordance with this convention, in order to obtain, directly or indirectly, a financial

or other material benefit” (G.A. Resolution 55125 of 15th Nov. 2000).

The United Nations Convention against Transnational Organized Crime for

the first time defined the concept of group. The basic element of organized crime is

that it needs a group of persons to get involved into criminal activity. According to

the present definition, minimum number of persons in the syndicate is three. So far,

none of the definition has emphasized on minimum number of persons more than

three. This is not possible to commit such serious crime only with the existence of a

group having minimum three members. This shows that large number of organized

crime syndicates do not engage larger number of persons in the group. Rather, people

who commit crime at grass root level are usually hired and paid money. They are

even not aware who is the boss or chief of the organization.

According to **Interpol's Organized Crime Unit** —Any group of criminals that

have a corporate structure, whose primary objective is to obtain money and power

through illegal activities often surviving on fear and corruption

(<http://www.interpol.int/Crime-areas/Organized-crime/Organized-crime>).

Salient features of Interpol's definition are discussed below:

i) First and foremost requirement of this definition is that a group of criminals

should have corporate structure. This means that Mafia are expected to

function in a systematic manner with defined responsibilities.

ii) The aim of syndicate is to obtain not only money but power also.

iii) The only difference between legitimate corporation and organized crime

Mafia is that the gang leader wishes to acquire money and power through

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illegal means while legitimate corporation acquire money through legitimate

means.

iv) The gangs are functioning by way of creating fear among people and they are

also
corrupt.

At the very beginning INTERPOL has tried to give emphasis on group
of

persons. What would be number of persons to formulate a criminal group is
not

indicated. Present definition has got the feature of definition given by United
States

Task Force. Monetary gain has been one of the prime motive of organized
crime

syndicates. Greater emphasis has been given on fear and corruption.
Corruption has

already been included in the definition of
Gressey.

This definition has given much emphasis on corruption. Corruption
may be

one of the basis of organized crime, but not the essential element of
organized crime.

Moreover, —Corporate structure|| becomes a problematic term. Many
organized crime

syndicates are in loose coalition. Many of South Africa's organized crime
syndicates

consist of networks of criminals rather than rigid structures of authority South
African

crime seems to prefer loose, shifting alliance with other syndicates
(Gastrow, 1998).

US Task force on Organized Crime defines that —*organized crime*
is a

*society that seeks to operate outside the control of the American people and
their*

Government. It involves thousands of criminals working within structure as complex

as those of any large corporation, subject to laws more rigidly enforced than those of

legitimate Government. Its actions are not impulsive, but rather the result of intricate

conspiracies carried on over many years and aimed at gaining control over whole

fields of activity in order to amass huge profits|| (United States Task force on

Organized Crime,
1967).

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According to United States Task Force organized crime is a society that seeks

to operate outside the control of the American government and people. This definition

has got similarity with Block's definition where he defined organized crime as a

social system and social world. But, definition given by United States Task Force

defines society of organized crime which is beyond government control. This

indicates that organized crime racketeers are self-sufficient and they have been

operating with sovereign power. This shows that organized crime Mafia are very

powerful. Complex structure like large corporation is one of the salient features of this

definition. Organized criminals have been operating in large group like business

entity. This indicates that organized crime racketeers are member of the syndicate

and the syndicates are very powerful. Rules and regulations of syndicates are very

strict. Every member of the group has to abide by laws/rules.

Actions of organized crime syndicates are based on intricate conspiracy which

is carried out for many years. Organized crime syndicates have been committing the

crime after proper planning and after examining the situation. Behavior of members is

not impulsive but it is balanced and well planned.

Definition given by United States Task Force includes professional and

sociological both the approaches. Organized crime is a society indicates that

organized crime gangsters have emerged due to social structure where after

prohibition, pressure to enter into illegitimate business of liquor was created. Italian

Mafia entered into the business for monetary gain. They could not involve into liquor

trade alone. It required group of people to get involved. Therefore, they made it a

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business. That's how organized crime has got a new face which is a mixture of

professional and sociological approach.

This definition also is not perfect as a —large number of people are|| a vague

term and what should be the minimum number of persons to form a gang is not

mentioned. In the present day society, organized criminals are operating not only for

monetary gain or profit but they are operating for pecuniary gain. In Mumbai attack

where terrorists foiled Taj Hotel 26/11/2008 and killed lot of people, Dawood

Ibrahim, organized crime Mafia helped them to enter into Mumbai. This has been

done for pecuniary gain (informed by Mumbai police officers). Organized crime is

defined as Society. But, the aim of society is not clearly defined. Society beyond

government control may have various motives.

President's Commission on Law Enforcement and Administration of

Justice, tried to define *organized crime as a society that seeks to operate outside the*

control of American people and their governments. It involves thousand of criminals,

working within the structures as complex as those of any large corporation where,

Laws are rigidity enforced more than it is enforced in a legitimate organization

(President's Commission on Law Enforcement and Administration of Justice, 1967).

iii) Definitions under national legislations of various countries

Organized and Serious Crimes Ordinance, Hong Kong, 1994
provides that

—Organized crime” means Schedule 1 offence that (a) is connected with the activities

of a particular society (b) is related to the activities of two or more persons

associated together solely or partly for the purpose of committing two or more acts,

each of which is a Schedule I offence and involves substantial planning and

organization; or crime is committed by two or more persons.

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According to above definition aim of organized crime offenders have to cause;

(i) Loss of the life of any person, or a substantial risk of such loss,

(ii) Serious bodily or psychological harm to any person, or a substantial risk of

such
harm.

This is very clear cut definition which includes social service approach defined by Block and United States Task Force where organized crime syndicates

have been defined as a society. Further, it specifies that organized crime syndicates

should have at least two members who are closely associated. This association is only

for commission of crime. Whether, they are associated with each other in other

personal or social matters is not the concern of definition.

To accept any activity as continuing illegal activity at least two or more crimes

should be committed by the gang members. Conspiracy has also been accepted as part

of organized crime, activity. Offenders cannot act on their own will. They have to act

on behalf of members of the group. Organized crime offenders should be jointly liable

for the act of other member, for loss of life or risk of such loss.

This is a very wide definition. Only two persons cannot formulate an enterprise gang and only two times commission of offence is not essential criteria to

hold a person criminally liable.

Penal Code of Italy (1930) does not specifically define 'organized crime' but

it defines 'criminal association'. According to Article 416 of the Penal Code Italy, the

criminal association is;

—When three or more persons associate for the purpose of committing more

than one crime, whoever promotes or constitutes or organizes the association, shall be

punished, for that along, with imprisonment from 3 to 7 years (as quoted by Sharma

Purshottam, 2000,
p.5).

Section 2(i) (e) of The Maharashtra Control of Organized Crime Act

(1999) defines that —*organized crime means any continuing illegal activity by an*

individual singly or jointly either as a member of Organized crime or on behalf, such

syndicates, by use of violence or threat of violence or intimidation or coercion, or

other unlawful means, with the objective of gaining pecuniary or other undue economic or other advantage for himself or any other person or promoting

insurgency.

Continuing illegal activity means more than one charge sheet should have

been filed against the suspect in proceeding 10 years and cognizance had been taken.

Only then the case may be investigated under MCOCA against such accused (section

2 (1) (d) of MCOCA). Use of violence, threat of violence, intimidation or coercion or

other unlawful means should be adopted by the offender. It does not include political

motive. Wording —for himself or for the any other person|| indicates that criminals join

themselves or they may provide services to someone. For example; *supari killing*

(contract killer in the field takes money and kills someone). Sometime, aim of

organized crime offenders is to promote insurgency.

The definition has got certain ambiguity because it does not define meaning of

word ‘any other advantage’. Promoting insurgency is also creating doubt because

promoting insurgency is the aim of terrorist’s not organized crime offenders.

Moreover 10 years is too long time for proving person’s involvement in organized

crime.

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According to Section 75 of Cr. PC in India any person may be declared as a

habitual offender if he repeats criminal act more than three times. Twice is

insufficient to declare any gang as organized crime syndicate.

While summing up it may be stated that Abadinsky’s definition is one of the

best definition which includes main features of organized crime. Definition given by

MCOCA is also closer to Abadinsky's definition. Both have defined that purpose of

organized crime is profit motive. Violence or threat of violence is also found in both

the definition.

Finally, Organized Crime may be defined as *Continuing Illegal Activity*

committed by one or more persons on behalf of a syndicate using force, violence, threat

of violence, undue influence or any other means. The crime is committed with prior

planning to achieve monetary or pecuniary goals. The syndicate is functioning like

a corporation having more than 3 members. The group functions with hierarchical

structure following a strict code of conduct among the members.

4. Characteristics of Organized Crime

While analyzing different definitions, the following major Characteristics of

organized crime have emerged:

a) Continuity

The criminal group operates beyond the lifetime of individual members and is

structured to survive changes in leadership. The gang remains continuously involved

into criminal activity.

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**b)
Structure**

The criminal group is structured as a collection of hierarchically arranged inter

dependent persons devoted to the accomplishment of particular function. It is,

however, distinguishable as the ranks are based on power and authority.

These groups are not formed on temporary basis. But, the groups are into

existence for a long time. United Nation Convention against Transnational Organized

Crime also (Article 2) provides that structured group shall mean a group that is not

randomly formed for the immediate commission of an offence and that does not need

to have formally defined roles for its members, continuity of its membership is

important.

**c)
Membership**

The membership in the core criminal group is restricted and based on common

traits such as ethnicity, criminal background or common interests. The potential

members are subjected to a lot of scrutiny and are required to prove their worth and

loyalty to the criminal group. The Rules for members include secrecy, a willingness to

commit any act for the group and intent to protect the group. In return for loyalty, the

member of a criminal group receives economic benefits, a certain prestige and

protection from Law Enforcement Agencies.

**d)
Criminality**

The criminal group relies on continuing criminal activity to generate income.

Thus, continuing criminal conspiracy is inherent in organized crime. Some activities

such as supplying illegal goods and services directly produce revenue, while others

including murder, intimidation and bribery contribute to the group's ability to earn

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money and enhance its power. The criminal group may be in legitimate as well as

illegitimate business activity at the same time.

**e)
Violence**

Violence and the threat of violence are an integral part of a criminal group.

The violence or threat of it is used against the members of the group to keep them in

line as also against the outsiders to protect the economic interests of the group.

Members are expected to commit, condone or authorize violence.

**f) Power/Profit
goal**

The members of the criminal group aim at maximizing the group's profits. The

political power is achieved through the corruption of public officials, including

legislators and political executive. The criminal group maintains power through its

association with the —protectors|| who defend the group and its profits.

The organizations exist largely to gain profit from providing illicit goods and

services in public. But, they may also penetrate the legitimate economy, or in the case

of the Mafia, assume quasi-governmental roles. However, they choose to do it, and

whatever they choose to do, their goal remains the same-to make money, as much as

they can. Sometimes, that can mean seeking political power in order to facilitate their

greed, but the bottom line is the same.

**g)
Protectors**

There are corrupt public officials, politicians, attorneys and businessmen who

individually or collectively protect the criminal group through abuses of status and or

privilege and violation of the law. Corruption is the central tool of the criminal

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protectors. A criminal group relies on a network of corrupt officials to protect the

group from the Criminal Justice System.

**h)
Conspiracy**

Organized crime is conspiratorial in nature. Members of syndicate indulge into

criminal activity after having consensus of its members. It is committed through

planning and coordination of individual efforts with prior meeting of minds.

Conspiracy is hatched in all the criminal activities.

As a matter of principle, in prior planning all the members should be involved

into conspiracy. But, in reality only people holding higher posts know what crime has

to be committed, sometime even criminal working at grass-root level does not know

who is the boss. Head of the organization issue order to the person and second in

command who in turn may instruct others to commit the crime.

i) Specialist support

Organized criminal groups and their protectors rely on skilled individuals or

specialist support to assist in the attainment of group's goal. The specialist assists the

criminal groups on an ad-hoc basis and not permanently. They are non-the-less

considered part of the organized crime. The specialist includes pilots, chemists,

arsonists, hijackers, shooters etc.

j) Corporate structure

Organized crime functions like corporation. They appoint a leader who is

assisted by other members in hierarchical structure. Members are appointed on the

basis of skill, relationship with existing members etc. Group continuously remains

engage into committing crime.

k) Social support

Organized crime members are seeking social support. Social support includes

public officials who solicit the support from organized crime offenders, business

leaders who do business with organized crime gangs; social and community leaders

who invite organized crime offenders to social gatherings and thus portray the

criminal group in a favorable or glamorous manner.

Finally, it may be stated that all the aforesaid characteristics are not available in

all the criminal groups in India. Further the degree of these characteristics may vary

from group to group. The essence of organized crime is continuing illegal activities

for gathering illegal profits. Conceptually, as long as this condition is satisfied, a

group can be termed as an organized criminal group.

5. Statement of the Problem

Increasing complexity of organized crime has made the job of Criminal Justice

Functionaries difficult. They are not able to face the challenges posed by organized

crime offenders. The Criminal Justice Functionaries have to function under the Rule

of Law. They are working under restrictions of Rules and Regulations. They are

provided with limited manpower. Some of them are not adequately trained. Organized

crime offenders are able to transgress the rules, regulations and social norms. Mafia

have huge amount of money and power. They are able to deploy sufficient numbers of

manpower for committing crime and provide them with proper infrastructures, latest

gadgets Arms and ammunition.

Offenders are not getting extradited due to time-consuming and lengthy

process, where apart from satisfying the legal requirements of the requested State, the

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judicial requirements of a foreign Court have also to be satisfied. Under section 35 of

the Extradition Act, 1962 in India every notified order made or notification issued

under the Act has as soon as possible to be laid before each House of Parliament. The

procedure may take a lot of time and hampers the extradition of offenders.

Definition of extradition offence varies from one country to another country.

An offence may be extraditable offence in one country, may not be an extraditable

offence in another country. Law and legal practices differ from one country to

country. Financial regulations of various countries are also different and many

countries do not even provide the evidence of financial transactions. To bring the

uniformity, expediting extradition procedure and for facilitating investigation in

foreign country The Model Treaty on Extradition had already been adopted by the

General Assembly of United Nations on 14th Dec. 1990 (GA RES 45/116) and

amended by General Assembly Resolution 52/88 of 12th December 1997. Model

Treaty non Mutual Assistance in Criminal Matters was also adopted by General

Assembly Resolution number 45/117. But the provisions are not implemented

effectively.

Non availability of witnesses from abroad, incompatibility of national legislation with the provisions of the United Nations Convention against

Transnational Organized Crime 2000, lack of willingness of foreign country to

support nations, non-ratification of the United Nations Convention against

Transnational Organized Crime, having no binding effect on sovereign nation have

been major hindrance in investigation and prosecution of organized crime cases

particularly when, an offender absconds foreign country after committing crime, or he

or she has transnational linkages and witnesses are in foreign country. In this regard,

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it would be appropriate to mention that the General Assembly of United Nations has

adopted United Nations Convention against Transnational Organized Crime by its

resolution No. A/RES/55/25 of 15 Nov. 2000 at its 55th session. The Convention contains

specific provisions for preventing, investigating and prosecuting these offences as

well as serious crimes which are international in nature and involve an organized

criminal group.

Due to lack of concentrated efforts of sovereign nations in close cooperation

with one another Criminal Justice Functionaries are finding it difficult to control the

crime despite international endeavor to control transnational organized crime have

been taken by international agencies . For example; United Nations Office on Drugs

and Crime (UNODC) pays special attention to combating transnational organized

crime. It works closely with State governments, other organizations and civil society

to enhance international cooperation to counter the pervading influence of organized

crime and drug trafficking. Besides, INTERPOL exists to help in creating a safer

world.

Lack of international and inter-regional cooperation has been a major

hindrance in combating transnational organized crime. The Globalization of the

threats made it imperative to have a global alliance, in response, with the international

community joining forces across the borders and continents just as the criminal had

done.

In India Law Enforcement Agencies are operating with the limited resources

available with them. Even all the police stations in India are not well equipped with

modern computers, remote sensing devices, Geographical Information System etc.

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Even Forensic Science aid is not available to Investigating Agencies at the appropriate

tim
e.

Investigation of transnational organized crime is very time consuming
and

complicated. Every single case needs special attention to meet challenge.

Investigating Agencies are finding it difficult to identify the leader of organized
crime

syndicates who have been functioning in secretive manner with each layer
being

highly insulated with each other offenders at grass-root level usually do not
know

about the gang
leader.

Interception of wire and electronic conversation have been permitted
under

section 14 of the Maharashtra Control of Organized Crime Act, 1999 and
made

admissible as a piece of evidence, but the process is complicated and time
consuming.

It is not of great help to Investigating Agencies in locating the whereabouts
of

organized crime
syndicates.

In India Crime branch in police set up is given the responsibility of

investigating organized crime cases in some States of India. Economic
offences wing

of the Central Bureau of Investigation (CBI) is involved in the investigation of

counterfeiting of currency notes, frauds, etc. where government agencies
have been

defrauded. But the crime could not be controlled. Existing staff is always overburdened with the work

Except, few State legislations, no Central legislation has so far been enacted in

India to tackle this menace. Implementation of existing legal instrument has been very

weak. Witnesses are turning hostile due to fear and threat received by the criminals

leading to acquittal in a large number of cases. Benefit of doubt goes in favor of

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accused in the adversarial justice system in India. Under the Maharashtra Control of

Organized Crime Act anonymity of witnesses has been permitted to be maintained.

But, there is no provision for the witness protection program under the Act.

Public Prosecutors and Judges have been facing problems in the prosecution

and trial of organized crime cases. Special provisions are provided for prosecution

and trial of organized crime cases under Maharashtra Control of Organized Crime

Act, including the establishment of Special Courts, submission of charge sheet

directly in the Special Court, appointment of Special Public Prosecutor etc. In practice

Presiding Officers and Public Prosecutors are not well trained to handle cases

efficiently. Organized crime Mafia have got transnational linkages. They abscond to

foreign countries.

Existing sentencing policy is hardly appropriate and commensurate to the

challenges posed by organized crimes. Sentencing in organized crime is done on the

same line as in other offences rather than adopting harsh and higher scale of

punishment (Pande B.B., 1998).

Thus, there is a dire need to identify the challenges faced by Criminal Justice

Functionaries in investigation, prosecution and sentencing of organized crime cases

and to find out ways and means for their prevention and control.

6. Research Questions

In this background the study has been conducted to find answers of following

research questions;

- 1) What is the recent trend of various forms of organized crime in India?

2) What are the ramifications of organized crime?

3) What are the various forces operative in the process of perpetration of organized crime?

4) What are the problem and constraints faced by Criminal Justice System in investigation, prosecution and sentencing of organized crime cases in India?

5) Whether existing laws in India are effective in prevention and control of organized crime?

6) Whether United Nations instruments including United Nation Convention

against Transnational Organized Crime, Model Treaty on Extradition and

Model Treaty on Mutual Assistance in Criminal Matter are relevant in

international and regional co-operation, mutual assistance, extradition of

offenders, investigation abroad, sharing of data based?

7. Objectives

Keeping in view of the research questions as mentioned above, the objectives

of this study are as follows;

- 1) To study recent trend of organized crime and its ramifications in India.
- 2) To analyze diverse forces operative in the process of the perpetration of organized crime in India.
- 3) To identify the problems and constraints faced by Criminal Justice Functionaries while investigating, prosecuting and sentencing organized crime offenders in India.
- 4) To analyze the effectivity and implementation of the existing laws in India enacted for the prevention and control of organized crime and to study

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different United Nations instruments relating to organized crime in terms of their relevance to international and regional co-operation, mutual assistance, extradition of offenders, investigation, sharing of database and other related matters for prevention and control of organized crime in India.

- 5) To suggest modalities for scientific investigation, effective prosecution and

sentencing of organized crime cases and required amendment in the existing

legislation for prevention and control of organized crime in India.

8. Scope of the Study

This study is confined to the crimes covered under The Maharashtra Control

of Organized Crime Act, 1999 from the date of its implementation in Mumbai (1999)

and in Delhi (2002). Problems and constraints faced in investigation, prosecution and

sentencing of organized crime cases registered under MCOCA only were identified,

analyzed and discussed in the study. Analysis of existing legal instruments in India

was restricted only to MCOCA and the Extradition Act in India. In addition relevant

provisions of the United Nations Convention on Transnational Organized Crime, the

Extradition Treaty and Treaty on Mutual Assistant in Criminal Matters were studied

in terms of their effectivity in mutual assistance, extradition of offenders, international

and regional co-operation and sharing of data based relating to organized crime only.

The study was restricted to decided case laws under MCOCA only during the period

1999 till Feb
2014.

9. Conceptual Clarification

Organized crime has been understood as enumerated in Maharashtra Control

of Organized Crime Act, 1999 which reads as follows:—

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—Organized crime means any continuing unlawful activity by an individual

singly, or jointly, either as a member of organized crime syndicate or on behalf of

such syndicate, by use of violence or threat of violence or intimidation or coercion, or

other unlawful means, with the objectives of gaining pecuniary benefits, or gaining

undue economic or other advantage for himself or any other person or promoting

insurgency.

Criminal Justice System is the agency of social control which prevents and

controls crime. Criminal Justice System includes police, prosecutors, judicial officers,

prison and correctional officers. Criminals Justice Functionaries in this study included

only Police Officers, Public Prosecutors and Judicial Officers.

Prison and correctional officers were not included in the study because they

are not involved in the investigation, prosecution and sentencing of organized crime

cases.

10. Locale of the Study

Locales of the study were Mumbai and Delhi.

Mumbai is the pioneer in criminal activities by organized gang in India right

from the *Pendharis* of 17th century. *Gerald Aungier*, the first Governor of Bombay

had to create the Militia of local *Bhandaries* in 1669 to control depredation of

criminal gangs who used to rob citizens and sailors in Mumbai. Today the activities of

criminal gangs have proliferated in diverse direction and have become more complex

(T. S. Bhall, 2009).

Mumbai is the capital of Maharashtra, having population of 163.68 lakhs, as

per the census of 2001. It is economic powerhouse and international gateway of India.

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It's an exhilarating city, fuelled by entrepreneurial energy, determination and dreams

compared to the torpor of the rest of India. Because of its easy, ideal and accessible

harbor, the smuggling from Gulf- Arabian countries becomes very easy. Initially, the

criminal gangs were busy in making easy money out of local petty crime found

smuggling to be fertile and untapped area.

But, at later stage organized crime offenders in Mumbai had started with

prostitution during the British regime when Ayub Lala was running the prostitution

racket for the British soldiers by setting up several red light areas. Mumbai has been

for decades the city infested by large number of criminals, in the country.

Delhi, the old settlement Indraprastha featured in the epic of Mahabharata over

3000 years ago is the present day Delhi. It is the most invaded city in the India by the

foreign predators and intruders and thus has an influence of many cultures. Delhi is

the capital of many rulers from 11th century onwards and has witnessed many ups and

down. It is one of the India's busiest entrance points for overseas Airlines, and the

hub of not Indian travel network but a stop on the overland route across Asia. Because

of geographical location in Delhi, the boundaries are simple demarcation and

criminals from the adjoining neighboring states like Haryana, Uttar Pradesh and

Rajasthan operate in the city.

Some of the major criminal gangs operating in Delhi are Dinesh Tyagi (UP),

Rajesh Dahiya and Om Prakash Srivastava @ O.P. Srivastava, Babloo Srivastava ,

Abu Salem (Mumbai), and Kingpin of various organized crime offenders (Bhal T.S.,

2009). All these gangs have found indulging in multi-disciplinary organized crime

activities.

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11. Research Design

The research was based on exploratory research design. This research design is

generally used to study a subject on which not many studies have been conducted and

exploration of facts is needed to establish the truth. The thrust in exploratory research

is on the discovery of new ideas and facts. The research design appropriate for such

subjects is generally flexible enough to provide opportunity for considering various

aspects of a problem under study.

a) Universe of the study

The universe of this study includes Criminal Justice Functionaries, including

Investigating/ Law Enforcement Agencies, Prosecuting Agencies, Special Judges,

officers from CBI and INTERPOL wing in India, Academicians, High Court Judges

and Experts on organized crime from governmental and non-governmental organizations.

b) Sampling design

Total sample size was 200. There were five categories of samples, namely;

1. Investigating/Law Enforcement Officers,

2. Judicial Officers

3. Public Prosecutors

4. Officers from CBI and INTERPOL wing of India

5. Academicians, Expert and High Court Judges on organized crime from

Governmental and Non-Governmental Organizations.

i) Investigating/Law Enforcement Officers

60 samples were collected from Law Enforcement/Investigating Agencies in

total. Out of which, only 30 officers directly or indirectly involved, in the investigation of organized crime cases from Delhi comprising of Assistant Commissioners of Police, Deputy Commissioners of Police, and Joint Commissioners, of Police and above were interviewed. Very less number of police officers conducted investigation under Maharashtra Control of Organized Crime Act in Delhi since the date of its implementation (2002). Therefore, such small number of samples were taken.

Similarly, 30 officers directly or indirectly involved, in the investigation of organized crime from Mumbai comprising of Assistant Commissioners of Police, Deputy Commissioners of Police, and Joint Commissioners, of Police and above were interviewed. Very less number of police officers conducted investigation under Maharashtra Control of Organized Crime Act in Mumbai since the date of its enactment (1999). Therefore, such small number of samples were taken.

**ii) Officers from CBI and Interpol wing
India**

Economic Offences Wing of Central Bureau of Investigation has been involved in the investigation of counterfeiting of currency notes, frauds/scams etc.

where government agencies have been defrauded. 10 samples were taken from

Central Bureau of Investigation In addition 10 samples were collected from the

INTERPOL wing of India to understand problems faced by them in investigation of

transnational organized crime cases. Very less number of officers in CBI and

INTERPOL wing of India were involved in investigation of organized crime cases.

Almost 95% out of them constituted as sample.

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**iii)
Judiciary**

20 samples were collected from judicial officers who have either been designated as Special Judge under MCOCA or had dealt with cases under MCOCA in

Delhi and Mumbai. As MCOCA have been enacted in the year, 1999 in Mumbai and

implemented in the year, 2002 in Delhi. Only Sessions Judge are empowered to

conduct trial of cases. Therefore, such less number of Judicial Officers constituted

the
universe.

**iv) Public
Prosecutors**

40 samples were taken from Special Prosecutors from Delhi and
Mumbai

dealing with MCOCA
cases.

**v) Academicians /and Expert on organized
crime**

60 High Court Judges, academicians and experts from Delhi and
Mumbai on

organized crime were interviewed through the interview
guide.

**a) Tools for data
collection**

Data was collected with the help of tools as
follows;-

Four sets of schedules were used; one for Investigating/ Law
Enforcement

Agencies, one for officers from CBI and INTERPOL wing, one for Special
Public

Prosecutors, one for Judicial Officers. One set of Interview guide was used
for experts

/academicians and High Court Judges. Quasi participant's observations were
also

applied.

b) Analysis of data

Data was collated and computed into various tables. As the sample size was

adequate so, both the bivariate and multivariate tables were prepared.

12. Limitations of the Study

Subject to the study is very sensitive. Therefore, permission for data collection

could be obtained with great difficulty. Seeking appointment and meeting with

Criminal Justice Functionaries took lot of time.

Victims could not be located. Neither the police nor prosecutor agreed to share

address of victims due to security reasons. Similarly views of offenders could not be

obtained. Permission to interact with them was not granted by jail authorities in Delhi

and Mumbai.

The whole universe was constituted as sample except 10% officers who were

either not present in Delhi/Mumbai or could not give time as they got retired or could

not meet due to some inevitable reasons.

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Chapter 2

Review of Literature and Theoretical Framework

Chapter 2

REVIEW OF LITERATURE AND THEORETICAL FRAMEWORK

The chapter has been divided into two parts. In the first part, existing literature on the

subject has been reviewed. In the second part, theoretical framework has been

delineated.

1. Review of Existing Literature

A comprehensive review of literature is an integral part of any scientific study.

Conceptual framework, history, profile of organized crime gangs, factors, strategy to

cope up with situation etc. as evident from documented literature on similar or closely

related problems have been included in this chapter. The referred material in this

chapter was discerned and reproduced from documentary sources including Academic

Journals, Government reports, Books and Ph.D. thesis.

a) International literature

Organized crime is closely linked with white collar crime and corporate crime.

The offenders have been functioning in professional manner having corporate

structure. Gilbert Geis and Ezra Stotland in their edited, book entitled "*White-Collar*

Crime Theory and Research" have described various theories of white collar crime.

Perception of people on organized crime and other crimes have been depicted clearly

in the book. Criminalization of corporate behavior, corporate crime, computer related

crime, white collar crime, management frauds have also been delineated in various

chapters of the book in detail (Gilbert Geis and Ezra Stotland, 1980).

Similarly, Vincenzo Ruggiero Aldershot et al. in their book entitled

—*Organized and Corporate Crime in Europe: Offers that Can't Be Refused*" revealed

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the relation between organized crime and corporate crime based on a variety of case

studies. The authors have also laid down a comprehensive conceptual framework for

analyzing all varieties of economic crimes, be they committed by seemingly

legitimate business people or by offenders that better fit the gangster stereotype.

Finally, measures for prevention and control of organized form of white collar crimes

have been suggested in the book (Vincenzo Ruggiero Aldershot.1996).

While focusing on characteristics of organized crime Mafia, Frederick J.

Desroches in his book "*The Crime That Pays: Drug Trafficking and Organized Crime*

in Canada|| has brought out a wide range of issues, including the social and personal

characteristics of offenders; their criminal and employment history; the size and

composition of drug-trafficking groups; the significance of underlying social relations

for the development of criminal networks; as well as environmental factors. Besides,

legal framework, police strategies have also been discussed in the book (Frederick J.

Desroches ,
2005).

Francis, Ianni and Blakey, in their book on "*Organized Crime-Overview*||

stated that despite the disparity among various perspectives, it is possible to define the

activity of organized crime without accounting for its origin or structure. Disclosing

that organized crime from various perspectives share certain basic characteristics,

authors delineated that organized crime offenders are functioning in well-organized

manner. Organized crime gangs are having hierarchical and rationally designed or an

informal network of criminal activity. The gangs are in existence on permanent basis

that transcend individual membership of organized crime offenders. It differs from

street crime which is more episodic and does not involve the degree of planning or the

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interconnected legal and illegal activities. The organized crime encompasses wide

range of illegal and illicit activities whose main purpose is to provide goods and

services to the people on demand. All these points have been described at great length

in the book (Francis, Ianni and Blakey, 1995).

Bruce in his book —*Introduction to survey of organized crime*|| discussed

definition of organized crime and disclosed that organized crime offenders are

rebellion against society and the laws under which society is functioning He has also

justified with examples that criminal career is misdirection. The author, analyzed in

the book that as long as crime is organized and efficient, and the administration of

justice is unorganized and inefficient, the crime will be a problem in the community

(Bruce,
1968).

Social conflict is one of the important reasons for increasing rate of organized

in the World. Sometime, conflict between two groups takes place because one group

wants to have supremacy over the other. Organized crime offenders try to achieve

supremacy over the other organized crime gang by adopting illegal means. In the

study concluded by William Kleinknecht on —*New Ethnic Mobs: The Changing Face*

of Organized Crime in America” the author discussed about criminals with ethnic

origin and highlighted the battle of lone ethnic group for supremacy with one another

(Kleinknecht
1996).

Similarly, Fiorentini & Peltzman in their edited book “*The Economics of*

Organized Crime” focused on various theories of the State, origin of criminal

organizations and their *modus operandi* (method of committing crime). This book is

the compilation of various chapters. In each chapter of the book different authors have

traced origin of organized crime in Italy, United States of America, Russia, Europe,

Japan etc (Fiorentini & Peltzman, 1996).

Organized crime has got serious impact all over the World. Adam Edwards

and Peter Gill have edited a book entitled "*Transnational Organized Crime-*

perspective on Global Security". In the book origin of transnational organized crime

as a concept has been explained. Thereafter, the high political impact of organized

crime on United Nations, Council of Europe, European Union, Organization for

Economic co-operation and Development, the Organization of American States,

Group of Seven (Canada, France, Germany, Italy, Japan, United Kingdom and United

States of America), major industrialized countries (G7 plus Russia) were analyzed.

Impact of organized crime on above mentioned organizations has been discussed in

different chapters of the book (Adam Edwards and Peter Gill, 2006).

Woodiwiss Michael in his book on —*Organized Crime and American Power: A*

History" analyzed relation between organized crime and politics in the United States.

He has also delineated the systematic criminal activity involved in fiction and non-

fiction crime literature. The Kefauver hearings and the role of television, citizen crime

committees, the Anti-Mafia campaign of the Federal Bureau of Narcotics,

Congressional investigations into labor racketeering have also been discussed in the

book. He has also pointed out the inconsistencies, contradictions in characterizing the

conventional American perception of organized crime. Author looked at the subject

from various angles: organized crime as an element of the political economy,

organized crime in terms of illegal markets as an outgrowth of a specific political

culture, the term 'organized crime' as a politically and ideologically motivated

construct, 'organized crime' as an instrument of furthering the economic and political

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