



ISSN: 0975-833X

Available online at <http://www.journalcra.com>

INTERNATIONAL JOURNAL
OF CURRENT RESEARCH

International Journal of Current Research
Vol. 15, Issue, 03, pp.24170-24172, March, 2023
DOI: <https://doi.org/10.24941/ijcr.44891.03.2023>

RESEARCH ARTICLE

LAWS REGULATING UNCONVENTIONAL CRIMES IN INDIA: SOCIO ECONOMIC OFFENCES A NEW BATTLEGROUND

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ARTICLE INFO

Article History:

Received 27th December, 2022
Received in revised form
09th January, 2023
Accepted 15th February, 2023
Published online 30th March, 2023

Key words:

Economic Offences, Laws to combat
Socioeconomic Offences, Unconventional
Crimes, Legal Framework on
Socioeconomic offences in India.

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Citation: Miss. Shrishaila B. Mudhol. 2023. "Laws Regulating Unconventional Crimes in India: Socio Economic offences a new battleground". *International Journal of Current Research*, 15, (03), 24170-24172.

ABSTRACT

Socio-economic offences are those that negatively impact society on both a social and economic level. This is mostly due to financial greed. This is sometimes mistaken for other similar offences, however there is a slight distinction between them. It is crucial to understand the concept of socio-economic offences in India as described in the 47th Law Commission Report. The study defines socioeconomic crimes as social offences that harm not only the individual victim but also the community's overall health, morals, social structure, or general well-being. Economic offences are those that impair society's economy and put people's safety in peril. Laws enacted to govern and control socioeconomic crime currently contain elements of a new criminal jurisprudence. This involves reducing or eliminating the requirement to establish intent and considering socioeconomic crimes as having strict responsibility. Also, vicarious criminal liability, which entails a principal's responsibility for the actions of its agents, is coming to light more frequently. The penalties for socioeconomic crimes are also getting harsher; they now come with obligatory minimum sentences, hefty fines, and property seizure. The stigma associated with socioeconomic crime should be increased by raising social awareness about such crime through increased publicity about the trials and convictions of those who have committed it, in addition to providing stronger deterrent elements for such crime through more effective law enforcement, prosecution, and sentencing. The government has occasionally taken several significant steps to address this issue, but more has to be done to regulate completely.

INTRODUCTION

The term "Economic Offences" refers to carefully thought-out and managed criminal acts, primarily involving deception and betrayal, that are generally committed without coercion against individuals or the general public, solely for the perpetrator(s)' maximum financial gain, with or without abusing any one or more of technical know-how, power, position, responsibility, or system flaws. These acts are capable of negatively affecting society at large, either directly or indirectly, in terms of Morals, Values, Health, and Economics - with repercussions on National Growth, Security, Defense, and Development in addition to the emergence of Cross-Border Problems and/or Global Concerns. The 47th Law Commission Report's concept of socio-economic offences in India is crucial. The study defines socioeconomic crimes as social offences that affect the victim's community as a whole, as opposed to just the victim, in terms of its health, morals, social structure, or overall well-being. Economic offences put a nation's entire economic system at risk, harming not simply individual wealth but also society as a whole. Traditional crimes, in contrast to socio-economic crimes, have a symbolic meaning for the public and carry stigma involving a disgrace, depravity, and immorality and are thought to be distinctly the behaviour of the lower class of people. Socio-economic crimes,

however, differ from traditional crimes in that they do not involve or carry any stigma. The Economic Offences are a modern crime, hence they are not included in earlier publications and research. In the past, the phrase "white collar crime" was used to refer to all of these offences that distinguished between "hard, low class, violent" traditional or conventional crimes and "soft, high class, non-violent" occupational and professional crimes. The methods used to commit certain crimes changed and evolved over time as a result of advancements in technology, shifting social perceptions, and adjustments in moral standards. During this social upheaval, the phrase "economic crimes" was created to describe crimes with a focus on money that harm people's individual and social interests as well as the nation's economy and security.

FEATURES /CHARCHTERISTICS

The Law Commission underlined the following key characteristics in its 47th report.

- Greed or rapacity is the criminal's "motive" (not lust or hate).
- The crime's "background" is not emotional.
- Typically, the State or the "consumer public" is the "victim."
- Fraud is the method of operation, not force.

- Act is intentional and deliberate.

TYPES OF ECONOMIC CRIMES

The extent of financial crimes also grows with the complexity of the world economy, which is increasing by the second. An overview of some financial crime types and forms, as well as the applicable Indian laws, are provided in this section.

FRAUD 'Fraus Omnia Vitiare' – Fraud vitiates everything

In its broadest sense, fraud refers to any deliberate deception carried out for one's own benefit or the harm of another person or organisation. Fraud is defined in Section 17 of the Indian Contract Act as follows: "17. —'Fraud' implies and includes any of the following acts carried out by a party to a contract, or with that party's knowledge, or by that party's agent¹, with the intention of misleading that party's agent or another party to the contract, or to persuade that party to enter into the contract: Fraud is genuinely driven by greed. Also, a lax management environment within an organisation may create the conditions necessary for such dishonest acts to be committed. When a business or other entity purposefully alters and conceals important information, it commits corporate fraud. Businesses use a variety of methods to commit these types of corporate frauds, which It could involve falsifying financial data in the prospectus, altering accounting records, hiding debt, etc.

RELEVANT PROVISIONS

The Indian Criminal Code, 1860 is the primary law controlling criminal offences in India. Related charges connected to fraud include dishonestly misappropriating property (S.403), criminal breach of trust (S.405), forgery (S.463), falsifying accounts (S.477A), and cheating (S.415). (1860's The Indian Criminal Code). According to Section 447 of the Companies Act, a person who is found guilty of fraud involving a sum of at least ten lakh rupees or one percent would be punished "Without prejudice to any liability, including repayment of any debt under this Act or any other legislation for the time being in force." Additionally, the Ministry of Corporate Affairs (MCA) established the Serious Fraud Investigation Office (SFIO), which has been established by the Ministry of Corporate Affairs (MCA) and has the authority to identify, look into, and prosecute white-collar crimes and frauds that have a public interest component.

BRIBARY & CORRUPTION

There is no denying that corruption has crept into all of India's institutions. a worry that the system is so tainted that maintaining integrity in the face of it is practically impossible. According to a recent report by Berlin-based NGO Transparency International, which works to combat corruption, India is the "Most Corrupt Nation in the Asia-Pacific Area." According to the report, in order to receive public services, seven out of ten Indians had to pay a bribe.

RELEVANT PROVISION

The main piece of law pertaining to the prevention of corruption is the Prevention of Corruption Act of 1988 (PCA).

According to The Prevention of Corruption Act of 1988 (PCA), the following behaviours are prohibited:

- Obtaining satisfaction from performing official duties for which there is no legal compensation.
- For a public worker, receiving anything of value without payment from any parties involved in any proceedings or business that they are currently conducting or planning to conduct.
- Public servant wrongdoing that is criminal. The PCA's abetment offence is also a separate, distinctive, and serious offence. It makes no difference whether the offence is committed as a result of the abetment.

- The State Anti-Corruption Bureau, the Central Vigilance Commission (CVC), and the Central Bureau of Investigation (CBI)

MONEY LAUNDERING

According to the Prevention of Money Laundering Act of 2002 (PMLA), the act of money laundering is defined as the direct or indirect attempt to indulge in, knowing assistance with, knowing participation in, or involvement in any process or activity involving the proceeds of crime, including concealing, possessing, acquiring, using, or projecting them as untainted property. Money laundering, also referred to as Hawala transactions outside of India, is the practise of disguising the true source of "dirty" money. Before to the passage of the Prevention of Money Laundering Act in 2002, this infraction fell under the purview of the Foreign Exchange Regulation Act (FERA), and later the Foreign Exchange Management Act, which dealt with violations of foreign currency restrictions (FEMA). Exclusive authority to prosecute and investigate cases involving money laundering has been granted to the Directorate of Enforcement (ED) and the Director of the Financial Intelligence Unit of India (FIU). In order to pursue global efforts against money laundering and related crimes, the FIU, an independent organisation that directly reports to the Economic Intelligence Council, coordinates national and international investigative and enforcement authorities. The Income Tax Act of 1961 additionally establishes specific guidelines for some professionals about the upkeep of books of accounts and other supporting records for general financial record keeping and disclosure requirements.

TERROR FINANCING

The illicit transmission of money to terrorist organisations is known as "terrorism funding," as the name implies. Stopping the flow of money to the terrorists is one of the most important parts of terrorism prevention for any nation. The need for intensifying efforts and resources to wage a financial fight against terrorism in India is growing. The terrorist financiers purposefully do not spend significant sums of money at once to evade the scrutiny of both the government and the financial institutions, making it a much more discrete and hidden operation.

RELEVANT PROVISION

The Unlawful Activities Prevention Act of 1967 (UAPA) addresses offences like conspiring to carry out what would be termed a terrorist act (i.e., to endanger India's economic security) through the circulation of counterfeit money, as well as harbouring terrorists. The counterterrorism task force in India is known as the National Investigation Agency (NIA). It was established as the primary counterterrorism investigation agency following the 2008 Mumbai terrorist attack and given the responsibility to look into significant offences connected to terrorist operations that jeopardise the nation's sovereignty, security, and integrity. (2018 The Economic Times}

FUGITIVE ECONOMIC OFFENDERS ACT, 2018

This law aims to seize the possessions of economic criminals who have fled the nation to avoid criminal punishment or who refuse to come back to the nation to face charges. A person may be designated as a fugitive economic offender (FEO) under the Act if they meet both of the following criteria:

An arrest warrant has been issued for them for any specified offences with a value exceeding Rs 100 crore; and (ii) they have left the country and refuse to return to face prosecution.

A Special Court appointed under the Prevention of Money-Laundering Act, 2002, must receive an application detailing the properties to be seized as well as any information regarding the person's whereabouts if a person is to be labelled a FEO. The Special

Court will require the person to appear at a specified place at least six weeks from the issue of notice

CONCLUSION

National laws and legislation are insufficient for responding to and resolving issues that are cross-border in character, involve many jurisdictions, and entail a diversity of laws. Global action is needed in reaction to the growing globalisation and global economic crimes. The measures in place at the moment are all on a national level, yet they all vary from one nation to another. The need for countries to have more international law enforcement agency collaboration grows as a result. The ability to track the money trail, including the source of funds, combat money laundering by reducing bank secrecy, and asset confiscation are issues of the utmost significance. establishing regulations for the confiscation and forfeiture of assets obtained through illegal activity, as well as sharing of available technology on the subject would be a step in the right direction.

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