

## Organized Crimes: An Overview

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<p><b>Author Affiliation</b> Officiating Principal, Rayat College of Law, Railmajra, Punjab 144533, India.</p> <p><b>Corresponding Author</b> <b>Monika Sharma</b>, Officiating Principal, Rayat College of Law, Railmajra, Punjab 144533, India. <b>E-mail:</b> rohitsharmagaur@hotmail.com</p>	<p><b>Abstract</b></p> <p>Crime is that action which is prohibited by the criminal law and the criminal is that agent who carries out that action. Crimes are of various types, organized crimes are those type of crimes, where some people engage in crime with the help and aid of others to get substantial gain somewhere else. In these crimes criminals work in a group sometimes permanently and sometimes for a particular time for the purpose of getting done a particular criminal activity. In these kinds of crimes sometimes number of people involved is less, but sometimes it is very large. For the success of these crimes there is hierarchy of criminals in the group, it is consisted of subordinates, specialists in the crime and a number of temporary members. These crimes involve the supply of illegal goods and services to a large number of citizens. It is also seen in legitimate business and in labour unions. It corrupts public officials to get done their work without intervention of government. Traditionally in India these crimes included extortion, contract killing, boot legging, smuggling, real estate frauds and supply of illicit weapons to terrorists and insurgents, but now drug trafficking, money laundering are also included in these crimes. The main motive of these crimes is to monopolize in the market. Afterwards profits made through these crimes are used to penetrate legitimate business and to carry other activities. In present paper types, characteristics and law relating to control of organized crimes shall be discussed. There is no specific law in India which deals with menance of organized crimes; however, there are provisions in Indian Penal Code, the National Security Act 1980, the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1988. Some States have enacted specific laws to deal with these crimes. AS this problem has become international, therefore, this issue should be tackled at international level.</p> <p><b>Keywords:</b> Crime; Organized Crimes; National Security Act 1980; Narcotic Drugs and Psychotropic Substances Act 1988.</p>
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### Introduction

India was earlier considered as land of rishis and munnis and their main teachings were based on tolerance and non - violence, but with the passage of time as we are moving on the path of progress, people have almost forgot their teachings of non - violence and they have become more aggressive and lose their temper on trivial issues due to which crime takes place in society. Crime is that action

which is prohibited by the Criminal Law.<sup>1</sup> The criminal is that agent who carries out the prohibited action for the commission of crime punishment is prescribed. There are numerous factors behind the commission of crime, which varies from case to case and circumstances. In today's world the crimes are committed mainly due to peer pressure, frustration etc. Crimes are of various types, in the present paper types and legal position of Organized Crimes in India shall be discussed.

## Meaning of Organized Crimes

In these types of crimes, some people engage in crime with the help and aid of others to get substantial gain somewhere else. In these crimes criminals work in a group for a particular time for the purpose of getting done a particular criminal activity. In these types of crimes sometime number of people involved is less, but sometimes it is very large. For the success of crime there is hierarchy of criminals in the group, it is consisted of subordinates, specialists in the crime and a number of temporary members. These crimes involve the supply of illegal goods and services to a large number of citizens. It is also seen in legitimate business and in labour unions. It corrupts public officials to get done their work without intervention of government. The main motive of these crimes is to monopolize in the market. Afterwards profits made through these crimes are used to penetrate legitimate business and to carry other activities.

## Characteristics

The organized crimes are not static in nature, but keep changing according to the situation. Due to introduction of new technology, the job of criminals have become very easy, as it has made communication, transfer of finance and travels from one place to another including abroad very easy, due to this now these crimes have become transboundary. Hence, this problem is not only of one nation, but whole world is in it's grip. The main examples of this can be traced in the area of terrorism, illegal immigration rackets, drug trafficking, money laundering etc. The main reason of increase in this crime is advancement in science and technology. The Organized Crime Control Act 1970 strengthened the existing laws in several respects in that it, inter-alia, provided immunity to an organized crime witness and prescribed testimonial compulsion of the witness. It also criminalized use of money generated by the racketeering activity and prescribed longer jail term.<sup>2</sup> Earlier, organized criminals worked in limited areas with limited number of crimes, now as there is no geographical limit to commit these crimes, which has also extended their activities, which has broken traditional limit. In these kinds of crimes team work is involved, which is based on hierarchical order and each member has his defined duty in the group. Criminals involved in these crimes before the commission of crime do proper planning, to minimize the risk of being caught and to

achieve their objective. To protect themselves from law enforcement agencies, they spread their internet and remain in contacts with politicians, policemen, advocates, judiciary etc.

## Transboundary Organized Crimes in India

It includes activities which necessitate planning and enforcement of illegal business by gangs who are working for such activities. People who are involved in these crimes, their network is very strong, as they are connected with politicians and government officials. As Mumbai is the financial capital of India, it is the main hub of various gangs with constant warfare. These criminal gangs runs their cost-effective business in well planned way.<sup>3</sup>

## Criminal Gangs in Organised Crimes

In India a number of gangs are engaged in organized crimes, mostly based in Mumbai. The major gangs are Dawood Ibrahim, Chhota Rajan, Arun Gawli and Amar Naik. These gangs are primarily involved in drug paddling, kidnapping and extortion rackets, real estate rackets, gold smuggling, contract murder etc. Gang rivalries and feuds are common in Mumbai. Dawood ran away from Mumbai in 1985, after that Chhota Rajan became new don of the underworld. Gawli is strongly against Dawood.<sup>4</sup> It is pertinent to mention here that between 1993 to 1999, there is drastic change in the organized crimes of Mumbai, now they help builders in getting possession of disputed properties and getting removed slums. Gawli, Amar Naik and Chhota Rajan are also involved in these activities.<sup>5</sup>

## Types

Traditionally in India these crimes included extortion, contract killing, boot legging gambling, smuggling, estate racketeering and supplying illicit weapons to terrorists and insurgents, but now drug trafficking, money laundering etc, are also included in these crimes. The organized crimes are as following:

1. **Dacoity:** It is one of the oldest crime in India and main purpose behind this crime is extortion or looting. Section 399 of the Indian Penal Code provides that, when five or more persons conjointly commit or attempt to commit a robbery, or where the whole

number of persons conjointly committing or attempting to commit a robbery and persons present and aiding such commission or attempt amount to five or more, every person so committing, attempting or aiding is said to commit dacoity. It is punishable with imprisonment for life or rigorous imprisonment upto ten years and five months. Section 395 of the Act says, that a gangster is punishable with minimum imprisonment of two years.

2. **Smuggling:** It is one of the economic offences, which is run hiddenly. The tax policies of government dictate nature and quantity of smuggled goods in India. India is prone to extensive smuggling of contraband and many other consumable items owing to its open borders with Bhutan, Nepal and long coastline of nearly 7500 km.<sup>6</sup>
3. **Number Betting:** Now it is generally believed that due to introduction of lottery system by the State the number betting has come on decline, but since it is easy source of money making, hence, continuing in the cities. It is mainly feature of urban poor life. The gambler just picks any one or two digit number and bets that this number will correspond to the winning number, selected in accordance with some predetermined procedure. The better gets between five and twenty times more amount, than actually invested. Previously, this business was done by individuals but now this business is carried out by organizations because an organization can manage money and muscle to keep away the cops and politicians from breaking up the game and shaking down the players and operators. It is pertinent to mention here that bets are picked up by the agents, factories, shops or simply on the street corner. The collected money is passed to the boss. The agents get commission on the collected money.<sup>7</sup>
4. **Kidnapping:** Under the Criminal Code,, it is considered as a criminal offence. According to section 359 of the Indian Penal Code, it is of two types e.g., kidnapping from India and kidnapping from lawful guardianship. It means carrying away of a human being against his or her consent or consent of some other person legally authorised to give consent on behalf of such person.<sup>8</sup>

*Kidnapping from India:* whoever conveys any person beyond the limits of India without

the consent of that person, or of some person legally authorized to consent on behalf of that person is said to kidnap that person from India.

*Kidnapping from Lawful Guardianship:* whoever takes or entices any minor under sixteen years of age if male or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of lawful guardian of such minor or person of unsound mind; without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship. However, if a person believes himself to be father of an illegitimate child or who in good faith believes himself to be entitled to lawful custody of such child unless such act is committed for an immoral or unlawful purpose. The punishment for this offence is imprisonment which may extend to seven years and also fine.

5. **Drug Abuse and Drug Trafficking:** This crime is transboundary in nature India is geographically situated between the Golden Triangle and Golden Crescent countries, hence, is transit point for narcotic drugs produced in these regions to the West. India also cultivate legal opium, but it also finds place in the illicit market in different forms.<sup>9</sup>
6. **Money Laundering:** It means converting money made through illegitimate means into legal money and in this way people try to amalgamate that money into the white money. It includes tax evasion and transgression in exchange regulations, which play vital role in merging this illegitimate money with tax evaded income so that its origin may be hidden. Besides, this money made through drug paddling is main source of money laundering across the world. In this way offenders use their ill- gotten money without any fear of law. It posses grave threat to the criminal justice system of the country and also a blot on its sovereignty.

### Legal Position of Organized Crimes in India

These crimes have existed in India from time immemorial. However, these are highlighted in modern era due to social and political pressures and advancement in science and technology. It is related to urban areas; however, rural areas are also not untouched from this. India was invaded by foreigners for long time, first by Mughals and then by Britishers. It got her freedom in 1947. After

independence India wrote its Constitution, which came into force on 26<sup>th</sup> November 1949. India follows the Anglo-Saxon, Common Law System. There are three lists in Constitution which distribute subjects between states and union, the maintenance of law and public order covers under state list, however, the criminal laws and their procedure is covered under concurrent list. All the crimes are registered, investigated and disposed off by the concerned state police. There is no specific national law to control these crimes. However, it is generally covered under following legislations:

### **The Indian Penal Code**

There are following provisions for the control of organized crimes under the Act:

#### **Criminal Conspiracy**

Section 120-A says that Criminal conspiracy means, when two or more persons agree to do or causes to be done: [a] an illegal act [b] An act which is not illegal by illegal means. Such an agreement is designated as criminal conspiracy, provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy, unless some act besides the agreement is done by one or more parties to such agreement in pursuance, thereof merely incidental to that object, Section 120-B provides punishment

#### **The National Security Act 1980**

This Act provides for prevention, detention by the Central or State government or any other officer designated for this purpose by the government. To put bar on the activities of a person which pose threat to the security of India or spoil diplomatic relations with foreign countries. The offender is detained for one year. The expression security of India is used against anti national elements and hard core gangsters. It is pertinent to mention here that detention order is passed by the executive and the trial of the case does not go to the court.

#### **The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1988**

The main aim of the Act is to detain persons who are engaged in illicit traffic in narcotic drugs and psychotropic substances. The central or state

government is empowered to pass an order for detaining a person, so that he is restrained from engaging in illicit traffic in narcotic drugs. The illegal trafficking in these substances threatens the health of people.

### **Other Legislations**

Besides above mentioned general laws, there are also following other laws:

- The Customs Act 1962.
- The Narcotic Drugs and Psychotropic Substances Act, 1984.
- The Immoral Traffic [Prevention] Act 1956.
- The Foreign Exchange Regulation Act 1973.
- The Public Gambling Act 1867 etc.

### **State Legislation on Organized Crimes**

In India there is no union law to deal with accused of organized crimes, however, some states have enacted specific laws to deal with these crimes which are following:

#### **The Uttar Pradesh Gangsters and Anti Social Activities [Prevention] Act. 1986 amended in the year 2015**

The main objective of this Act was to control activities of gangsters. According to it Gang means, a group of persons, who singly or collectively indulge in anti-national activities by violence or threat of violence for gaining under political, economic or physical advantages and includes offences against the body, boot legging, forcible possession of immovable property, creating communal disturbances, obstructing public servants in the discharge of their duties. Kidnapping for ransom, diverting an aircraft or public transport vehicle from its schedule path etc., It also includes land grabs, illegal mining, sale of illegal medicines and illicit liquor, wild life smuggling, extortion, abduction syndicates as well as white collared criminals. According to it gang means, group of persons, who acting either singly or collectively by violence or threat or show of violence or intimidation or coercion or other unlawful means, with the object of gaining undue political, physical, economic or other advantage for himself or any other person indulge in anti-social activities namely:

- Offences punishable under chapter 16 or chapter 17 or chapter 22 of the Indian Penal Code;
- Distilling, manufacturing, storing. Transporting, importing, exporting, selling or distributing any liquor or intoxicating or narcotics or cultivating any plant in contravention of any of the provisions of the U P Excise Act 1910, or the Narcotics, Drugs and Psychotropic Substances Act 1985 or any other law for the time being in force or,
- Occupying or taking possession of immovable property otherwise than in accordance with law, or setting up false claims for title or possession of immovable property whether in himself or any other person; or
- Prevention or attempting to prevent any public servant or any witness from discharging his lawful duties; or
- Offences punishable under the suppression of Immoral Traffic in Women and Girls Act 1956 or
- Offences punishable section 3 of the Public Gambling Act 1867; or
- Preventing or disturbing the smooth running by any person of the lawful business, profession, trade or employment or any other lawful activity connected therewith; or
- Activities enumerated in clause [b] of section 2 of the Uttarpradesh Control of Goondas Act 1979; or
- Offences punishable under section 171-E of the Indian Penal Code or in preventing or obstructing any public election being lawfully held by physically preventing the voters from exercising electoral rights; or
- Inciting others to resort to violence to disturb communal harmony; or
- Creating panic, alarm or terror in public; or
- Terrorizing or assaulting employees or owners or occupiers of public or [private undertakings or factories and causing mischief in respect of their properties; or
- Inducing or attempting to induce to any person to go to foreign countries on false representation that any employment, trade or profession shall be provided to him in such foreign country; or
- Kidnapping or abducting any person with

intent to extort ransom; or

- Diverting or otherwise preventing any aircraft or public transport vehicles from following its scheduled course.

### Meaning of Gangster

A gangster means a member or leader or organizer of a gang and includes any person who abets or assists in the activities of a gang enumerated in clause [b] whether before or after the commission of such activities, or harbours any person who has indulged in such activities.

Under this Act provisions have been made for the protection of witnesses. The trial court can raise certain statutory presumptions against the gangsters. The District Magistrate is empowered to attach property of the gangster; if it is proved that the same was acquired through criminal activities. In this regard if court thinks \it proper it can omit name and address of the witness from the court records and there is also provision for the in camera trial by the public prosecutor.

### Loopholes of the Act

In this Act there is no time limit prescribed for the conclusion of trial, due to which trial lingers on in the court for long time, due to which this Act is not able to control crime in the State.

### The Maharashtra Control of Organized Crime Act 1989

This Act was passed to combat the problem of organized crime and terrorism in the state, as the existing laws failed to control this evil. This law has deterrent provisions, which includes power to intercept wire, electronic or oral communication to control these crimes. The interception of wire, electronic or oral communication can be done not below the rank of Superintendent of Police, providing he is supervising the investigation and has taken written permission from the competent authority. It is in contrast to the Indian Evidence Act, it permits confession before the police officer. Under the Act, if offender has committed such offence, due to which a person is died, then accused will be punished with death or life imprisonment with minimum fine of Rs. One lakh. In other cases the punishment will not be less than five years imprisonment and can be extended imprisonment

for life and also minimum fine of Rs. Five lakhs. The offences under this Act will be tried by the special courts.

### Application of the Act

The Act is applicable as following:

1. Criminal Conspiracy involving two or more persons.
2. Criminal activities by criminal syndicate or gangs.
3. Crimes from which pecuniary benefits are driven.
4. Promoting insurgency is punishable, but insurgency itself is not.

If public servant is involved in these offences in any form, may be in commission of offence, abstains from taking lawful measures against the offender he will be punished with imprisonment of either description for a term which may extend to 3 years along with fine. Presumption as to offence under section 3 of the Act, it provides punishment if it is proved that:

- i If the accused was in possession of unlawful arms, papers and documents which were used in the commission of offence.
- ii Trace of finger prints of the accused from the site of offence.

**In the year 2002 the application of this Act is extended to the State of Delhi also.**

#### *The Karnataka Control of Organised Crime Act 2000:*

This Act deals with unlawful activities committed by an individual either as a member of an organised crime syndicate or on behalf of a syndicate. Under this Act organized crime means any continuing unlawful activity by an individual, singly or jointly, either as a member of an 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 objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency [section 2 [e] of the Act]. This case was covered under this Act. The cases under this Act are dealt by the special courts, constituted by the State government, the judge of this court is appointed by the State government with the consultation of the chief justice of the State High Court. If some person is killed, in the commission of organized crime, then accused will be punished with death sentence or life

imprisonment and fine not less than one lakh. In other cases j punishment will not be less than five years, but which may extend to imprisonment for life and also fine which will not be less than Rs five lakh.

*Gauri Lankesh case:* This case was covered under this Act on the belief that there was conspiracy for the murder of the victim. In this case sixteen accused have been arrested under the Karnataka Control of Organised Crime Act for the murder of Gauri Lankesh. The accused had applied for the bail, but it was rejected. According to Special Public Prosecutor, there was no delay in filing charge sheet. The prosecution also informed court that multiple accused of the murder were booked in similar cases were executed by them obteating as an organized syndicate.<sup>10</sup>

### Conclusion

Although, there is no specific law at national level to deal with organized crimes, however, there are general laws which deal with organized crimes and some states have enacted specific laws for the eradication of this evil. But due to following loopholes these Acts have failed to achieve their objective:

1. No specific law at national level to combat menance of organized crimes.
2. The existing general law e.g criminal conspiracy etc. and special Acts passed by some states are not sufficient to control this evil, as these laws do not hammer at criminal groups but only targets individuals due to this if one or two persons are caught, it hardly effect activities of the group.
3. It is very difficult to get evidence against criminals, as they ae formed hierarchically and it is very difficult to trace their boss, as if some member of the group is caught and even convicted and he has made a statement before the police and named his boss that will be not admissible under section 25 of the Indian Evidence Act. There are inadequate facilities for police personnel who investigate these crimes, it is due to financial crunch in most of the states that force them to neglect criminal justice system in their respective states.
4. There is lack of national level agency which can co-ordinate. State police and other agencies like, Central Bureau of Investigation etc. for stopping these crimes.

5. Due to difference in political opinion, there is lack of co-operation between central and state governments, to deal with problems of gangsters.

### Suggestions

For the eradication of this problem following suggestions are given:

1. As organized crime has become international problem, therefore, it is necessary to raise the issue at international level.
2. The police and other investigating agencies must be properly trained to deal with this crime.
3. There should be ban on these offenders to contest any election be it of parliament, state assembly, panchayat etc.

### References

1. Michael JS. and Adler M. Crime Law and Social Science, New York Harcourt Brace Jovanovich 91933] at 2.
2. Denny F. Pace and Jimmie C. Styles, Organised Crime: Concept and Control at 248.
3. Viana CC, Globalization Transnational Crime and State Power: The Need for a New Criminology. Rivista at Criminologia Victimology e Sicurezza [3] [1] [2010] at 34.
4. Ram Ahuja, Criminology, Rawat Publicatipons Jaipur [2012] at 169.
5. Ibid, at 170.
6. Jyotsna Dighe organized Crime in India 25 Sept 2012. Kutumbkayda.over-blog.com/2015/08/organized-Crime-in-India-published-september-25-2012-jyotsna-dighe-asst.html. Accessed on 25 June 2019.s
7. Ram Ahuja, Criminology .Rawat Publications Jaipur [2012] at 167.s
8. Kenny's Outline of Criminal Law [1066] at 204.
9. www.legalserviceindia.com/article/1290/organised-Crime-In-India.html visited on 28.6/201.
10. https://www.newsclick.in/articles/karnatka control visited on1 July 2019.