



## Organised Crime and Criminal Justice Reforms

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Organised crime is one of the most serious threats to public safety, economic stability, and the rule of law. Effective criminal justice reforms are essential to combat its influence, protect communities, and ensure justice.

Organised Crime is Crime based on a co-operative effort like an organised business.<sup>i</sup> It involves the co-operation of several persons or groups for its successful execution. It involves the association of a small group of criminals of the execution of a certain types of crime, chalking out plans by which detection may be avoided, development of fund of money for organising criminal activities and providing protection to members, and maintaining political connections using which immunity may be secured in case of detection. It is an enterprise organised to make economic gain through illegal activities.<sup>ii</sup>

Pick-pocketing, robbery, burglary, smuggling, drug trafficking, prostitution, and gambling are some of the crimes that involve the association of a few criminals working as a team. The motive for committing these crimes is profit.

### **What is Organised Crime?**

Organised crime refers to structured groups that systematically engage in illegal activities for profit or power. These groups often operate across regions or countries and rely on corruption, intimidation, and violence to maintain control.

It means any crime or unlawful activity committed by any person to gain pecuniary benefit or undue economic advantage for any personal reason or to prompt insurgency. Crime includes the use of violence, threat, intimidation, or coercion.

### **Organised Crime has the following characteristics:<sup>iii</sup>**

- 1) Teamwork:** - It involves the association of a group of criminals that is relatively permanent and may even last decades.
- 2) Hierarchical structure:** - It has a structure with grades of authority from the lowest to the highest, involving a system of specification defined relationship with mutual obligations and privileges.
- 3) Planning:** - It involves advanced arrangements for successfully committing crimes, minimizing risks, and ensuring safety and protection.
- 4) Centralised authority:** - It functions on the basis of centralized control and authority which is vested either in the hands of one individual or a few members.
- 5) Reserved fund:** - It maintains a reserve fund from profits which serves as capital for criminal enterprises, seeking help of the police, lawyers and even politicians, and for providing security to the arrested members and their families.
- 6) Specialisation:** - Some groups specialise in just one crime some others may be simultaneously engaged in multiple crimes. Those groups which are engaged in multiple crimes are more powerful and influential.
- 7) Division of labour:** - Organised crime involves the delegation of duties and responsibilities and the Specialisation of functions.
- 8) Violence:** - It depends upon use of force and violence to commit crimes and to maintain internal discipline and restrain external competition.



**9) Monopoly:** - It has expansive and monopolistic tendencies. Initially, organised criminal gangs operate in a limited area, and are engaged in limited types of crime with a limited number of persons, but gradually they expand into a wider range of activities extended over large geographical area, involving a large number of carefully selected criminal. In whatever area they operate, they secure monopoly in their criminal enterprises. They do not hesitate to use violence or threats of violence to eliminate competition.

**10) Protective measures:** - It arranges permanent protection against interference from law-enforcement authorities and other agencies of government. The protective measures include contact with policemen, lawyers, doctors, politicians, judges, and influential persons in society. Giving money in cash or in gifts, providing help in elections, threatening their competitors, and arranging their (influential persons') foreign trips are some of the methods used by these gangs to secure protection and avoid arrest and conviction.

**11) Conduct norms:** - It frames rules of conduct, policies of administration, and methods of operation for members and for the operation of the organization. This helps in maintaining discipline, efficiency, loyalty, obedience, and mutual confidence. Penalties are imposed for violating the rules.

#### **Types of organised crime<sup>iv</sup>:-**

- A) **Gang Criminality:** - It includes kidnapping, extortion, robbery, vehicle theft, etc. on a large scale. Gangs are composed of tough and hardened criminals who do not hesitate to kill, assault, or use violence. They are equipped with modern pistols, bulletproof vests, cars, etc. They are registered as hardened and habitual criminals in police records. The Tyagi gang in Delhi, Radha gang in Champaran district in Bihar, The Arun Gandhi gang in Mumbai, the Vikram Singh gang in Uttar Pradesh and Shrikant gang in Bihar and some of the notorious gangs operating in different parts of our country and are engaged in robberies, kidnapping small children and wealthy individuals for obtaining ransoms, murder, extortion and smuggling, occasionally the law enforcement officers arrest some members and even kill some other, claiming the liquidation of an underworld empire.
- B) **Racketeering:** Organised criminal gangs are engaged in extortion of money from both legitimate and illegitimate businesses through intimidation of force. It also involves dishonest way of getting money by deceiving peoples, selling worthless goods and articles, adulterated commodities, spurious drug and so forth, The racketeers do not take away all the profits but allow the owners of the illegitimate business to continue their operations like prostitution, gambling, liquor trafficking drug peddling etc., but give them regular fixed money.

Extorting money from legitimate or illegitimate businesses amounts to what is known as racketeering. This is achieved by intimidation or actual force. It is in this particular context that the description of organised criminals as parasites is most appropriate. Those in illegal businesses like prostitution, gambling, and drug trafficking are especially vulnerable to racketeering since they can not approach the police and other authorities for protection. In fact, money is demanded and paid as consideration for the "protection" given by a criminal group to the operators of an illegitimate business.

- C) **Syndicate Crime:** - This is furnishing illegal goods and services by an organised criminal gang. This gang is called "mafia". The illegal goods could be drug, liquor, etc. These illegal services could be called call-girls, gambling, and so forth. They syndicates create their own "business" procedures. It is operated from established headquarters. The organised criminal gang avoids using violence. Society knows the members of these syndicates. They are citizens living in posh residential areas, freely associating with high-status persons. They are engaged in lawful earning pursuits. They syndicates generally



operate in big metropolitan areas. These areas are happening to be big centers of communication, transportation, and distribution of goods.

The leaders of big syndicates periodically gather at fixed places to discuss problems of mutual interest and concern. The wealthiest and most influential groups are in operation in Mumbai, Delhi, Chennai, and Calcutta. They are somehow in states like Patna, Lucknow, Ahmadabad, Hyderabad etc. Each syndicate has a boss and an underboss. The under-boss collects information and relays messages to the boss and passes instructions down to underlings.

**Rules of Conduct:** - The members of organised gangs, rackets, and syndicates generally work on the basis of the following directives.

- i) Be loyal to the members of the organisation to maintain unity in the gang.
- ii) Do not interfere with each other's interests.
- iii) Do not be an informer.
- iv) Be rational and work as a team member.
- v) Do not assign work quietly, safely, and in a profitable manner.
- vi) Keep your eyes and ears open and your mouth shut.
- vii) Be a man of honour and respect womanhood and your elders.
- viii) Don't engage in battle if you can't join.

**Permanent Immunity:** -

Permanent immunity is achieved by organised crime groups in several ways:

1. The leaders or organised crime are not usually arrested and prosecuted because they stay behind the scenes of the operation.
2. Persons lower in hierarchy, if arrested, are likely to be released by action taken by their superiors. Such release and avoidance of prosecution are assured through persons like policemen, judges, politicians, doctors, businessmen, etc.
3. Protection is secured by gaining political power through contribution to political parties and political organisations for contesting elections and purchasing the support of members of opposition parties. Many elected politicians thus owe their election to organised criminals.
4. Regular "pay-offs" to law enforcement officials also provide protection.
5. A certain amount of immunity results from public toleration of organised crime, since it provides the public with illicit and desired services, such as alcohol, narcotics, call-girls etc.
6. Immunity is also provided by the functioning of law itself. Sometimes there are such loopholes in the laws that lawyers manage to save their clients i.e. criminals from legal action. Lack of effective legislation and weak law enforcement are a reflection of official toleration of organised crime.
7. Organised crime can evade the law through the infiltration of legitimate businesses. Sometimes, organised crime and legitimate business may even mutually assist each other.

**Major Criminal Enterprises:** - Organised Crimes in India are counted or measured through the following major criminal enterprises.

**Number Betting:** - Illegal gambling in general and the matka business are easy sources of money making, and exist in a large number of cities. Number betting is a feature of urban poor life. The organisation of this business is simple. The 'bets' are picked up by 'agents' in shops, office buildings, factories, or simply on the street corner. The 'agents' pass the money and betting slips on to local 'collectors' in charge of their neighbourhood. The 'Collectors' pass the money to the 'Controller' (boss) or 'owner'. At pay-off time, the money simply follows the reverse route. The agents and collectors get a commission on the money that is collected. Several states have banned the matka business, but it still operates on a large scale.



**Drug Trafficking:** - It carries drugs from one country to another country or from one city to another city. Drugs are distributed to addicts. There are millions of people addicted to drugs, including heroin, opium, cocaine, etc. These addicts get their supplies from 'pimps' who get them from organised groups engaged in this crime. It is a known fact that police know the gangs engaged in these activities. Nobody gets arrested because police are 'fixed up'. Many addicts are teenagers and young people.

**Estate Racketeering:** - Some gangs are engaged in getting houses and shops vacated from tenants after charging a huge amount of money from the house owners. These gangs have the support of the police, who get a share of the learned money.

**Automobile Theft:** Organised criminals are extending their hands in the theft of cars, motorcycles, and scooters. Not every house has having parking facility for vehicles. People keep their vehicles outside their houses. Organised criminals possess the skills to unlock vehicles. They can easily drive away these vehicles.

**Supply Of Illegal Weapons:** - Kashmir, Punjab, Bihar, Bengal, and Tamil Nadu are the areas where terrorists, naxalites, are engaged in fighting the police and the military. Organised criminals are threatening the masses of achieving their political goals. They get the required weapons from organised criminals who get them from neighbouring countries at cheap rates.

Several gangs are engaged in organised crime in Mumbai. Dawood Ibrahim, Chhota Rajan, Arun Gavali, and Arun Naik are the major gangs in Mumbai. These gangs are mainly engaged in drug peddling, Kidnapping and extortion rackets, real estate rackets, gold smuggling, contract murders, and running Hawala.

In 1993, the Government of India appointed a committee under the Chairmanship of N.N. Vora, Cabinet Secretary, to take stock of all available information about the crime syndicates/ mafia organizations which had developed links with and were being protected by government functionaries and political personalities.<sup>vi</sup>

## Legislation that Covers Organized Crimes

### 1)BNS:

There is a specific provision for organised crime under BNS, i.e., **Section 111 under BNS.**

#### Section 111 of BNS

- **Sub section (1)** defines the organized crime as:
  - Acts of unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offences, cyber-crimes having severe consequences, trafficking in people, drugs, illicit goods or services and weapons, human trafficking racket for prostitution or ransom shall constitute organized crime.
  - It must be done by the effort of groups of individuals acting in concert, singly or jointly, either as a member of an organized crime syndicate or on behalf of such syndicate.
  - It must be done by use of violence, threat of violence, intimidation, coercion, corruption or related activities or other unlawful means to obtain direct or indirect, material benefit including a financial benefit.
- **Sub section (2)** states the punishment for the person who has committed organized crime:
  - If such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine which **shall not be less than ten lakh rupees.**



- In any other case, be punished with imprisonment for a term which shall not be less than five years, but which may extend to imprisonment for life and shall also be liable to fine which **shall not be less than five lakh rupees.**
- **Sub section (3)** states the punishment for the person who assists the organised crime as:
  - Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which **shall not be less than five lakh rupees.**
- **Sub section (4)** states the punishment of the member of the organized crime syndicate as:
  - Any person who is a member of an organised crime syndicate shall be punished with imprisonment for a term which shall not be less than five years, but which may extend to imprisonment for life, and shall also be liable to fine which **shall not be less than five lakh rupees.**
- **Sub section (5)** states the punishment who conceals the information of the offender under this provision as:
  - Whoever, intentionally, harbours or conceals any person who has committed the offence of an organised crime shall be punished with imprisonment for a term which shall not be less than three years, but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.
  - It **shall not be applied** to the spouse of the offender.
- **Sub section (6)** states the punishment for the person who keeps the proceeds of crime as:
  - Whoever possesses any property derived or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which **shall not be less than two lakh rupees.**
- **Subsection (7)** states the punishment for any person who on behalf of the offender, keeps the proceeds of crime as:
  - If any person on behalf of a member of an organised crime syndicate is, or at any time has had movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which **shall not be less than one lakh rupees.**

## 2) Maharashtra Control of Organized Crime Act, 1999 (MCOCA):

It is the most significant legislative measure in this regard, which was enacted in 1999. The Maharashtra Control of Organized Crime Act, 1999, provides stringent measures for the control and prevention of organized crime and the forfeiture of property obtained from organized crime.

## 3) Prevention of Money Laundering Act, 2002 (PMLA):

The Prevention of Money Laundering Act, 2002 is another legislation aimed at curbing the financial aspects of organized crime. It focuses on tracking and seizing assets derived from criminal activities and holds individuals accountable for money laundering.

## 4) Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS):





The Narcotic Drugs and Psychotropic Substances Act, 1985 also covers penalties related to organized gangs of smugglers.

#### **Prevention of Organised Crime:-**

- i. Increase the number of personnel where there is a high crime rate.
- ii. A higher level of training is necessary for police and prosecutors.
- iii. Reduction of poverty levels and an increase in salary levels for public employees.
- iv. Reduction in the incidence and dimension of informal markets that provide the economic inputs and output for organised crime.
- v. Improvement in the distribution of income and wealth.
- vi. Adoption of more consistent application of financial regulations.
- vii. Adoption and enforcement of laws permitting or requiring disclosure of assets and mutual legal assistance.
- viii. Monetary gains are one main aim of organised crime. It is necessary to destroy the economic bases behind organised crime.
- ix. It is necessary to introduce the laws relating to adopting and enforcing laws permitting or requiring the disclosure of assets and mutual legal assistance.

#### **Criminal Justice Reforms:-**

A task force should be composed of specialists or skilled investigators from several agencies and prosecutors. This makes it possible to use a dedicated unit without decimating the available investigative resources from a single organisation.

- i. Building specialised units within the criminal justice system is the key to success.
- ii. It is expected to upgrade judicial follow-up. The Court must monitor and control the progress of cases from filing to disposition, which reduces procedural times and abuse of discretion.
- iii. It is needed a computerised case management process is needed for police, prosecutors, and judges.
- iv. Introduction of electronic means of handling complex evidence to save the linking of many case files.
- v. It is expected to enact subsidiary legislation for better case management and upgrading judges' salaries.
- vi. It is expected to have the willingness of citizens to collaborate with the states law enforcement efforts in an operational way.
- vii. Establishing civil society bodies composed of a panel of Lawyers and other members of the public as "Court Watchers."

It is expected to enhance the independence of the judiciary in the following aspects:

- (1) An improved uniform and comprehensive case management system coupled with transparent and consistent rules for the assignment of cases.
- (2) Implementation of uniform and procedural administrative measures founded on rewards and penalties.
- (3) Introduction of category-specific organisational roles for judicial, prosecutorial, and police.
- (4) Enhancement of the capacity of the judiciary.

It is expected to have a special unit for the investigation of organised crime. Custody provisions for organised criminals must be stringent.

#### **Conclusion**

Organised crime is a dynamic and deeply rooted problem that cannot be solved through policing alone. Criminal justice reforms must be comprehensive, inclusive, and forward-



looking—strengthening institutions, ensuring fairness, and embracing technology and international collaboration.

As India faces problems with organized crime, the Bhartiya Nyaya Sanhita, 2023, is a thoughtful and proactive attempt to deal with the changing nature of criminal activities. This bill not only updates the old Indian Penal Code, 1860 but also establishes itself as a strong set of laws to effectively fight organized crimes, ensuring the safety and well-being of the Indian people.

## References

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<sup>i</sup> Golden Itawkins: Crimes and Justice Volume I, 1971; P.374

<sup>ii</sup> Thorsten sellin: 1963; P.12-19

<sup>iii</sup> Cf-caldwell: P.73-74

<sup>iv</sup> Criminology By Ram Ahuja, Rawal Publication, Jaipur and New Delhi, P.159-162

<sup>v</sup> Ibid, P.166-170

<sup>vi</sup> Criminology and Penology by Prof. Dr. S.M.A. Quadri, Eastern Book Company Lucknow, P. 468