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# Economic Crimes in India

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## ABSTRACT

*Economic crimes or financial crimes are those sets of crimes which a culprit commits in order to get some kind of benefits of his own or for some other collective purpose which is illegal in nature. It is a small term with a wider meaning and covers a much larger aspect of crime which is beyond the imagination of a normal human being. From fraud to Cyber Crime, every crime is larger in its own ambit. Its covers not only a smaller area of a country but also covers the whole world as crimes like money laundering are not endemic in nature but are pandemic and as a result affects a larger group of people. It is a global challenge to tackle now and every government in this world is trying their best to curb these challenges and maintain proper piece and harmony in the society. In early period these crimes were not that severe in nature and used to affect only few individuals but with the advent of new technologies and internet people started inculcating wrong ideas in their minds. Further by grasping more knowledge about internet and its uses people with evil minds started practicing illegal activities like fraud and cyber crime which caused great havoc between various sections of the society and further caused great catastrophic damages to the society and people living in it. It became rigorous for the authorities to control these crimes and even more challenging to maintain peace and provide justice to the affected individuals. As the technology evolved these evil mind people started targeting fragile areas related to the finance sector hence disturbing the economy. For curtailing these crimes various government authorities and international organizations like ECOSOC (Economic and social crimes), FATF (Financial action task force), ACAMS (Association of certified anti money laundering specialist), IMF (International monetary fund) are putting their best put forward.*

## I. INTRODUCTION

Specific sorts of economic crimes have posed a significant threat to the developing globe. Crimes related to socioeconomic factors, such as smuggling, foreign exchange violations, illicit trafficking in currency, narcotics, drugs, psychotropic substances, bribery, and corruption, are prevalent in developing countries. In India, in addition to chronic criminals, industrialists and merchants have frequently engaged in various forms of economic crime over the years.

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Economic crimes encompass several types of illicit activities such as white-collar crime, illegal business practices, and corporate misconduct.

Have today's large industrial and business corporations achieved their massive size primarily through their business efficiency, acumen, management expertise, and vision, or is it a result of their size due to refined and unnoticed deceptive practices and skill-full manipulation of economic exploitation by the so-called "respectable" business and industrial establishments? Their actions are referred to fraudulently as "irregularities" to make them seem more respectable. While common criminals commit crimes, clever criminals are responsible for certain distortions, despite causing much more harm to society than an average thief.

Commercial crime has rooted in Indian business and political culture. Political parties have evolved into large business enterprises that employ deceptive methods to cover the high expenses of political events. This has led to the emergence of a group of middlemen, contractors, supporters, and audience providers who have a significant stake in this type of spectacle, transforming political engagement into pure commerce.

Economic crime refers to illegal or criminal conduct committed by individuals or organisations for financial benefit. Theft and robbery involve a financial motive, yet they are not considered economic crimes.

## **II. HISTORICAL BACKGROUND**

Socio-economic crimes increased significantly with the beginning of Industrialization due to India's rural and agricultural heritage, as well as the common practice of joint families. Today, almost seventy percent of India's population resides in rural areas.

Crime is commonly thought to be caused by economic deprivation. The lack of economic and social development is regarded as the reasons of crime. The belief that enhancing economic conditions will decrease crime is flawed and not supported by empirical evidence. Many socialist countries shared the same opinion. Many Third World countries have provided an economic rationale for the rise in crime rates within their borders.

### **(A) Economic Offence – Definition**

Economic crime includes all criminal activities carried out by an individual or a group with the intention of acquiring money or assets belonging to others for financial or professional benefit.

**(B) Meaning**

Economic crime includes basic theft or fraud by individuals to complex, worldwide crimes conducted by established criminal groups. Economic crime often includes the following offences:

- 1) fraud
- 2) money laundering
- 3) terror financing
- 4) bribery and corruption
- 5) insider trading
- 6) cybercrime

**III. TYPES OF ECONOMIC CRIMES****1. Corruption related to economic crime**

Corruption is typically characterised by deceit, dishonesty, fraudulent behaviour, or other unlawful activities. Typically, this is perpetrated by a fraudster who may operate individually or as part of a gang to engage in such illicit behaviour. The purpose of such behaviour may be to get illicit and illegal financial gains and advantages. Corruption encompasses several activities such as bribery, misuse, or embezzlement of funds. Many of these actions may be considered lawful in numerous countries according to local legislation. Political corruption. The office bearers and government staff engage in such corruption for personal gains. This form of corruption involves the provision of preferential treatment and granting of discretionary powers to individuals in exchange for monetary gains by government officials. States with higher GDP and a significant presence of corporate entities are more susceptible to engaging in such methods. Corruption can occur at both minor and large scales. It can be found at every government party. Several high-ranking IAS officers have been accused with corruption, as well as lower-level clerks. Any individual who desires a higher wage but has strong moral principles may engage in corruption through various means.

**2. Banking related economic crimes**

Fraudulent intentions towards the money, assets, and high-value properties owned by banking and financial institutions are prevalent in the banking sector. This is due to the natural inclination of individuals to acquire liquid money, making the institutions dealing with such funds vulnerable to these fraudsters. FEMA also covers some of the crimes mentioned above.

This creates a conduit to obscure the true nature of the currency. Money laundering is the act of transforming illicit monies into legitimate funds by obscuring their origin and attempting to make them appear legal. A bank is a robust financial institution that plays a crucial role in the economic and financial development of a country, serving as a solid support structure for its financial system. A bank acts as a mediator in transferring funds from excess units to deficit units. In the recent era, there has been a significant shift in the banking industry from traditional manual involvement to automation and computer-based financial systems. The rate of economic development of a country is contingent upon the calibre of its financial institutions and banking system. In the realm of finance, the term "finance" can be defined as synonymous with money. Similarly, when we refer to a "system," we are referring to a complex network of interconnected institutions and their actors<sup>3</sup>

Therefore, a financial system encompasses these complexities and interconnections. Banks are crucial in facilitating the transfer of currency, both in the past when it was done manually and currently through banking channels. They play a critical role in the movement of physical currency notes. The platform includes a marketplace for the management and trading of government and corporate securities, foreign exchange, derivatives, short-term finance, and capital market investments. A crucial component of the modern financial system is the provision of financial services.

### **3. Stock market related to economic crime**

The stock market and security market are venues where financial instruments are traded, including the buying and selling of company shares by individual investors in an open market. The stock market is a crucial pillar of any country's economy. The barometer of the economy, particularly in developing nations, is heavily influenced by the stock markets, which plays a vital role in determining the path of the economy. Stock markets have emerged as additional pillars of the economy, alongside conventional sectors like as agriculture, industry, and import-export. Foreign funds are predominantly channelled into the stock market through Foreign Institutional Investors (FIIs), rather than being lent directly to industries or large commercial entities using traditional methods. Anyone who want to profit from a nation's economy must invest in the stock market on a huge scale. Security fraud in the stock market can occur in various forms. However, its main focus lies in disseminating misleading information to investors, leading them to make decisions that ultimately benefit the offender. Fraudsters in the stock market can take on various forms, including individuals, brokerage

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<sup>3</sup> FEMA: Foreign Exchange Management Act, 1999

firms, or investment banks. It could potentially be an entity or institution. Insider trading is a common fraud. The Federal Bureau of Investigation explains security fraud as a criminal conduct involving the deliberate misrepresentation and manipulation of financial markets, concealing crucial information, providing erroneous advice, or promising unrealistically high returns, resulting in financial harm to investors.

#### **4. Cyber related economic crimes**

Cyber economic crime refers to the intentional use of computers, networks, and related technology to cause economic harm to individuals, organisations, nations, or groups of individuals. The computer network encompasses several technologies such as the internet, chat rooms, emails, phones, SMS, MMS, Bluetooth, and others. Cyber-crime brings vulnerable threats to the peace and securities of various nations and economies as it has a great potential to harm the critical systems that are essential for maintaining internal security, law enforcement, healthcare, education, tax collection, infrastructure development, telecommunications, and other vital sectors. Cyber-crime refers to criminal activities carried out by highly skilled professionals with expertise in modern technology, computer knowledge, and other areas such as finance management, law, and communication. These individuals possess a dangerous level of proficiency in committing crimes that cannot be effectively monitored, investigated, or controlled by traditional police or administrative systems. They are adept at staying ahead of technological advancements, which traditional law enforcement agencies are ill-equipped to handle.

### **IV. EVOLUTION OF ECONOMIC CRIME IN INDIA**

Economic crimes evolved drastically in India. If we talk about the data published by the NCRB (National Crime Records bureau) there is continuous rise in the economic crimes in India since 2000. For comparison let see the economic crimes taken place in 2020 where India recorded 50,035 cases of cybercrime. In 2021 India recorded 52,974 cases of cybercrime. In 2022 India recorded 65,893 cases of cybercrimes and interestingly the state wise break-up of the 7 lakhs complaints in April 2023 on 1930, the helpline run by the national Cyber Crime reporting portal.

- Uttar Pradesh with 120,938
- Rajasthan with 100,345
- Karnataka with 65,340
- Madhya Pradesh with 47,382
- Bihar with 40,057

- Maharashtra with 39,909
- Gujarat with 38,735
- Delhi with 34,170
- Andhra Pradesh with 32,732
- West Bengal with 30,587

#### **(A) Impact Of Economic Crimes On Countries Economy**

Economic offences have a significant impact on the nation, as evidenced by the data provided. In 2022, a substantial number of cases were reported, though it was the highest number in the last five years. Money laundering, unequal resource distribution, parallel economy creation, excessive inflation, limited money circulation, tax evasion, and other issues have a direct or indirect impact on the nation's economic growth often leading to economic depletion. When comparing various offences under Economic Offence, we observe significant commonalities, primarily revolving around financial and Economic offences. All these offences are linked to financial resources and their counterparts.

Black money is a highly serious and widely acknowledged offence, prevalent not only in India but also globally. Swiss Bank stores a significant amount of illicitly earned funds, sometimes referred to as Black Money, obtained by offenders through illegal means. Economic Offenders choose to open accounts in Swiss bank due to the privacy and security it provides, giving it a dependable and lawful option for storing money. India is ranked 77th in terms of the number of clients with Swiss Bank accounts, which is a recent development. In 2007, India was listed in the Top 50. However, in 2016 it dropped to 74th position, in 2020 to 77th position, and in 2023 there was a significant loss of over 15% to Rs. 30,000Cr. In August 2010, the Indian Government changed the Double Taxation Avoidance Agreement to allow inspection into Swiss accounts held by Indians. In 2011, Indian officials urged Swiss Bankers Association representatives to reveal the amount of illicit funds placed by Indian clients in Swiss banks, despite the bank's historical stance against banking secrecy. Since 2012, the number of Indian clients' accounts in Swiss banks has been gradually decreasing. Consider the potential impact on India's economic status if this policy or agreement had been implemented before 2000. The nation's economic position would likely be far better than it is currently.

This offence will impact the demand and supply of goods and services on a national level. When demand for products rises, supply decreases, causing prices to increase, leading to inflation. Ultimately, this affects low-income individuals, causing the poverty rate to rise. It diminishes

the Gross Domestic Product (GDP) of the country, prompting the need for loans and borrowing from other financial institutions, leading to a financial crisis. This also undermines faith in the economic governance system, causing internal disturbances due to lack of proper authority to address the situation, ultimately resulting in a recession. The offenders borrow a substantial amount of money and When loans are not repaid to banks, the interest on the original amount increases, which impacts the banks' financial standing. Banks may struggle to recover funds from offenders who flee the country, leading to a financial and economic collapse.

### **(B) Who are economic offenders**

Well known figures and renowned individuals are the ones executing this crime. All individuals were implicated in various scams that specifically preyed on the unsuspecting public by first earning their trust and then manipulating their finances. Insufficient understanding of the victims and unquestioningly trusting the accused can result in committing the offence. The offenders are skilled, experienced, and are capable of committing these acts. Powerful individuals are also involved in this crime, possessing political, financial, and professional influence. White-collar criminals are a type of economic offenders.

### **(C) Key legislations related to economic crimes in india**

- Indian Penal Code (IPC): Encompasses a broad spectrum of economic offences such as fraud, deception, embezzlement, and counterfeiting.
- Prevention of Money Laundering Act (PMLA): Aims to prevent, control, and punish money laundering activities.
- Fugitive Economic Offenders Act (FEOA): Facilitates confiscation of properties of economic offenders absconding from India.
- Securities and Exchange Board of India (SEBI) Act: Regulates the securities market and prevents market manipulation.
- Companies Act: Governs corporate behaviour and combats financial fraud.
- Information Technology Act: Addresses cybercrime and protects financial data.
- Income Tax Act: Deals with tax evasion and related offenses.
- Customs Act: Prevents smuggling and regulates international trade.



## **V. JUDICIAL APPROACH RELATED TO ECONOMIC CRIMES IN INDIA**

### **1. Hiten Dalal (1991-1992)**

A special court convicted broker Hiten Dalal and five others of involvement in the 1991-92 securities transactions scam, sentenced to two years in prison. The criminal actions led to a decline in public trust in the banking system and a negative impact on the country's economy. The case involved securities transactions conducted by Standard Chartered Bank (SCB) through its former broker, Dalal, with several other "counter-party" banks. The court imposed a two-year jail term on them but delayed the sentence, allowing them to appeal to the Supreme Court. The court acquitted six others due to insufficient evidence. The case lasted over two decades, causing significant mental and physical distress for the accused individuals. The court acknowledged the significant impact of the transactions on the nation's economy and public trust in the banking system<sup>4</sup>

### **2. Harshad Mehta (1992-1993)**

The 1992 stock market hoax is commonly associated with the individual responsible for causing the collapse of the stock market: Harshad Mehta. The scandal involved the misappropriation of Rs 1439 crores (\$3 billion), resulting in a significant shortage and substantial depletion of funds in the life savings of numerous investors, totalling Rs 3542 crores (\$7 billion). Harshad Mehta is also portrayed as a victim because of his suspected involvement with influential government officials, which suggests political connections. Nevertheless, it is known that Harshad Mehta took benefit of the gaps of his own profit, diverted the market and was extensively in various banking crimes<sup>5</sup>

### **3. Ketan Parekh (2001-2002)**

Ketan Parekh extensively studied the "Pump and Dump" scheme employed by Harshad Mehta. The Big Bull illicitly acquired funds from banks and other financial institutions. He utilised those funds to directly or indirectly purchase specific equities in large quantities, causing their prices to subsequently surge. Market players held the belief that any stock chosen by the Big Bull would become highly profitable. Over time, an increasing number of individuals would allocate their funds into these stocks, therefore causing values to rise even more. At the highest point of the price, Mehta and his colleagues would secure substantial profits. Parekh desired to exploit the same mechanism to his benefit, although with a few modifications.

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<sup>4</sup> **Hiten P. Dalal v. Bratindranath Banerjee (2001) 6 SCC 16**

<sup>5</sup> Harshad S. Mehta v. CBI 1998(5) BOMCR783

He had a firm conviction in the prospective expansion of enterprises operating in the Information, Communication, and Entertainment (ICE) industry. During the year of 1999 and 2000, which marked the beginning of the dot-com boom, a significant number of his stock forecasts proved to be highly precise. He successfully inflated the share values of multiple companies. Nevertheless, Ketan Parekh aspired to go beyond the norm and actively urged institutional investors to allocate their funds into equities that he had manipulated. He believed that exerting control over huge institutional investors would be more manageable compared to regular investors, who possess diverse interests and perspectives<sup>6</sup>

#### **4. Saradha chit fund (2013)**

The scheme, operated by Saradha Group (a conglomerate consisting over 200 individual companies), was initiated in the early 2000s by entrepreneur Sudipto Sen. Catering to small-scale investors, the programme rapidly gained popularity due to its enticing commitment of substantial profits. The funds were gathered via an extensive network of agents, who received commissions exceeding 25%. The Saradha Group accumulated over Rs 2,500 crore within few years. The corporation used various marketing strategies to establish its name. In addition to traditional marketing strategies such as using celebrities for endorsements, the corporation initially involved in funding cultural events like Durga Puja and funding in prominent football clubs as a means to appeal to a larger pool of investors. The scheme rapidly extended to Odisha, Assam, and Tripura, attracting about 1.7 million investors<sup>7</sup>

#### **5. Vijay Mallya (2016)**

In order to sustain the firms (airline business), he consistently obtained loans from financial institutions. He obtained loans totalling 9000 crores from 17 banks. Despite SBI declaring them bankrupt, other banks continued to provide loans to him due to his membership in the Rajya Sabha and support from certain political parties. His firm, Kingfisher, collected service tax from passengers and deducted PF (Provident Fund) and income tax from employees, but failed to pay these amounts to the respective authorities.

The corporation failed to remunerate its employees or depleted its financial resources. The company had to cease its activity in 2012. Vijay Mallya had accumulated a loan amounting to 9000 crores from various banks, and he refused to fulfil his obligation to repay this credit.

SBI and other banks started legal actions against Vijay Mallya, however, prior to any punitive measures being taken, he absconded to the UK. Additionally, there is a subplot involving Vijay

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<sup>6</sup> Ketan V. Parekh v. Enforcement Directorate, (2011) 15 SCC 30

<sup>7</sup> Subrata Chattoraj v. UOI, (2014) 8 SCC 796

Mallya, where he proposed to banks to settle by paying 4000 crores, but the banks rejected his offer. The banks are requesting a minimum of 4900 crores as the main payment, in addition to demanding interest<sup>8</sup>

### **6. Nirav Modi (2018)**

Nirav Modi being involved in the \$2 billion Punjab National Bank fraud case. In August 2018, the Indian authorities accused Nirav Modi with criminal conspiracy, criminal breach of trust, cheating, corruption, money laundering, fraud, embezzlement, and breach of contract in relation to the Punjab National Bank scam case.

Letters of undertaking that were issued by Punjab National Bank at its Brady House branch in Fort, Mumbai. The alleged scheme was planned by Nirav Modi, together with his wife Ami Modi, brother Nishal Modi, and uncle Mehul Choksi, all of whom left the country in 2018. Punjab National Bank employees and directors provided assistance to Nirav Modi's business. The Letters of Undertaking were established to support Indian bank branches in importing pearls for a duration of one year, as per the criteria set by the Reserve Bank of India. These guidelines provide a maximum time period of 90 days from the shipment date. The overseas branches of Indian banks disregarded this directive. The firms provided PNB with documents and information when they borrowed financing, but they did not share any of this with PNB.

Nirav Modi obtained his initial deceptive guarantee from Punjab National Bank on March 10, 2011 and later acquired an additional 1212 such guarantees for the next 74 months. Punjab National Bank personnel utilised the SWIFT network inappropriately to send information to Allahabad Bank and Axis Bank regarding the need for funds. Although SWIFT credentials were used for these acts, the negotiations were not updated in the banks system that resulted in the bank being unmindful for them for a long period of time.

## **VI. CONCLUSION**

The status of economic offences is characterised by numerous gaps and lacks a firm foundation. In light of the escalating statistics of economic offences, the Government is now obligated to devise strategies to alleviate the backlog of cases in courts. This includes establishing distinct special courts or tribunals and enacting specialised legislations.

Despite the implementation of necessary modifications and the introduction of new legislation by the Competent Authority (CG) of our country, the crime rate associated with this offence is

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<sup>8</sup> Vijay Mallya v. Enforcement Directorate, (2015) 8 SCC 799

decreasing. However, it is important to acknowledge that these crimes have not been entirely eradicated from our nation and there are still certain deficiencies in the existing policies. The Indian Statutory body should enhance legislation to prevent offenders from evading punishment by fleeing to other countries. The maximum penalty should be imposed on such individuals to deter future crimes. Additionally, the legislation should include provisions to financially compensate victims for the damages they have suffered.

The nation should establish a greater number of treaties and agreements with other nations to ensure that offenders cannot evade punishment for their crimes. Even if the offenders manage to escape through legitimate or illegitimate means, they can be extradited back to our nation if our nation has strong relationships with other nations.

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