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Organized Crime and Criminal Liability

SUNIL CHANGOD[1], Mrs. - Roshani Pandey (assistant professor)[2]

Institute of law and legal studies,(Indore) M.P.
sage university Indore institute of law and legal studies (Indore) M.P.

ABSTRACT :

Organised crime presents a persistent challenge to state authority, rule of law, and economic stability. As criminal networks evolve from traditional syndicates into sophisticated, borderless enterprises leveraging digital infrastructure, national legal systems struggle to balance aggressive law enforcement with constitutional safeguards. This paper examines the efficacy of specialized legislative measures designed to curb organised crime, analyzing key statutory tools such as specialized evidentiary rules, preventive detention, asset forfeiture, and stringent bail regimes.

Through a comparative and analytical lens, the study evaluates the practical hurdles in prosecuting transnational syndicates, including jurisdiction friction, witness intimidation, and complex financial concealment. The paper further critically assesses the constitutional tension between state security imperatives and individual fundamental rights, particularly regarding strict anti-gang and counter-terror legislation. Concluding with actionable legal reforms, the study argues for enhanced inter-agency intelligence coordination, modern digital evidence standards, and harmonized international extradition protocols to counter contemporary organised criminal networks effectively.

Keywords : Organised Crime, Criminal Law Reform, Asset Forfeiture, Special Statutes, Constitutional Safeguards, Transnational Crime, Law Enforcement.

Introduction: Law and Organised Crime

Organised crime refers to criminal activities carried out by structured groups that operate systematically to gain financial or material benefits through illegal means. These groups are often involved in offences such as drug trafficking, human trafficking, money laundering, cybercrime, illegal arms trade, extortion, and corruption. Organised crime is transnational in nature and poses a serious threat to national security, public order, economic development, and the rule of law.

Law plays a vital role in preventing, investigating, and prosecuting organised crime. Governments enact special criminal laws, strengthen law enforcement agencies, and promote international cooperation to combat organised criminal networks. In India, various legal frameworks, including the Indian Penal Code, the Bharatiya Nyaya Sanhita, 2023 (where applicable), the Prevention of Money Laundering Act, 2002 (PMLA), the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), and state-specific organised crime laws, are used to address different forms of organised crime.

Objectives of the Study :

1. To understand the concept of organized crime.
2. To examine the causes and characteristics of organized crime.
3. To analyze the legal framework dealing with organized crime in India.
4. To study international efforts to combat organized crime.
5. To suggest effective measures for prevention and control.

Meaning and Characteristics of Organised Crime

Meaning of Organised Crime

Organised crime refers to criminal activities carried out by a structured group of individuals who work together over a long period to earn illegal profits through unlawful activities. These groups are well-planned, disciplined, and often use violence, intimidation, corruption, and influence to protect their operations and avoid law enforcement.

According to the United Nations Convention against Transnational Organized Crime (UNTOC), an organised criminal group is a structured group of

three or more persons, existing for a period of time, acting together to commit serious crimes for financial or material benefit.

Challenges

1. Transnational Jurisdiction & Enforcement Gaps :

Border Sovereignty Constraints: Criminal cartels, human traffickers, and cyber-syndicates operate fluidly across legal borders. Law enforcement agencies face lengthy extradition protocols, diplomatic friction, and differing legal definitions of crime between nations.

Safe Havens: Groups strategically base operations in jurisdictions with weak governance, rampant corruption, or limited international law enforcement cooperation.

2. Financial Complexity & Money Laundering :

Obfuscation of Illicit Funds: Syndicates exploit shell corporations, trade-based money laundering, and offshore banking secrecy to blend illicit proceeds into the legitimate economy.

Emergence of Digital Assets: The rise of unhosted cryptocurrency wallets, decentralized finance (DeFi), and dark web marketplaces allows rapid global transfers without traditional banking oversight.

3. Institutional Corruption & Systemic Infiltration :

Co-opting State Infrastructure: Organised crime relies heavily on bribing or coercing border officials, law enforcement personnel, prosecutors, and politicians.

Erosion of Public Trust: When public officials are compromised, public faith in legal institutions collapses, creating power vacuums that criminal groups often exploit to act as "shadow authorities."

4. Insulation of High-Level Leadership :

Cell-Based Hierarchy: Leaders ("kingpins") rarely handle physical contraband or execute violence directly. Instead, they operate through compartmentalized cells, proxy commanders, and encrypted communications.

Prosecutorial Hurdles: Establishing a direct legal link between high-ranking bosses and street-level offenses requires complex conspiracy statutes, extensive wiretaps, and long-term undercover operations.

5. Witness Intimidation & Evidentiary Obstacles :

Omertà & Fear: Victims and key witnesses frequently refuse to testify due to legitimate fears of retaliation against themselves or their families.

Resource-Intensive Witness Protection: Operating effective witness protection programs demands massive financial resources and long-term security commitments, which many developing legal systems struggle to maintain.

Suggestion

Suggestions for Controlling Organised Crime

1. Strengthen law enforcement agencies by providing better training, technology, and resources.
2. Improve intelligence sharing among local, national, and international agencies.
3. Enforce strict anti-money laundering laws to disrupt criminal financing.
4. Strengthen witness protection programmes so people can testify without fear.
5. Use advanced technology such as cyber forensics, AI, CCTV networks, and data analytics.
6. Ensure speedy investigation and trial through special courts for organised crime cases.
7. Enhance international cooperation to combat transnational organised crime through treaties and organizations like INTERPOL.
8. Promote public awareness and encourage citizens to report criminal activities.

Conclusion

Organized crime is a complex and evolving challenge that threatens national security, economic stability, and the administration of justice. Strong legislation, effective policing, judicial efficiency, international cooperation, and public participation are essential to combat organized crime. A coordinated legal and institutional approach is necessary to ensure peace, security, and the rule of law.

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