

SOCIO-LEGAL INVESTIGATION ON EMERGING CHALLENGES IN ORGANIZED CRIME

AMANDEEP KAUR

Department of Fashion Design , Graphic Era Hill University, Dehradun,
Uttarakhand, India 248002

ABSTRACT

Every kind of crime that is planned and carried out in advance is considered organized crime. The term "organized crime" may be used to any crime that is performed with premeditation. CRIME Indicative of the Situation in India the focus of "Challenges experienced by Investigating Officers in Investigation of Organized Crime Cases" is on the difficulties encountered by officers conducting investigations into organized crime under the Montana Criminal Offenses Control Act (MCOCA). A look at how IOs in Mumbai and Delhi see things is shown here. This section focuses on the unique investigative requirements of MCOCA and the challenges experienced by IOs while enforcing those requirements. They have had a thorough analysis of how much aid they get from these provisions.

KEYWORDS: Organized Crime, Challenges, Emerging, Investigation and Crimes

INTRODUCTION

Criminal organizations working across international borders often target lawful enterprises to launder money. Profitable strategies are diversifying and becoming more ingenious. The reach and complexity of transnational crime is increasing as transnational criminal organisations become more ingrained in global supply systems. There are new security dangers on the horizon, and this means that individuals might become victims of organized crime in more situations and more locations than ever before.

The United Nations Convention on Transnational Organized Crime's Conference of the Parties has identified cybercrime, identity-related crimes, cultural property trafficking, environmental crime, piracy, organ trafficking, and counterfeit pharmaceuticals as new and emerging crimes of concern. The advent of these new criminal categories necessitates a corresponding shift in law enforcement's reaction.

In order to set up shop in several cities and buy cutting-edge tools, criminal organizations need to have access to massive sums of cash. The need for quick cash has led some to engage in criminal activities such as drug and human trafficking, currency counterfeiting, scams, and economic fraud. Those involved in organized crime launder illegal funds. In addition to engaging in illegal money transfers, tax fraud, price fixing, and hoarding, these individuals are also complicit in a variety of other financial crimes (Organized Crime, 2008). There are two obvious drawbacks to the creation of black money. One is the proliferation of the so-called "shadow economy," which functions according to its own set of beliefs, values, and customs and touches every aspect of society.

Throughout India's history, there have always been organized crime groups. Thieves (in Hindi, "thugs") would pose as unarmed pilgrims and ascetics in India's forests in order to loot and kill passing tourists. Before robbing and killing their victims, they would first fool them into trusting them with brilliant tricks and false pretenses. In this system, criminals, their customers, and politicians all provide services to one another in exchange. Corruption of political officials and members of law enforcement is necessary for any criminal enterprise to succeed.

LITERATURE REVIEW

Kuchalskis, Klaidas. (2018). As a political issue, the danger posed by organized crime has existed for some time. Unfortunately, the true severity of this danger has not yet been established. When this problem arises, why must it be "securitized"? Or, more generally, should it be considered one of the top risks? Maybe it's best to treat this phenomenon as if it were a common issue that could be fixed in the normal way. This essay seeks to address these concerns. The article examines organized crime from both the Lithuanian and European Union's points of view. Its effect on economic and social values is being studied. The author examines EU and national strategic documents that highlight organised crime as a threat, assesses organised crime groups, their areas of activity, the impact on social security, the factors determining the peculiarities of organised crime's development, and the link between organised crime and other threats. This essay has three aims: 1) to analyse the threats posed by organised crime from the perspectives of Lithuania and the European Union; 2) to assess new challenges and propose specific measures of response towards organised crime as a threat to national security; 3) to examine the structures of organised criminal groups, areas of illicit activities, so-called "engines of crime," and the main "crime enablers" influencing the evolution of criminality. The author makes use of a variety of critical approaches, including deductive reasoning, inductive reasoning, and the use of comparative and analytic tools to examine both primary and secondary sources. Information gathered via interviews with public workers and operational personnel is also provided.

von Lampe, Klaus. (2012). This essay and review draw on a survey of academic literature written in English to evaluate the current status of empirical research on transnational organized crime. Findings are summarized, and the paper's main topics, research questions, and methodologies are all laid forth. Moreover, it discusses barriers to quality research, saying that future theory and policy would need globally coordinated research efforts.

Fatih Vursavas (2015) As a result of the potential afforded by technology in today's globalised society, organised criminal organisations engage in very wide cross-border operations. Economic instability, corruption, unemployment, a lack of education, a lack of political leadership, and legal loopholes are all factors that contribute to the rise of organised crime. A national and worldwide security risk, it affects people on both an individual and societal level. Criminal organizations engage in a wide range of illicit activities, such as drug and human trafficking, people smuggling, cigarette and alcohol smuggling, firearm and ammunition smuggling, money laundering, and, increasingly, cybercrime as new technologies emerge in tandem with old ones.

Narem Vnss Usha Amulya (2018) The high market value of transnational organized crime means it affects more than only the safety of governments economically.

Crimes such as drug smuggling, terrorism, money laundering, smuggling, and the sale of illegal weapons are never committed in isolation. One serves as a resource for the other, therefore there is an inherent connection between them. The geopolitics and geography of the states have also played a role in facilitating the spread of these crimes, as is evident in the case of India, which shows the importance of bolstering border management to prevent these elements from exploiting the situation to facilitate Transnational Organized Crimes. And although one state may represent a particularly lucrative market, these crimes are not limited to that region. This paper provides an explanation of how to combat transnational organised crime, with a focus on FATF (Financial Action Task Force) rules, terrorism, money laundering, and drug trafficking as examples. The study also makes an effort to quickly grasp the interconnected nature of these numerous Transnational Organized Crimes. The study also aims to highlight ideas to fight and control this transnational organized crime threat. Search Terms: Transnational Organized Crimes,

Nafiu Ahmed (2017) Transnational issues, rather than those limited to the authorities of individual nations, now characterize organized crime. Such crimes have always occurred, but the patterns that emerge in the present day are more intricate than those that have come before. Globalization, poverty, uneven income distribution, technical advances, corruption, poor governance, geographical location, and many other reasons all contribute to the rise of transnational organized crime (TOC), which has a significant impact on practically every country. This study examines the growing problem of transnational organised crime (TOC) in India, which is having an effect on a broad variety of industries. Smuggling, gun trafficking, drug and human trafficking, prostitution, abduction, and cybercrimes all fall under this category. The scope and nature of criminal organizations are evolving. This means that TOCs hamper both economic and social progress. In addition, the paper analyzes how TOCs have affected various industries. Further suggestions are presented for weakening the criminal network in the country, and the key obstacles the government has in resolving the problems are analysed.

CRIME SCENARIO IN INDIA

The written Constitution, passed by the Constituent Assembly on 26 November 1949, took effect on 26 January 1950. India is a federation of independent states. There are 29 states and 7 territories that make up the union. India has adopted the Anglo-Saxon common law system as a result of its colonial past. Under Article 14, all citizens are guaranteed equal protection under the law. Life and freedom are safeguarded under Article 21. Avoiding a trial again for the same offense is guaranteed under Article 20. Justice for everyone shall be provided by the State in accordance with Article 39-A. Article 50 establishes a wall between the State's judicial and executive branches. As 'Police' and 'Public Order' are State subjects under the Seventh Schedule to the Constitution of India, the various State Governments in India are primarily responsible for crime prevention, detection, registration, investigation, and prosecution.

It would be helpful to have a basic understanding of the criminal situation in the nation before I go on to the topic of organized crime proper. Lord Buddha and Mahatma Gandhi's homeland of India is becoming an increasingly violent place to live. In 1953, 8.2 percent of all crimes reported under the Indian Criminal Code (IPC) were violent crimes; by 1994, that number had risen to 14.4 percent. Last year,

Gulshan Kumar, a music mogul from Bombay with an estimated fortune of Rs. 800 crores, was murdered after refusing to pay a substantial amount of money requested by the Dawood Ibrahim gang.

From 1986 to 1996, Table 1 displays the frequency and rate of offences punishable by the Indian Penal Code (IPC) and Special and Local Laws (SLL): Whereas the total number of crimes committed under the IPC has been approximately the same (about 1.6 million) since 1990, the number of crimes committed under the SLL has been steadily rising. As a percentage of all crimes reported in 1996, IPC offenses made up 27.1%.

TABLE 1 INCIDENCE AND RATE OF COGNIZABLE CRIMES UNDER IPC AND SLL FROM 1986-1996 (IN LACS)

| YEAR | INCIDENCE | | | RATE** | | |
|------|-----------|-------|-------|--------|-------|-------|
| | IPC | SLL | TOTAL | IPC | SLL | TOTAL |
| 1986 | 14.05 | 29.8 | 43.9 | 183.5 | 389.6 | 573.1 |
| 1987 | 14.06 | 35.8 | 49.9 | 180.1 | 459.3 | 639.4 |
| 1988 | 14.4 | 37.6 | 52.06 | 180.8 | 472.7 | 653.5 |
| 1989 | 15.2 | 38.4 | 53.7 | 188.5 | 474.0 | 662.4 |
| 1990 | 16.04 | 32.9 | 48.9 | 194 | 398.3 | 592.3 |
| 1991 | 16.7 | 33.7 | 50.4 | 197.5 | 396.8 | 594.3 |
| 1992 | 16.8 | 35.5 | 52.4 | 194.7 | 410.1 | 604.8 |
| 1993 | 16.2 | 38.03 | 54.3 | 184.4 | 430.4 | 614.8 |
| 1994 | 16.3 | 32.8 | 49.2 | 181.7 | 365.6 | 547.3 |
| 1995 | 16.8 | 42.6 | 59.4 | 184.2 | 465.3 | 469.6 |
| 1996 | 16.7 | 44.6 | ..614 | 179.8 | 479.1 | 458.9 |

Table 2 provides a helpful breakdown of IPC offences according to key criminal categories. There was a 44.3% rise in homicides between 1985 and 1995. Rape rates have skyrocketed by 88.7 percent within this time frame. Similarly, there has been a 27.3% rise in kidnappings and abductions. However there has been a 25.9% drop in dacoity.

TABLE 2 INCIDENCE OF IPC CRIMES UNDER MAJOR CRIME HEADS CHALLENGES FACED BY INVESTIGATING OFFICERS IN INVESTIGATION OF ORGANIZED CRIME CASES

| Crime Head | 1985 | 1991 | 1992 | 1993 | 1994 | 1995 |
|------------------------|---------|---------|---------|---------|---------|---------|
| Murder | 25970 | 39174 | 40105 | 38240 | 38577 | 67464 |
| Attempt to murder | - | 29778 | 31202 | 29725 | 30020 | 29571 |
| Rape | 7289 | 10410 | 11708 | 12218 | 13508 | 16754 |
| Kidnapping & abduction | 16051 | 20079 | 20518 | 19830 | 20983 | 20426 |
| Dacoity | 11254 | 10831 | 11308 | 9357 | 9271 | 8335 |
| Robbery | 22501 | 26428 | 26444 | 24354 | 23933 | 22443 |
| Burglary | 130354 | 132087 | 127281 | 123020 | 121536 | 116507 |
| Theft | 330554 | 36282 | 350582 | 320434 | 303564 | 294306 |
| Riots | 99757 | 105309 | 104749 | 93838 | 94344 | 96520 |
| Counterfeiting | 1504 | 4467 | 5133 | 3728 | 2851 | 2203 |
| OTHER IPC CRIMES | 696069 | 886287 | 907071 | 903082 | 924342 | 722583 |
| TOTAL: | 1384731 | 1678375 | 1689341 | 1629936 | 1635251 | 1695696 |

TABLE 3 INCIDENCE OF SLL CRIME UNDER MAJOR HEADS

| CRIME HEADS | 1985 | 1991 | 1992 | 1993 | 1994 | 1995 |
|------------------------------|---------|----------|---------|---------|---------|---------|
| ARMS ACT | 61987 | 62025 | 63893 | 65532 | 60289 | 64331 |
| NDPS ACT | 14277 | 20944 | 99478 | 21087 | 20304 | 20194 |
| GAMBLING ACT | 179419 | 167113 | 167193 | 162800 | 156926 | 137737 |
| EXCISE ACT | 106183 | 95863 | 95108 | 96578 | 102096 | 114355 |
| PROHIBITION ACT | 106183 | 95863 | 95108 | 96578 | 102096 | 114355 |
| EXPLOSIVES ACT | 3373 | 5458 | 8899 | 6163 | 4641 | 5113 |
| IMMORAL TRAFFIC ACT | 14815 | 14639 | 12580 | 12496 | 10132 | 8447 |
| ANTIQUITY & ART TREASURE ACT | - | 10 | 40 | 18 | 66 | 69 |
| OTHER SLL CRIMES | 2327129 | 22844958 | 2401039 | 2513251 | 2793225 | 3232633 |
| TOTAL: | 3096481 | 3773563 | 3350971 | 3808448 | 328638 | 4267476 |

1. Procedure of Investigation

To examine the difficulties experienced by IOs while investigating gang-related crimes. To begin, we'll talk about the investigative process in India, because it might provide light on the difficulties cops have when looking into serious crimes like terrorism..

a) First Information Report

First police work starts with a First Information Report (FIR) filed under Section 154 of the Criminal Procedure Act, 1973. (Cr.PC). In accordance with this rule, all verbal reports of criminal activity given to a police station's commanding officer must be reduced to writing. The complainant is then given a chance to review the document and sign it before it is officially filed.

b) Proceeding to crime scene

A Magistrate is authorized to take cognizance of an offense if the officer in charge of a police station believes that a cognizable crime has been committed. The officer in charge of the local police station will then either visit the crime scene directly or send a lower-ranking officer there. Getting to the site of a crime allows investigators to learn more about what happened.

c) Spot map

The Investigating Officer, or someone else well trained, must draw out a map of the crime scene. All relevant information about the crime site is included on the spot map. Prepare two separate copies of the spot map. The investigating officer keeps one copy for his or her records and sends the other with the charge sheet (Para 25.13 Punjab Police Rules 1934).

d) **Abduction of Forensic Material** To properly document a crime scene, a picture must be taken by a professional photographer and the forensic evidence must be lifted by the investigating officer with the assistance of technological specialists (Para 25.33 and Para 25.14 Punjab Police Rules 1934).

e) **Evidence-based cross-examination** The investigating officer has the authority to consult with anybody at the police station who seems to know anything about the situation. According to Section 160 (1) of the Criminal Procedure Code, such a witness must cooperate with investigators.

2. Special Procedure of Investigation in Organized Crime case

Syndicated criminal activity Complex mafia networks span national boundaries, regions, and oceans. The Cr. standard PC's technique for investigating crimes is insufficient to track down the Mafia because of the complexity of their modus operandi. Hence, The Maharashtra Control of Organized Crime Act, 1999 (MCOCA) has created a particular technique of investigation to assist Investigating Officers in carrying out successful investigations.

Keeping tabs on data in accordance with MCOCA The following must be true before a case may be filed against a suspect:

- Several charge sheets have been filed against the suspect, and they have all been taken into consideration, for an offense that involves continued unlawful conduct and carries a jail sentence of three years or more (Section 2(1)(d) of MCOCA).
- This case may be investigated under MCOCA. Yet under Section 23(1)(a) MCOCA, Before information on the commission of an organised crime offence may be recorded, it must first be approved by an officer not below the rank of Assistant Commissioner of Police in Delhi /Deputy Inspector General of Police in Mumbai.

a) Application for interception

Intercepting wire, electronic, or oral communications of a suspect is a specialized law enforcement function authorized by Section 14 (1) of the MCOCA. Consideration has been given to the individual's right to privacy in granting this authority.

- Identification of the Applicant and the Department Head Authorizing the Application
- information on actual or planned acts of organized crime,

b) Grounds for permitting interception

Under MCOCA Section 14(4), interceptions are sometimes legal under typical circumstances:

- reasonable suspicion that a person is involved in, has been involved in, or is going to be involved in organized crime;
- probable reason exists to suspect the acquisition of a certain piece of information related to nefarious activities;

c) Ingredients of interception order

An interception order must include the following information: the identity of the person whose communications are subject to the interception order; the identity of the agency authorised to intercept; the identity of the person authorised to intercept; the nature and location of the facilities from which the communication is to be intercepted; a description of the type of communication subject to the interception and the offence to which it relates; and the identity of the person authorised to intercept. (Section 14(5) MCOCA).

d) Review of interception order

Any emergency interception orders must be presented to and approved by a review committee within seven days after their issuance (Section 14(6) of MCOCA).

3. Challenges faced by Investigating Officers in Conducting Investigation under MCOCA

Even though MCOCA has unique provisions for investigating organized crime, law enforcement agencies have been encountering difficulties in doing so. Perspectives of 60 police officers in Delhi and 60 police officers in Mumbai who investigate MCOCA cases were gathered and examined.

a) Difficulty in interception of communication of suspects

i) Interception time is too short. While Investigating Officers have been having trouble intercepting such conversations, section 14 (8) of MCOCA allows for an initial 60-day interception period, which may be extended by another 60 days. Their opinions were collected and assessed.

TABLE 4 APPROPRIATENESS OF TIME PRESCRIBED FOR INTERCEPTION TO GET REQUISITE INFORMATION AS FELT BY INVESTIGATING OFFICERS N=60

| Duration of interception | Number | Percentage |
|--------------------------|--------|------------|
| 1-30 days | 6 | 10% |
| 30-60 days | 12 | 20% |
| 60-120 days | 18 | 30% |
| 120 days | 24 | 40% |
| Total | 60 | 100 |

Table 4 shows that 40% of IOs reported needing 120 days or more to intercept questionable oral communications under MCOCA, indicating that the statute's 60-day time limit is too short. Twenty percent of government officers felt that it was possible to intercept communications protected under MCOCA within 60 days.

Question 21 of the timetable was reviewed, and it was concluded that the window of opportunity for intercepting the required data couldn't be less than 60 days and

couldn't be more than another 60 days. (section14(8) MCOCA). It is possible that officers conducting an investigation will get the data they need within 30 days, but it is also possible that they may not receive the data they need within 60 days.

a) Interception Permission Requests May Be Complicated Requesting authorization to listen in on a suspect's phone calls is a difficult process. The application for intercepting authorization must include some mandatory fields. It might be difficult for Investigating Officers to supply such details with an application.

Table 5 Difficulty faced by Investigating Officers in seeking permission of interception & reasons N=60

| Views of Investigating Officers | Number | Percentage |
|--|--------|------------|
| Yes | 49 | 81.66% |
| No | 11 | 18.34% |
| Reasons for not getting permission for interception. N=49 (81.66%)* | | |
| Difficult to collect required detail for application | 10 | 20.40% |
| Authorities are reluctant to give permission | 12 | 24.48% |
| Time consuming | 16 | 32.65% |

81.66 percent of investigators said it was difficult to get a warrant to listen in on a suspect's conversations. Just 18.34% of police reported difficulty in obtaining intercept warrants. Third-and-a-half of the investigating officers polled agreed that getting approval was a hassle.

b) Problems in meeting MCOCA's pre-filing requirements for new cases Police had trouble filing charges under MCOCA because of a requirement that was often not met: the criminal must have committed a crime before and cognizance must be sought under section 2(e) of MCOCA. The perspectives of law enforcement professionals are examined.

Table 6 Opinions of Investigating Officers on the Need of Preconditions for Filing a Case Under MCOCA N= 60

| Response | Number | Percentage |
|--|--------|------------|
| Yes | 19 | 31.7% |
| No | 41 | 68.3% |
| Constraints faced by Investigating Officers in fulfilling the requirement N=41 (68.3%)* | | |
| 10 years too long | 17 | 41% |
| Offenders repeat crime before cognizance is taken | 17 | 41% |
| Difficult to trace past record of suspect | 25 | 60% |
| Trial gets stayed by higher Court | 6 | 14% |

For example, as shown in Table 6, 41 out of 60 IOs who registered a case against a suspect under MCOCA determined that the definition of organized crime as

continuous criminal conduct provided in Section 2(d) of MCOCA was not applicable to the circumstances of the case. Twenty-five of the forty-one investigating officers (60%) had trouble tracking down the offender's criminal history and making the connection between the offence and organized crime.

c) Limitations on the Use of Scientific Method Especially in situations involving organized crime, the use of modern scientific methods of inquiry is crucial in today's enlightened age. The Mafia is well supplied with cutting-edge technology. The perspectives of those involved in investigating were gathered and analyzed.

**Table 7 Use of scientific techniques of investigation by Investigating Officers
N=60***

| Response | Number | Percentage |
|-----------------|---------------|-------------------|
| Lie Detection | 35 | 58.3% |
| Brain Imaging | 32 | 53.34% |
| Narco-analysis | 27 | 45% |

Table 7 shows that between 45% and 55% of IOs lacked the training to apply scientific inquiry methods like lie detectors, narco-analysis, and brain imaging. Since the accused did not provide informed permission, there was a major reason for alarm that they were not able to do these tests on themselves.

CONCLUSION

As organized crime is defined as an ongoing criminal enterprise, it is safe to assume that criminal behavior of this kind is ongoing as well. While looking into instances of organized crime, officers face a wide range of challenges. Opinions of investigating officers in Mumbai and Delhi are presented in a number of tables, despite the existence of special provisions of investigation, such as the admissibility of intercepted communication of organised crime offenders, extended remand time, the admissibility of confession before police officer, and the investigation of organised crime cases by the officer equivalent to the rank of Deputy Superintendent of Police. They are still having trouble with MCOCA case investigations. Because the public refused to help and no witnesses were present.

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