



**TRANQUILITY OF VICTIMS OF ECONOMIC CRIMES IN THE INDIAN CRIMINAL JUSTICE
SYSTEM**

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Abstract

In recent times economic crimes are showing an increasing trend in India; more serious is the number of victims affected and their position in Criminal Justice (Wemmers, 1996). In a row, several economics crimes are reported and most remains unreported which ranges from fraud, corruption, scams or confidence tricks, tax evasion, bribery, embezzlement, identity theft, money laundering, and forgery and counterfeiting, including the production of counterfeit money, until cyber-crimes. Now there arises a question whether to address the reported or the unreported. An infinite number of economic crimes in India are still unreported believing that it will bring some negative implications to the victims. The law enforcement remains unaccountable in several cases because they are ill-equipped, under strength and less updated. These crimes can be witnessed from pawn brokering until higher order of Indian administration one recent event in our city self-immolation of 4 victims including 2 kids out of loan sharking. The recent being in administration, Income tax raid in premises of Principal Secretary to the Government of Tamil Nadu is typical example. Ill owned money will of culprits will be added to treasury of the government while victims will never be address, identified or judiciary will not even bother to listen to victims who were abused and made silent by this higher order officers. This paper will address the nuances in addressing the silent victims of economic crimes under Indian Criminal Justice System.

Keywords: *Silent Victim(s), Victimization, Economic Crimes, Counter Agencies, Equipping the Investigating Agencies and Governing Regulations.*

Introduction:

The bot offences have increased in several folds compared to that of bot less. In India, Economic Offences have been incepted since times immemorial, but remained dormant until the beginning of World War II (Wadia, n.d.) and there on it is has been part of life. Be it recognized or unrecognized these crime will never be emitted from public life. Ever since the mid-until end of 20th century people are used to it. With development in the field of science and technology; simultaneously industry and commerce have also speeded the wings of economic revolution all over the world. Since the early 90's India has witnessed a spate of major scams in different sectors of the economy (Kumawat, 2011). Therefore, high ethical standards and moral values were discarded in favour of power, money and material things (Barners & Teeters, 1966).

From the beginning of the year 2000, economic crimes remain untamed in India is evident from large frauds that were experienced by the country during the years 2005- 2007 as reported (Puri, 2007); especially after demonetization this circumstances have made the environment more conducive for the monstrous growth of the newer form of criminality, particularly in developing countries like India. Non-representation of victims has made more convene attitude for abusers (Wemmers, 1996). Hence, anti-social elements actively involved in economics crimes via frauds, tax-evasion, corruption, adulteration of food stuffs, misappropriation and misrepresentations, frauds using cyber space are now carried on a large scale by the persons of upper and middle socio-economic class in the course of their trade, commerce, industry and other professions as well. Hence, this paper will restrict only with Victims of White Collar Crimes, Socio-economic Crimes and Frauds in Cyber Space.

Eventually, the contemporary Indian system use the policy of Laissez-faire or non-interference of the State in the material pursuits of the individuals and associations creates an atmosphere of extreme business competitiveness for monopolistic advantages; which resulted in the multiplicity of the socio-economic offences beyond recognition (PricewaterhouseCoopers, 2015), posing a big threat to victims and make them more silent during and after victimization (Wemmers, 1996).

Forms of Economic Offences under Indian Legal System According to report of the National Crimes Records Bureau 2015, chapter 9, the reported Economic offences form a separate category of crimes under criminal offences as below. As per the data of Crimes in India, 2015 there are only 24 classifications, legislations and agencies dealing with economic crimes. The following table gives the list of crimes.

Table 1 : Economic Crime, Acts/ Legislations and agencies dealing with it

S.No	Economic crimes/ offences	Acts / Legislation	Enforcement Authorities
1	Tax evasion	Income Tax Act	Central Board of Direct Taxes
2	Illicit trafficking in contraband goods (smuggling)	Customs Act 1962 COFEPOSA, 1974	Collectors of Customs
3	Evasion of Excise Duty	Central Excise Act, 1944	Collectors of Central Excise
4	Cultural object's theft	Antiquity and Art Treasures Act, 1972	Police/State CB-CID/CBI
5	Money laundering	Foreign Exchange Regulations Act, 1973; Money Laundering Act, 2002	Directorate of Enforcement
6	Foreign contribution manipulations	Foreign Contribution (Regulation) Act, 1976;	Police/CBI
7	Land grabbing/Real estate frauds	IPC	Police/State CB-CID/CBI
8	Trade in human body parts	Transplantation of Human Organs Act, 1994	Police/State CB-CID/CBI
9	Illicit drug trafficking	Narcotic Drugs and Psychotropic Substances Act 1985 & NDPS Act, 1988	NCB/ Police/State CB-CID/CBI
10	Fraudulent bankruptcy	Banking Regulation Act, 1949	Police, CBI
11	Corruption and bribery of public servants	Prevention of Corruption Act, 1988	CBI/ State/Anti Corruption / Vigilance Bureaux
12	Bank frauds	IPC	Police/State Vigilance/CB-CID/CBI
13	Insurance frauds	IPC	Police/State Vigilance/CB-CID/CBI
14	Racketeering in employment	IPC	Police/State CB-CID/CBI
15	Illegal foreign trade	Import & Export (Control) Act,1947	Directorate General of Foreign Trade/CBI

16	Racketeering in false travel documents	Passport Act, 1920/IPC	Police/State CB-CID/CBI
17	Credit cards fraud	IPC	Police/State CB-CID/CBI
18	Terrorist activities	IPC & related Acts	Police/State CB-CID/CBI
19	Illicit trafficking in arms	Arms Act,1959	Police/State CB-CID/CBI
20	Illicit trafficking in explosives	Explosives Act, 1884 & Explosive Substances Act, 1908	Police/State CB-CID/CBI
21	Theft of intellectual property	Copyright Act, 1957 (Amendments 1984 & 1994)	Police/State CB-CID/CBI
22	Computer crime/software piracy	Copyright Act, 1957/I.T.Act, 2000	Police/State CB-CID/CBI
23	Stock market manipulations	IPC	Police/State CB-CID/CBI
24	Company frauds	Companies Act, 1956/IPC MRTTP Act, 1968	Police/CBI/SFIO

Source: Crimes in India, 2015 p 123.

While the number of victims of economic crimes is staggering (Amarnathan, 1998), only under the head fraud we can identify following offences in common, namely Theft of a vehicle, Suspicious online behaviour with or towards a child, Online hate or bullying crime, material or messages, Counterfeit medicine or medical devices available to purchase online, Business or personal tax frauds or a related Revenue and Customs matter, or Immigration fraud.

According to a survey by one India (2007) nearly 35 per cent of the organizations surveyed in the country have reported that they were victims of some form of economic crime in the past two years. While Global Economic Crime Survey (2016) accounted 54 per cent of Indian organisations reported suffering from economic crime. The cost of economic crime in India is significant, which is also evident from some of the large frauds experienced by the country. In another biennial survey covered 152 organisations in India and over 5,400 globally and was conducted in association with Germany's Martin-Luther University.

White Collar Crimes

These crimes are taken lightly by the criminal justice system as laws does not prescribe deterrent punishment to these crime. Most of the time punishment is mere a transfer from one office to

another (district) called RDA- Regular Department Action. This concept is obsolete because the ultimate aim of public service is diminished by RDA rather corrupt public servant or any other involving in white collar crime during the course of occupation should be chucked out from the service and labeled or demarked as blacklisted for public services. The comments of the 47th report of the Law Commission of India confirms it

"White-collar crime, one may, describe it as committed in the course of one's occupation by a member of the upper class of society, A manufacturer of drugs who deliberately supplies substandard drugs is, for example, a white collar criminal. So is if a big corporation guilty of fraudulent evasion of tax. A person who illegally smuggles (for his personal use) costly television sets, is not a white-collar criminal in the above sense, there being no connection between his occupation and the crime committed by him. Nor is the pensioner who submits a false return of income. But all of them are guilty of socio-economic offences which affect the health or material welfare of the community as a whole, and not merely the individual victim. Similarly, economic offences are those which affect the country's economy and not merely the wealth of an individual victim (Law Commission of India, 47th Report, p 4, 1972).

In a white collar crime the victims are considered mere as a whistle blower rather no reparation is available to them. This move strategically mutes the victim in criminal justice system as well judiciary is even unaware of the needs of these victims.

Socio-Economic Crimes

Socio-economic offences shouldn't necessarily be committed in connection of one's occupation. Newman (1958) writes in white collar crime nexus between the offending act and occupation should be established, whereas in socio-economic offences there is no such requirement. What is required is that the offence should be committed against either or both the health or material welfare of the community or against the economic interest of the country in question and in both cases the individual victim is not in issue, but that of the community or society at large (Sutherland, 1949). Nor is the status of the tort-feassor. Here the justice system would be interested in putting the system on place rather than listening to the victims and the damages undergone. Finally, the victims remains neglect and hushed.

Frauds

In India, this crimes are categorized under cheque fraud, credit card fraud, mortgage fraud, medical fraud, corporate fraud, securities fraud (including insider trading), criminal misappropriation, payment (point of sale) fraud, health-care fraud among these Frauds using

cyber space remains most unreported as victim are unaware until a huge loss. Following asset misappropriation and corruption, online fraud 3rd most prevalent economic crime in India was reported by (Roy, 2011) on her survey. With the increasing use of social media and personal devices in the workplace, cybercrime is now the third most prevalent economic crime in India. These crimes are peculiar because the conceptual understanding of the victims is more unclear, invoking the need for definitions of the victims of frauds and cybercrimes. Sometime it is fraudster endure as victims, most of the times it is public and in few cases bank as a party remains the victims.

Victims Situation in Indian Criminal Justice

Over time, professionals in the criminal justice system realized the needs of the victims especially the loss due to economic crimes. Every victim is in of need of information about rights, remedies, the criminal justice process, and legal advocacy to symbolize a protection from further harm. Hence, victim requires a practical assistance and referrals and seeks support of agencies for short- and long-term problems stemming from the crime, such as mental health counseling, financial help and compensation or restitution. Most importantly, each victim wants to see if justice done and offenders held accountable.

However, the situation in India has unwarranted any attention to victims rather criminal justice system is interested in punishing the offenders or defaulters, while victims are still on a spate. Recognizing the needs of economic crime victims, and other components of the criminal justice system have made efforts to provide more services and resources to this traditionally underserved victim population. Average cost to manage economic crime in India is close to double as compared to global averages (Puri, 2007).

While criminal justice seldom refer the victims any reparation. In most of the cases victim remains unaware until a huge loss especially with reference to cybercrimes. Victim conditions are more pathetic than in any other crime in India. Most of the victims are not sure of whether to approach the legal system to retribute or expenditure will run over the cost of loss. Mostly they reprieve just by making it fault of them unless it is larger loss. The criminal justice system does not address victims at large rather make them hostile. Many times the victims turn hostile because they have to spend more time and huge sum towards defending their cases during their regular routine. Even during and after the successful defense there is always a chance of appeal by the other party which will prolong the case until victim turns hostile.

Conclusion

To ensure development of an effective and sensitive response to the concerns, needs, and issues of economic crime victims, Reserve Bank of India was keen to bring a more knowledge based report on victims of Economic crimes. A committee was formed and named as Mitra Committee, 2001. The Reserve Bank of India prefaced its report by admitting the fact that criminal jurisprudence in the country based on “proof beyond doubt” was too weak an instrument to control bank frauds. The committee contended that “Financial fraud is not an offence in spite of the fact that the banks and financial institutions suffer heavily in frauds committed by the borrowers, more often than not, in collusion with the employees of the banks and financial institution. The situation is becoming explosive and can lead to anarchy at any time unless the scams are legally contained”. While victims were not properly covered and no justice was reaped from the report. India needs more agencies to support the Victims of Economic Crimes and reduce the burden of reporting and advise government in proper modality to dispense these cases with concern for victims. This should group raise questions and submitted findings that will become the basis for the training ideas, promising practices, recommendations, and action plan presented in to retribute and compensate the victims of economic crimes.

References

- 1 Amarnathan, L.C. (1998). Economic Crime in India. Resource Material Series No. 55, 110th International Training Course Visiting Experts’ Papers. Retrieved on 20th October, 2017 from http://www.unafei.or.jp/english/pdf/RS_No55/No55_12VE_Amarnathan.pdf
- 2 Barners & Teeters (1966). New Horizons in Criminology (3rd ed.), Prentice Hall, New Delhi, 41.
- 3 Global Economic Crime Survey (2016). Adjusting the Lens on Economic Crimes. Retrieved from https://www.pwc.com/gx/en/economic-crime-survey/pdf/Global_EconomicCrime_Survey2016.pdf
- 4 Kumawat, M. (2011). Dimensions of Economic Crimes in India. Retrieved on 13 September, 2017 from <https://mlkumawat.files.wordpress.com/2011/11/dimensions-of-economic-crimes-in-india-ap-cid.pdf>.
- 5 Law Commission of India, 47th Report (1972, p 4). Retrieved on 18 September, 2017 from <http://lawcommissionofindia.nic.in/1-50/report47.pdf>
- 6 Mitra, N.L. (2001). The Report of the Expert Committee on Legal Aspects of Bank Frauds. Retrieved on 21 September, 2017 from <https://rbidocs.rbi.org.in/rdocs/PublicationReport/Pdfs/23325.pdf>

- 7 National Crimes Records Bureau (2015). Crimes in India Report. Retrieved on 27 September, 2017 from <http://ncrb.nic.in/>.
- 8 Newman, D. J. (1958). White Collar Crime. Retrieved on 12 August, 2017 from <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2775&context=lcp>
- 9 One India (2007). Economic Crimes. Retrieved on 21 August, 2017 from <https://www.pwc.com/gx/en/economic-crime-survey/pdf>.
- 10 PricewaterhouseCoopers (2015). Shaping our future. Global Annual Review 2015. Retrieved on 21 September, 2017 from <http://www.pwc.com/gx/en/about-pwc/global-annual-review-2015/campaign-site/pwc-global-annual-review-2015.pdf>
- 11 Puri (October 16, 2007). 35 per cent Indian companies victims of economic crime. Retrieved on 18 August, 2017 from <http://www.rediff.com/money/2007/oct/6crime.html>
- 12 Roy, S. (Dec 19, 2011). Online fraud 3rd most prevalent economic crime in India: Survey. The Financial Express. Retrieved on 19 October, 2017 from http://www.wipro.com/documents/FinancialExpress_OnlineFraud.pdf
- 13 Sutherland, E. (1949). White Collar Crimes. Holt, Rinehart and Winston, New York, 12.
- 14 Wadia, S.K. (n.d.). Chapter – II Conceptual & Theoretical Framework of Socio-Economic offences. Retrieved on 18 September, 2017 from <https://www.scribd.com/doc/260458931/Concept-of-Socio-Economic-Offences>.
- 15 Wemmers J. M. (1996). Victims in the Criminal Justice System. Studies on Crime and Justice A Series from The Dutch Research and Documentation Centre.