



ORGANIZED CRIMES IN INDIA: AN INSIGHT FROM BHARTIYA NYAYA SANHITA, 2023

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ABSTRACT

Organized crimes have evolved into a transnational phenomenon, transcending geographical boundaries and national jurisdictions. These crimes manifest in various forms, including drug trafficking, arms trade, human exploitation, cybercrime, and counterfeiting. The contemporary landscape of organized crime is increasingly complex, driven by the emergence of sophisticated crime syndicates. Transnational organized crimes affect nearly every country, fueled by factors such as poverty, inequality, globalization, technological advancements, corruption, and weak governance. Organized crime has become a global challenge, impacting countries involved in the supply and demand chain. In India, Mumbai, being the financial capital and home to the country's largest port, is a prime target for organized crime groups. Organized crime is a complex phenomenon characterized by the collaboration of like-minded individuals who work together to achieve illicit goals, generating profits through illegal activities. These criminal organizations often provide services such as kidnapping, smuggling, extortion, and contract killing, as well as engaging in petty crimes like pickpocketing, chain snatching, and theft. A leader typically heads these organizations, reaping significant financial benefits and wielding considerable influence over the group's operations. The impact of organized crime on societal peace and security is substantial, causing widespread harm and undermining public trust in law enforcement. According to the Global Organized Crime Index 2023, India ranks 61st out of 193 countries in terms of criminality score, highlighting the need for effective countermeasures. To address this issue, Indian legislation has introduced Sections 111 and 112 of the Bharatiya Nyaya Sanhita, which specifically target organized crime and provide a framework for investigation, prosecution, and punishment of those involved. The paper provides an overview of the legal framework in India designed to counter and prevent organized criminal activities as per new criminal law regime. The study addresses the ever changing characteristics of criminal groups in India as well as its effects. The study delves into the legislative measures, judicial mechanisms, and law enforcement strategies that collectively constitute the nation's approach to tackling organized crime.

Keywords: Organized crime, Effects, Characteristics, Legislative provisions of Organized Crime in India, Bhartiya Nyaya Sanhita, organized crimes syndicates, sec 11 and 112 of BNS 2023.



I. INTRODUCTION

Organized crime refers to a well-structured group of three or more individuals existing over time, aiming to commit serious financial or material crimes directly or indirectly. Governments worldwide now recognize organized crime as a significant threat to stability and security, prompting intense focus from national and international policymakers. Unlike professionally executed group crimes or gang cases, organized crime denotes a distinct category characterized by well-planned and executed entrepreneurial operations, continuing and strict organization, and respectable front operations. These criminal enterprises maintain effective front-line operatives and skilled back-room support, employing efficient, effective, and disciplined systems. Organized crime is marked by entrepreneurial systems, hierarchical structures, steady profits, and strict discipline.

Organized crime is a multifaceted and intricate issue often misrepresented or oversimplified. As a pervasive global concern, crime affects every individual in society. Its concept has evolved significantly, becoming increasingly complex in scope and scale. Societal norms have undergone a radical shift, and changing socio-cultural patterns have created intricate situations. Society struggles to adapt to the evolving behaviors of individuals and groups, resulting in a complex interplay between crime and societal dynamics.

Organized crime extends beyond historical associations with groups like the mafia, embracing a broader definition. It encompasses specific nature, patterns, and functional criteria. Organized crime distinguishes itself through professional criminals' close relationships and hierarchical structures, forming a separate, illegal underworld with its own social hierarchy, division of rights, duties, and tasks, and unique language. The term "organized crime" describes a methodical process of committing crimes, rather than a specific type of crime or criminal. It emphasizes the systematic approach and criminal infrastructure.

Organized crime can be broadly categorized into two types: traditional and non-traditional. Traditional organized crime encompasses illicit activities such as extortion, prostitution, and contract killing, whereas non-traditional organized crime involves transnational offenses like human trafficking, cybercrime, and money laundering.

A significant connection exists between organized crime and terrorism, as terrorist groups often engage in organized crime to finance their activities. Both entities frequently operate in areas with weak law enforcement, porous borders, and limited government control. Organized crime groups and terrorist organizations have formed symbiotic relationships, with each providing services to the other. For instance, organized crime groups supply black market arms and explosives to terrorist organizations in exchange for diamonds and other valuable commodities. Terrorist groups utilize these smuggling networks to move operatives globally.

In contrast to terrorist organizations, which aim to overthrow existing governments, organized crime groups seek to establish parallel governments that coexist with legitimate authorities. While terrorism relies on violence to achieve its objectives, organized crime often employs non-violent means. The primary distinction between terrorism and organized crime lies in their motivations: terrorism is driven by political ideology, whereas organized crime is focused on economic gain. The intersection of terrorism and organized crime is evident in regions like Kashmir and North-East India, where both entities have formed connections. This complex relationship highlights the need for a comprehensive approach to address the intertwined threats of terrorism and organized crime.

II. HISTORY OF ORGANIZED CRIMES IN INDIA

During early 17th century Dacoit gangs, and thuggee cults were among the many criminal groups that arose during British colonial authority. Thuggee cults, also known as "Thugs,"



were a network of professional robbers and assassins who operated in India from the 13th to the 19th centuries. They were notorious for their ritualistic strangulation of victims. Thuggee cults are notorious for their ceremonial robberies and strangulations, functioned covertly throughout India and presented a serious threat to British authority. Dacoit gangs were armed bandits who operated in rural areas, plundering villages and committing violent crimes. Smuggling networks flourished along India's coastline and borders, with illicit goods including salt, textiles, and opium. Pindari gangs and Ghulam Rasool's gang was famous groups of armed bandits who operated in central India, engaging in plunder and violence somewhere around late 19th century. The British established the Thuggee and Dacoity Department in 1830 to combat organized crime in India. The British enacted several laws to combat organized crime, including the Thuggee and Dacoity Suppression Act of 1836 and the Indian Penal Code of 1860.

After India gained independence in 1947, organized crime began to take root. Partition-related crimes and smuggling were rampant, and bootlegging and smuggling became lucrative businesses due to prohibition. In the 1970s and 1980s, notorious figures like Haji Mastan and Dawood Ibrahim emerged, founding powerful organized crime groups like the Mumbai underworld and the D-Company. In recent years, Punjab and Uttar Pradesh have been in the news for various organized crime-related activities. For instance, Punjab has been struggling with the issue of heroin trafficking, with reports suggesting that Pakistani traffickers are exploring new routes to send heroin to India along the Sindh and Gujarat coastlines. Uttar Pradesh, on the other hand, has been dealing with the issue of illegal mining and sand smuggling. The nexus between contractors, politicians, trade union leaders, local officials, corrupt policemen, and revenue officials controls the sand market in different states.

As the years passed, organized crime groups expanded their operations, entering legitimate

businesses like real estate and finance. They also formed alliances with politicians and law enforcement officials, allowing them to evade prosecution. In recent years, organized crime groups have adapted to the digital age, engaging in cybercrime and online extortion. They have also expanded globally, forming alliances with international crime syndicates. India's history of organized crime has been influenced by a number of issues, such as socioeconomic inequality, poverty, corruption, lax law enforcement, and law enforcement. Law enforcement organizations in India are still striving to destroy criminal organizations and preserve the rule of law in spite of these obstacles.

III. EFFECTS OF ORGANIZED CRIMES

Organized Crime are Far-Reaching devastating consequences in India. Organized crime casts a dark shadow over India, perpetuating a culture of fear, violence, and lawlessness. The consequences are multifaceted, affecting various aspects of Indian society:

Alarming Crime Rate Hikes: Murder, extortion, kidnapping, human trafficking, cybercrime, corporate fraud, terrorism, wildlife trafficking, and narco-terrorism skyrocket, rendering India increasingly perilous. This surge in criminal activity overwhelms law enforcement agencies, compromising their ability to effectively respond, which makes it less safe for everyone.

Societal Destabilization: Widespread corruption in government officials, business infiltration, violence, intimidation, and coercion fuels social unrest, ruining effective governance and destabilizing communities, leading to increased tensions and unrest.

Economic eradication: Extortion, illegal activities, investment discouragement, money laundering, and financial fraud stifle economic growth, causing:

- Widespread job losses
- Reduced tax revenue
- Financial stagnation



- Decreased foreign investment
- Stunted infrastructure development
- Reduced economic opportunities
- Increased poverty

Reputation Tarnishment: India's global image suffers as organized crime projects an image of lawlessness, deterring:

- Foreign investment
- Tourism
- Business collaborations
- International partnerships
- Global trade

Human Devastation: Organized crime claims countless lives, inflicting:

- Suffering through violence
- Addiction
- Exploitation
- Long-term psychological trauma
- Displacement
- Human rights violations
- Emotional scars

To combat organized crime, India requires Enhanced law enforcement cooperation, Strengthened legislation, Effective rehabilitation programs and international cooperation. By tackling organized crime, India can ensure a safer, more prosperous future for all its citizens.

IV. CHARACTERISTICS OF CRIMINAL GROUPS

Organized crime can be categorized into two primary forms: Organized crime can be broadly categorized into two primary forms: traditional and non-traditional organized crime. Traditional organized crime encompasses a wide range of illicit activities, including prohibited substances and liquor, kidnapping and extortion, prostitution and pornography, illegal gambling and betting, blackmailing and trade extortion, mining and sand mafia operations, contract killing, and terrorism. Often deeply entrenched

in local communities, these activities may involve long-established criminal networks.

In contrast, non-traditional organized crime involves transnational offenses that transcend national borders. These crimes include human trafficking, cybercrime and hacking, money laundering, arms smuggling, counterfeiting currency, and drug smuggling and trafficking. Notably, these modern forms of organized crime frequently exploit advances in technology and globalization to perpetuate their illicit activities, posing significant challenges to law enforcement agencies worldwide.

Organized crime is the commission of crimes at regular intervals generally, for financial gain or profit. In essence, organized crime groups have a distinctive structure that poses a major threat to the safety, security, and overall well-being of the public. The following are the main characteristics that define organized crime groups:

- **Continuity:** Organized crime is not a one-time event. It is an ongoing enterprise that seeks to make a profit. A criminal group persists beyond the lifespan of individual members and is designed to endure changes in leadership. In organized crime, there exists a substantial group of individuals that engages in ongoing criminal activities over an extended, often unspecified, duration.
- **Organization:** Organized crime is typically carried out by groups of people who work together over a period of time. These groups have a hierarchy and a division of labor. The criminal group is organized as a collection of interdependent roles arranged hierarchically, aimed at fulfilling specific functions. It can be either highly structured or somewhat flexible, but it is identifiable due to its ranking system, which is based on power and authority.
- **Covertiness:** Organized crime often operates in secret. This makes it difficult to investigate and prosecute. Membership in the core criminal group is exclusive and founded on



shared characteristics such as ethnicity, criminal history, or common interests. Potential members undergo extensive evaluation and must demonstrate their loyalty and value to the group. Membership rules mandate secrecy, a readiness to undertake any actions for the group, and a commitment to safeguard the group.

- **Violence:** Organized crime often uses violence to protect its interests and to intimidate its victims. Violence and the threat of violence are essential elements of a criminal group. This violence is directed at both group members to maintain order and at outsiders to safeguard the group's economic interests. The organization is typically highly centralized, with authority concentrated in one or a few key individuals. Criminal organizations implement strategies to protect themselves and ensure the continuation of their activities, often forming alliances with doctors, lawyers, police officers, judges, politicians, and government officials.
- **Protectors:** This term refers to corrupt public officials, lawyers, and businesspeople who, either individually or as a group, shield the criminal organization through the misuse of their positions and violations of the law. Thanks to the efforts of these protectors, the criminal group is often insulated from both civil and criminal actions taken by the government. Corruption serves as the primary tool for these criminal protectors, allowing them to maintain the group's operations without interference.
- **Refined elegance:** Organized crime is often characterized as a sophisticated operation. Many organized crime groups exhibit a high degree of sophistication, utilizing intricate strategies to avoid detection. They employ advanced communication protocols, including coded messages, encrypted transmissions, and covert networks. Additionally, they establish complex corporate structures, comprising dummy companies, shell entities, and other financial instruments, to conceal their illicit activities.
- **Organized Crime Support:** Organized Crime Support refers to the various forms of assistance, resources, and services that facilitate the operations of organized crime groups. This support can come from different sources, including:
 - Specialist support involves skilled individuals who provide ad-hoc assistance, such as experts in money laundering, shooters, cybercrime, encryption, safe houses, counter-surveillance, identity theft, document forgery, and cryptocurrency transactions. Their expertise enables the criminal group to carry out complex and often dangerous activities more effectively. These specialists, while not part of the core criminal organization, are nonetheless considered integral to its operations.
 - Social support, on the other hand, involves public officials, business leaders, and other influential individuals who provide legitimacy to organized crime groups, offer protection or immunity from law enforcement, facilitate access to resources, and provide strategic guidance or advice. They may also enable networking opportunities with other organized crime groups. This social endorsement can help legitimize the activities of organized crime and create an environment where such operations can thrive without significant public scrutiny.
 - Financial support is another crucial aspect of organized crime support. This involves illicit funding, money laundering, and other financial services that enable organized crime groups to generate revenue, invest in their operations, pay bribes or extortion, launder money through legitimate businesses, and use cryptocurrencies for anonymous transactions.



- Logistical support, meanwhile, involves services and resources that facilitate the day-to-day operations of organized crime groups. This includes safe houses, transportation, communication networks, intelligence gathering, surveillance, encryption services, and secure data storage. Organized Crime Support is essential for the survival and success of organized crime groups, enabling them to operate effectively, evade law enforcement, and expand their illicit activities.

By understanding the characteristics of organized crime, we can better understand the threat it poses to society.

V. ORGANISED CRIMES UNDER BHARTIYA NYAYA SANHITA, 2023

Chapter VI of the Bharatiya Nyaya Sanhita, 2023 (BNS) outlines the provisions for organized crimes. Investigations into such crimes will be conducted in accordance with Section 107 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which permits trials in absentia. Offenders will face penalties, including forfeiture of their properties. Organized crime is defined as any unlawful activity or crime committed with the objective of gaining financial benefits or economic advantage for personal gain or to promote insurgency. Such crimes involve the use of violence, threats, intimidation, or coercion. Notably, Section 111 of the BNS specifically addresses organized crime, providing a clear framework for its prosecution.

Essential Ingredients of Organized Crimes

- Unlawful activity must be continuous.
- The motive must be to commit crime.
- The crime must be committed by a person, a group of persons either individually or jointly.
- The crime must be committed by using violence, intimidation, threat, coercion or by any other unlawful means.
- The intention must be to take unlawful gain.

Continuing Unlawful Activity: Organized crime refers to a prohibited activity that constitutes a

cognizable offense, punishable by at least three years of imprisonment. This offense must be committed by an individual or group as part of an organized crime syndicate, or on behalf of such a syndicate. To qualify as organized crime, more than one chargesheet must have been filed in a competent court within the preceding 10 years, and the court must have taken cognizance of the offense. Furthermore, economic offenses are also included within the definition of organized crime.

Offences Covered Under Organized Crimes:

- Kidnapping
- Robbery
- Cyber crimes
- Vehicle theft
- Extortion
- Land grabbing
- Contract killing
- Illicit goods or services
- Human trafficking for prostitution or ransom
- Drugs or weapons
- Economic Offence

Section 111 of BNS Organised Crime:

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.

Sub section (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 been in possession of 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.

Section 112 of BNS Petty Organised Crime –

(1) Whoever, being a member of a group or gang, either singly or jointly, commits any act of theft, snatching, cheating, unauthorised selling of tickets, unauthorised betting or gambling, selling of public examination question papers or any other similar criminal act, is said to commit petty organised crime.

(2) Whoever commits any petty organised crime shall be punished with imprisonment for a term which shall not be less than one year but which may extend to seven years, and shall also be liable to fine.

Section 112 of the Bharatiya Nyaya Sanhita (BNS) defines petty organized crime as relatively minor offenses. Petty organized crimes include theft, snatching, unauthorized ticket sales,



unauthorized betting or gambling, selling public examination question papers, and similar criminal acts committed by a group or individual. According to Section 112(2), individuals found guilty of petty organized crime shall face imprisonment for a minimum of two years, extending up to seven years, and liability for a fine.

VI. CONCLUSION

India's complex geography and societal dynamics have created a breeding ground for transnational organized crime. The nation's governance and law enforcement structures have inadvertently enabled the spread of these illicit activities. Factors like corruption, inadequate governance, economic hardship, and social inequality have further fueled the growth of transnational organized crime. In some cases, personal interests and economic desperation have led individuals to prioritize self-gain over national loyalty, exacerbating the issue. Consequently, India faces significant hurdles in combating transnational organized crime. To effectively tackle this challenge, India adopt a comprehensive strategy that encompasses making new criminal laws i.e., introduction of Bharatiya Nyaya Sanhita, 2023, which is a landmark legislation designed to combat organized crime, which has grown increasingly complex over time. This law modernizes the outdated Indian Penal Code, 1860, and establishes a robust framework to tackle organized crimes, prioritizing the safety and well-being of Indian citizens. Organized crime has evolved into a multifaceted issue, characterized by intricate networks of criminals working together to accumulate wealth and power through illicit means. The origins of organized crime can be traced back to the prohibition on illicit liquor, which inadvertently created an environment conducive to its growth. Today, organized crime permeates various sectors, necessitating a comprehensive legislative response. The Bharatiya Nyaya Sanhita, 2023, addresses this need, featuring provisions such as Sections 111 and 112, which specifically target organized crime. These

sections provide clear definitions, punishments, and procedures for investigation and trial, demonstrating India's commitment to combating organized crime and ensuring public safety.

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