



# Distance Learning Programme

UPSC Mains

## Internal Security







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# **INTERNAL SECURITY**


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# Organized Crime & Its Nexus with Terrorism

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Chapter

Organized Crime could be described as the activities of any group or a conglomeration of groups functioning as an organized network, involving multiple actors, institutions and activities at multiple levels all aimed at bending, manipulating or violating the laws of the land, for creating money and surviving on fear and corruption. Organized crime networks can be as small as within a locality conducting extortion and could become as large as involving transnational crime syndicates and conducting all kinds of activities ranging to drug trafficking, arms smuggling, terrorism, money laundering, etc.

It employs illegitimate methods viz., monopolization, terrorism, extortion and tax-evasion to drive out or control lawful ownership and leadership, and to extract illegal profits from the public. Organized crime also corrupts public officials to avert governmental interference and is becoming increasingly sophisticated. In India, in addition to its traditional spheres of activities which included extortion, seeking protection money, contract killing, bootlegging, gambling, prostitution and smuggling, now added is drug trafficking, illicit arms trading, money laundering, transporting illegitimate activities based essentially on its readiness to use brute force and violence.

By corrupting public officials, organized crime aims to secure for itself a power. Later, the money and power it begets are used to infiltrate legitimate business and several other related activities. Through its linkages with terrorism, as we have seen in the serial bomb blasts of 1993 in Mumbai, it has the capacity to subvert our democratic process and jeopardize the security of the citizens at large. The destabilizing effect that organized crime has on the country's economy, trade and commerce, can hardly be over-emphasized. The organized crime of late is becoming stronger by using the new technology and hence is spreading its tentacles to hitherto uncharted areas like cyber crime and funding and sponsoring terror activities. Since the real strength of organized crime lies in its money power with which it buys political power, it is imperative to destroy its money power base by striking hard on black money in all its forms from the sources of generation of black money to its circulation and its deployment.

Organized crime is not confined to the boundaries of any one country and has become a transnational problem. This is evidenced in the fields of drug trafficking, money-laundering, terrorism, gun-running and illegal immigration rackets. Moreover, advances in science and technology enable members of organized criminal groups to operate with high mobility and sophistication, thereby aggravating the already grim situation.

## Constitution of Organized Crime

President's Commission on Organized Crime was constituted in the US in 1986, at the time when the US was reeling heavily under tackling and controlling organized crime. It made an in-depth study into the anatomy of constitution of organized crime and mentioned

that, organized crime is the collective result of the commitment, knowledge and actions of three components:

- The Criminal groups;
- The Protectors; and
- The Specialist support.

## Characteristics of Organized Gangs

### ***Criminal Group***

- **Continuity:** The criminal group operates beyond the lifetime of individual members and is structured to survive changes in leadership.
- **Structure:** The criminal group is structured as a collection of hierarchically arranged interdependent offices devoted to the accomplishment of a particular function. It may be highly structured or maybe rather fluid. It is, however, distinguishable as the ranks are based on power and authority.
- **Membership:** The membership in the core criminal group is restricted and based on common traits such as ethnicity, criminal background or common interests. The potential members are subjected to a lot of scrutiny and required to prove their worth and loyalty to the criminal group. The rules of membership include secrecy, a willingness to commit any act for the group and intent to protect the group. In return for loyalty, the member of a criminal group receives economic benefits, certain prestige, and protection from law enforcement.
- **Criminality:** The criminal group relies on continuing criminal activity to generate income. Thus, continuing criminal conspiracy is inherent in organized crime. Some activities such as supplying illegal goods and services directly produce revenue, while others, including murder, intimidation and bribery contribute to the groups' ability to earn money and enhance its power. The criminal group may be involved both in legitimate as well as illegitimate business activity at the same time.
- **Violence:** Violence and the threat of violence are an integral part of a criminal group. Violence or the threat of it is used against the members of the group to keep them in line as also against the outsiders to protect the economic interests of the group. Members are expected to commit, condone or authorize violent acts.
- **Power/Profit Goal:** The members of the criminal group aim at maximizing the group's profits. The political power is achieved through the corruption of public officials, including legislators and political executive. The criminal group maintains power through its association with the protectors who defend the group and its profits.

### ***Protectors***

They are corrupt public officials, attorneys and businessmen who individually or collectively protect the criminal group through abuses of status and/or privilege and violation of the law. As a result of the protector's efforts, the criminal group is insulated from both civil and criminal government actions. Corruption is the central tool of the criminal protectors. A criminal group relies on a network of corrupt officials to protect the group from the criminal justice system.

### ***Organized Crime Support***

- **Specialist Support:** Organized criminal groups and their protectors rely on skilled individuals or support to assist the criminal groups on an adhoc basis. They are

nonetheless considered part of organized crime. The specialists include pilots, chemists, arsonists, hijackers, shooters, etc.

- **Social Support:** Social support includes public officials who solicit the support of organized crime figures; business leaders who do business with organized crime figures at social gatherings and thus portray the criminal group in a favourable or glamorous light.

In a study titled *Formation of Criminal gangs in big cities*, by VK Saraf, former Commissioner of Police Bombay, he notices the following features of a gang in Bombay:

- The gangs normally consist of members from all age groups ranging from 18-28, 28-38 and above 38, normally in a decreasing proportion.
- Most of the members of the gangs are poorly educated and come from poor economic backgrounds and were propelled into the under-world due to misery and the allurements of getting rich early and living the lifestyle widely portrayed by the advertisements, movies and mass media.
- There is no initiation ceremony or ritual for the members. However, a 'beginner' is made to be involved in a criminal situation to test his mettle.
- The leaders have a caring attitude towards the members. The families are well looked after by the leadership when the members are killed or are in jail.
- There is evidence of a loose confederation of gangsters. A smaller gang may merge into a bigger gang, but does not lose its identity completely. The smaller gang carries out the decisions of the main gang, but is left free to involve in any activities of its choice, so long as it does not clash with the interests of the main gang.
- The gangsters have unflinching loyalty to the boss. Lack of loyalty means death.
- The gangsters are divided into three categories, namely, shooters, money collectors and liaison workers. The liaison workers deal with the lawyers and law enforcement officials for helping the incarcerated gangsters. Each gang has certain auxiliary members. They have criminal records and generally provide shelter to the gangsters and act as a depository for weapons. Their premises are used for holding meetings and making telephone calls by the gangsters.

Though all the aforesaid characteristics may not be apparent in all criminal groups in India, yet the quintessential elements are always present and the difference is mostly with respect to the degree and the activity the particular group indulges in. Conceptually, as long as this condition is satisfied, a group can be termed as an organized criminal group. Indian experience, however, shows that there is continuing illegal activity by organized criminal gangs. Sometimes it may be in the absence of immediate profit motives, but could address the larger agenda of gaining and consolidating political power to secure and legitimize profit motive for the longer term viz., rigging of elections, preventing voters from exercising their electoral rights, preventing public servants from the lawful discharge of their duty, and recurrence of caste or communal violence on a continuing basis etc.

## How Organized Crime Groups Operate

No systematic study of organized crime has been conducted in India either from a sociological or criminological angle. There is no firm data to indicate the number of organized criminal gangs operating in the country, their membership, their modus operandi and the areas of their operation. It would not be wide off the mark to say that thousands of organized

gangs operate in the countryside. Their structure and leadership patterns may not strictly fall into the classical Italian Mafia module, and they may sometimes be operating in loose structures, but the depredations of such criminal gangs are too well known to be recounted. However, the most essential characteristic of organized crime, i.e., making money or maximization of profits and acquiring political power through such money, exists in most of the gangs. The purpose of organized crime in India, as elsewhere in the world, is monetary gain and this is what makes it a formidable force in today's socio-political set up.

## **Government Policy**

The operations of the organized crime gangs are deeply linked to the prevalent government policies. At the time of independence, when Maharashtra was declared a dry state, the organized crime networks of Varada Rajan Mudaliar and others made immense profits in bootlegging. During the 1970s and 1980s, when India was a primarily a socialist economy and there were plenty of restrictions on import and export, the gangs of Haji Mastan and Yusuf Patel made huge money in the smuggling of gold and silver, which they further invested in legitimate business of Real estate and construction and multiplied their legitimate wealth as well. Then, when the governments clamped down on drug trafficking started in the 1980s, the Dawood gang took over smuggling of drugs and created huge money which he again utilised in investing in legitimate construction and Real estate business and created and expanded the power and penetration of his gang, so much so that the Dawood gang was instrumental in triggering the infamous 1993 serial bomb blasts in Mumbai, which revealed the murky nexus of organized crime with the terrorist network within the country and abroad.

Similarly, we have the example of the infamous gang of Verrappan in the south who created huge wealth by indulging in the sandalwood and ivory smuggling which was strictly under the controls of the government. At present, we have the instance of IPL betting, which has become the favourite activity of organized crime syndicates who are creating huge wealth for themselves by taking advantage of the ban which the government has applied over betting in the country.

## **Evergreen Activities**

Apart from these activities which acquire the focus and attention of the organized crime syndicates due to the nature of these being strictly controlled by the government in a particular period of time, there are certain activities which are a source of regular income for these gangs because of their nature of being always relevant. For example, the gangs of Arun Gawli, Amar Naik and Chhota Shakeel gangs created their existence and manage to sustain themselves by indulging in activities like extortion, money laundering, contract killing, arms smuggling, kidnapping and drug trafficking. The liberal bail policy of the courts and the relatively unrestricted environment in the jails created on account of corrupt jail officials enabled Arun Gawli and others to remain in public and even if they were arrested they managed to operate their gangs from the jails.

## **Criminalization of Politics**

The money and the support which these gangsters enjoy because of their money, is also utilised by them to create a political platform for themselves. They are either selected



by some political party to contest election from their ticket or they go on to float their own political outfit and enter the electoral fray. For example, Phoolan Devi, who was a surrendered and dreaded bandit of the ravines was fielded by the Samajwadi Party as its candidate and she was elected and served as an MP. Arun Gawli's gang was involved in the collection of protection money from rich businessmen and contract killings. He came out of jail and started a political party, Akil Bhartiya Sena. Though he was again sent back to jail in a contract killing case, yet he continued to be politically very active and wields considerable influence in the slum areas. In 2004, Gawli was elected as a Member of the Legislative Assembly (MLA) from the Mumbai Chinchpokli constituency as an Akhil Bharatiya Sena candidate.

The linkages of the political class with the gangsters is a win-win situation for both as the political parties use the money and the influence of these gangsters to create a space for themselves and consolidate their presence and influence while the gangsters on the other hand get protection from the criminal justice system and an opportunity to legitimise their business, money and image. However, in this win-win transaction the only casualty is the faith of the people in the criminal justice system and the political class as a whole.

## **Types of Organized Crimes**

### **Drug Abuse and Drug Trafficking**

It is perhaps the most serious organized crime affecting the country and is truly transnational in character. India is geographically situated between the countries of Golden Triangle and Golden Crescent and is a transit point for narcotic drugs produced in these regions. The Golden Crescent is formed in the North Western part of India and is constituted by the countries of Iran, Afghanistan and Pakistan while, the Golden triangle is present in the eastern part of India and is constituted by the countries of Thailand, Myanmar, Laos and Vietnam. The Golden triangle is responsible for the drug inflow in the North Eastern states of India, thereby damaging the youths of the North east and contributing to the spread of HIV. The illegal drug inflow from the Golden Crescent mainly affects the states of Punjab, Haryana and the Himachal Pradesh, particularly in Punjab where drug abuse has become a formidable menace.

India also produces a considerable amount of illicit opium, part of which also finds place in the illicit market in different forms. Illicit drug trade in India, centres around five major substances, namely, heroin, hashish, opium, cannabis and methaqualone. Seizures of cocaine, amphetamine, and LSD are not unknown, but are insignificant and rare. Our borders have traditionally been most vulnerable to drug trafficking.

India has a draconian anti drug law, the Narcotics Drugs and Psychotropic Substance Act 1985, which provides minimum punishment of 10 years for offences under this act, however the conviction rate in drug offences is rather low. The acquittals mainly result due to nonobservance of statutory and procedural safeguards viz., the enforcement officer failing to volunteer himself for personal search before conducting the personal or house search of the accused or failure in offering to have the accused searched by a gazetted officer or a Magistrate. However, it is also one of those laws which have been alleged to have been misused very much to implicate innocent people in false cases by planting narcotic substances in their person or in their premises, either by the officers themselves



or through some agents, to settle some previous scores. It is therefore being contemplated to amend the Act to plug the procedural loopholes and to calibrate punishments by grouping the offences.

### **Linkages with Terrorism**

Terrorism is a serious problem which India is facing. Conceptually, terrorism does not fall in the category of organized crime, as the dominant motive behind terrorism is political and/or ideological and not the acquisition of money-power. However, the Indian experience, shows that there is very little difference between criminals and terrorists. There is evidence to suggest that, be it terrorists of J&K, insurgents of the North East or for that matter the Left wing extremists, all are using the methods and tactics of organized crime to raise funds for their organizations. They have been indulging in activities like drug trafficking, gun running, extortion, kidnapping or for that matter even contract killing in some instances to raise money for their organizations and themselves. Further, in some instances the existing criminal networks of organized crime are being utilised by the terrorist leaders for completing their operations, as was the case of Dawood Ibrahim gang being used by the Jihadis to conduct a series of bomb blasts in Mumbai in 1993.

The terrorist groups share relations with organized crime at several levels which includes conducting operations for the sole purpose of raising money, seeking assistance from the organized crime networks for fulfilling their requirements of money and ammunition and obliging the organized crime gangs to return to conduct their operations in the regions where they are in control. Other aspects in which both of them are related include:

- The terrorists themselves indulge in drug trafficking to support their movement.
- Sympathizers of terrorists living abroad indulge in drug trafficking and send part of their illegal profits to fund the terrorist movements.
- Terrorists join hands with drug lords to gain access to those powers, in other countries which are sympathetic to their cause.
- Terrorists give protection and support to drug traffickers with firearms, and the drug traffickers, being acquainted with the routes, assist the terrorists in border crossings to bring arms, counterfeit currency and drugs in the target country. The proceeds from these operations and the counterfeit currency is directly utilised by the organized crime gangs and the terrorists to fund their operations and allied activities in the region.

The areas, primarily affected by terrorism in India are the border states which also happen to be transit routes for narcotics to their destinations elsewhere in the world. It is not a coincidence that the growth of the terrorist movement in Punjab synchronized with the emergence of the Golden Crescent as a major drug producing area in the early 1980s. The emergence of drug mafias in the Golden Crescent countries and their linkages with smugglers in the border States of India have given impetus to gun running. There is also evidence that the money generated abroad by the smugglers was used for the purchase of weapons which were smuggled into the country for terrorist activities. To illustrate, Dawood Ibrahim, utilized the existing smuggling network in landing consignments of arms and explosives on the western coast in early 1993, used for causing serial blasts in Bombay.

### **Smuggling**

Smuggling, which consists of clandestine operations leading to unrecorded trade, is another major economic offence. The nature of smuggled items and the quantum thereof

is determined by the prevailing fiscal policies. India has a vast coastline of about 7,500 kms and open borders with Nepal and Bhutan and is prone to large scale smuggling of contraband and other consumable items. Though after the process of liberalization when the reduction in import duty on a very large scale on several products have been taken up, there is very little incentive left for the smuggling of most of the items which earlier had tremendous promise attached to them, viz., gold, silver, etc. However, smuggling in contraband items, drugs, arms and counterfeit currency still are very lucrative options for the smugglers. These smugglers mainly utilise the open borders with Nepal and Bhutan and that with Bangladesh for their activities as the northeastern borders are very hilly and forested and patrolling in the North western border, has been geared up tremendously in the recent past.

### **Money Laundering and Hawala**

Money laundering means conversion of illegal and ill-gotten money into seemingly legal money so that it can be integrated into the legitimate economy. Some of the prominent sources of ill-gotten money are illegal arms sales, smuggling, and other organized crime, including drug trafficking and prostitution rings, embezzlement, insider trading, bribery and computer fraud schemes. All these activities can also produce large profits and create the incentive to legitimize the ill-gotten gains through money laundering. The money so generated is tainted and is in the nature of 'dirty money'. Money Laundering is the process of conversion of such proceeds of crime, that is to say the 'dirty money', to make it appear as 'legitimate' money.

### ***Modus Operandi***

A case of Money laundering ostensibly appears to be an above-board financial transaction, however, the criminality underneath is hidden by a three stage process:

- The first stage is when the crime money is injected into the formal financial System. This is called '**placement**'.
- In the second stage, money injected into the system is layered and spread over various transactions with a view to obfuscate the tainted origin of the money. This process is called '**layering**'.
- In the third and the final stage, money enters the financial system in such a way that an original association with the crime is sought to be obliterated so that the money can then be used by the offender or persons receiving as clean money. This is called '**integration**'.

This three stage process of money laundering can be accomplished by employing the money in channels like structuring, bulk cash smuggling, cash intensive businesses, trade-based laundering, shell companies and trusts, round-tripping, bank capture, gambling, real estate, black salaries, fictional loans, hawala, false invoicing, etc. All these are some of the common methods of money laundering.

In India, the specific legislation dealing with money laundering is the Prevention of Money-Laundering Act, 2002 ('PMLA'). The law was enacted to combat money laundering in India and has three main objectives:

- To prevent and control money laundering;
- To provide for confiscation and seizure of property obtained from laundered money; and
- To deal with any other issue connected with money-laundering in India.



Apart from the provisions of PMLA, there are other specialized provisions such as RBI/SEBI/IRDA anti money laundering regulations. Many of these authorities are bound to provide suspicious transaction reports, which are in turn analysed by Financial Intelligence Units established by the Central Government. The Act and Rules also impose obligations on banking companies, financial institutions and intermediaries to verify identity of clients, maintain records and furnish information in the prescribed form to the concerned authorities. 'Crime', as defined in the Act, covers, several Penal Code offences viz., waging war against the Government of India, murder, attempted murder, voluntarily causing hurt, kidnapping for ransom, extortion, robbery, dacoity, criminal breach of trust, cheating, forgery, counterfeiting currency, etc.; certain provisions of the Prevention of Corruption Act, 1988; NDPS Act, 1985; Foreign Exchange Regulation Act, 1973 and the Customs Act, 1962.

### **Hawala**

Illegal currency transfers via nonbanking channels are called Hawala. It is an underground banking system. Secret flows of money can take place in free currency areas as well as in areas where currency conversion restrictions are practiced due to the shortage of foreign exchange. It operates in the following manner. Someone in the USA, for example, deposits \$1000 with an under-ground banker for payment to be made in India. The US under-ground banker contacts their counterpart in India immediately and sends a coded message for payment to the Indian recipient. The hawala operator in India would contact the recipient and fix a meeting place. The recipient, in the meanwhile, would have received instructions about the code words he has to exchange with the hawala operator. Thus, the hawala operator in India and the recipient of the money would exchange code words and the hawala operators would hand over the money to the recipient. Of course, the hawala operator in the USA would charge a fee for the service rendered. There is no physical transfer of money in hawala operations as in the regular banking channels.

The criminal element in this transaction is the fact that such transfers escape the scrutiny of the authorities and are hence used for making illegal transfers of large amounts of money within the territory of a country or across different countries. This channel is hence used to evade taxation of transfer proceeds and also to save the conversion fees or transfer charges charged by the currency converters or banks. Apart from this, the level of documentation required is negligible and chances of getting cheated are very less. Particularly in countries where there are strict rules regarding Foreign exchange transactions as was the case in India before the onset of liberalization, or in cases where people want to evade taxes or are unable to produce the relevant documentation, hawala channel is very popular.

Because of this aspect, this channel is generally used by drug traffickers, smugglers and kidnappers. Basically, the system operates on mutual trust and criminal relationships. The principal operators engage agents and sub agents in various countries for collection and disbursement of money. Hawala is wide spread in India. Families who have members earning abroad are clients of the system. The dangerous aspect of the hawala system is the nexus between hawala and illicit arms smuggling, drug trafficking and terrorist crimes. Further the proceeds transferred through Hawala are very difficult to trace thus devolving the investigative agencies of the vital evidence to nail the criminals indulging in illegal activities. In India, a hawala transaction is punishable under the FEMA (Foreign Exchange Management Act) 2000 and PMLA (Prevention of Money Laundering Act) 2002.