



ECONOMIC OFFENCES: A CONCEPTUAL PERSPECTIVE

Prof (Dr) Vikas Madhukar

Dy. Pro Vice Chancellor, Amity University Haryana
Dean - Faculty of Management Studies and
Director - Amity Business School |
Amity University Gurugram , Haryana

Anil Samota

Research Scholar, Amity Business School,
Amity University Gurugram, Haryana

ABSTRACT:



For long, the term Economic Offences is being used with ambiguity particularly while discussing and explaining White Collar Crimes. These offences have a vast ambit with clear and well defined distinction from Traditional Offences and White Collar Crimes. A deeper study can give clear disposition with regard to these offences. The present Paper makes analysis of all the aspects and brings out a distinct definition of Economic Offences.

Here, the apparent advantages of a standard definition of Economic Offences have been spelt out followed by the Analytical Evaluation of Different Definitions and Views pertaining to these offences with the help of various works including that of Sutherland, Taft & England, Malimath Committee, Law Commission of India and material from NCRB & Fugitive Economic Offenders Act, 2018. A clear distinction of Economic Offences from White Collar Crime and other Traditional Crimes has been explained through these references. A discussion has been made for understanding New Age Economic Offences resulting from technological advancement. Characteristics of these Offences as derived from different Studies, Works and Court Judgements have been put together apart from analysing their gravity through hidden, deep, far reaching impacts. The observations of Supreme Court of India and different High Courts with regard to Economic Offences while delivering various Judgements have been summarised here. After carefully considering all the points and Characteristics, an appropriate Definition of Economic Offences has been designed and proposed with due honour. In the last, the Arguments in support of this Definition have been presented along with the Scope of this.

Key Words: Economic Offences and their Characteristics, Definition of Economic Offences, Judicial Interpretation of Economic Offences

1. *INTRODUCTION :*

The Economic Offences are spreading worldwide on the wings of Globalisation and Technological Advancement. Apart from causing huge economic losses to the individual victims, the Society at large is being affected adversely and severely in terms of economy, morality, faith, trust, values, harmony etc. Above all, the National Economy and Security are challenged by these offences and put at risk. Proper understanding of these offences is needed for challenging these offences through appropriate legislation and enforcement. For this, a suitable definition of Economic Offences is urgently required. Though, sincere efforts have been made in India and abroad to define these offences, but a universally acceptable definition could not have been designed so far. Here, sincere and serious efforts have been made in this regard.

2. *ADVANTAGES OF A STANDARD DEFINITION OF ECONOMIC OFFENCES:*

A universally acceptable standard definition of the Economic Offences, as discussed earlier, could not be evolved so far. In India, not much research work could have been done in the field of these offences. The available studies pertaining to these offences are very few one. The benefits of having a standard definition with regard to these offences are numerous and beyond description.

However, the apparent advantages of universal definition of Economic Offences may be summarised as below:

- Bringing in unanimity, rationality and universal appreciation to the basic nature of Economic Offences.
- Outlining the characteristics of Economic Offences for their demarcation and distinguishing them from other similar overlapping offences and the traditional crimes.
- Setting in motion the process of Law making in view of the clarity of the requirements for treating these offences - leading to appropriate amendments in Procedural and Penal Laws with relevant provisions to deal with the emerging situations due to these offences.
- Possibilities of onset of grounds for enactment of Economic Offences Code for addressing all Economic Offences in more organised and dedicated manner from a central platform.

- Classification and head wise grouping of more authentic data pertaining to these offences at the levels of various Units and maintenance thereof by National Crime Record Bureau (NCRB) for further studies and analysis.
- Expected improvements in the investigative acumen and the increased possibilities of appreciation of the issues of the Enforcement Agencies with regard to these offences and appropriate redressal thereof from suitable platforms.
- Establishment of more systematic and organised Specialised Units in the concerned departments for effectively dealing with the serious and high profile cases of Economic Offences.
- Assisting the Judiciary and Prosecution to suitably equip, organise and manage for proper and efficient handling of these offences.
- Expected multiplicity of the benefits to the Country and Society resulting from the appropriate Preventive Strategies to be adopted by the Government and concerned agencies with regard to these offences.
- Assisting in ensuring the availability of sufficient study material and formulation of suitable Curriculum pertaining to these offences for the purpose of studies in Educational and Training Institutes at different levels.
- Expected restructuring of the Training Strategies for the Enforcement and other concerned Agencies in accordance to the requirements of suitable and appropriate training for meeting the challenges of Economic Offences.
- Possibilities of enhancement of focused approach and dedicated research studies with regard to Economic Offences.

3. ANALYTICAL EVALUATION OF DIFFERENT DEFINITIONS AND VIEWS WITH REGARD TO WHITE COLLAR CRIME AND ECONOMIC OFFENCES:

The Economic Offences constitute a new age crime and as such, in old works and studies, this term does not find mention. In old times, term White Collar Crime was being coined to represent all such types of offences where the 'soft, high class, non-violent' occupational and professional crimes were differentiated from the 'hard, low class, violent' conventional or traditional crimes. Over the time period, with the development of technology, changes in social perceptions and the moral values, the modus operandi pertaining to different crimes kept on changing and updating. Subsequently, the new term of Economic Offences emerged from this social churn for denoting the money centred offences affecting the Individual and Social Interests besides the National Economy and Security where the prime motive of the criminals is of pecuniary gains only. This category of offences is still in the initial phase of development in respect to the clarity of various relevant aspects and the availability of a universally acceptable definition.

3.1 SUTHERLAND, 1940, 1949, 1958, 1960:

Sutherland's proposition for white collar crime - 'a person of the upper socio-economic class who violates the criminal law in the course of his occupational or professional activities' - though acclaimed honour and excellence in good old times, – cannot withstand in today's scenario where economic crime in itself has become an occupation and profession through cool planning and deep conspiracies! Criminal hubs have been established through which every type of crime is planned, managed and committed, may it be economic offences or the traditional blue collared ones. The same lot of criminals may commit different economic offences and plan the modus operandi as per the requirements of the offences to be committed.

Many bank frauds have been committed not during the course of the occupation or profession of the beneficiary entities, but through advance planning, floating nonexistent entities, forgery of account statements and balance sheets, conspiracies between evil minds and so on making it a full-fledged profession or business in itself. Sutherland couldn't have even imagined this transformation of violation of law from 'in the course of occupational or professional activities' to 'as an integral part of the professional or business activities'! Though not all, many economic offences nowadays are committed in this way.

3.2 TAFT AND ENGLAND, 1964:

As propounded by *Taft & England* on the lines of *Sutherland*, for the commission of white collar crimes – comprising today's economic offences also, the particular class requirement i.e. upper or middle or upper socio-economic – is there. The criminals or offenders committing these crimes as such have been given an elite status of their own. Here, these crimes are considered as the sole domain of a particular class. Blue collar crime on the other hand, is treated to be the crime of the underprivileged class.

Here, a differential treatment is given to these two types of crimes and the high profile white-collar crime has been considered by the society as less degrading than ordinary crime though the society, through this crime, suffers huge losses relating to finance, health and security. This 'branding of offenders' though considered appropriate during the relevant period of time when trust and morals of the majority were alive and vibrant, cannot be treated so in today's crime world where proper research and training institutes are there for preparing expert criminals for committing these Economic Crimes.

Lack of hesitation towards these crimes, proper planning and management have liberated these crimes from the 'class bondages' making them open for all classes – upper, middle, lower, privileged, unprivileged and everyone. All that is required is acquiring appropriate knowledge, little hard work, proper planning, dedication, devotion, money minded selfishness, gathering assistance from the likeminded lot, high degree of inhumanity, complete lack of kindness and total disrespect towards one's own Nation! With these acquisitions, anyone from any class can qualify for committing economic offences, constituting a class apart in itself!

3.3 NATIONAL CRIME RECORD BUREAU (NCRB), 1994 - 2019:

The NCRB in its publication - Crime in India, 1994 to 1996 editions, see these offences as *the manifestation of Criminal acts done either solely or in an organised manner with or without associates or gangs with intent to earn wealth through illegal means and carry out illicit activities violating the laws of land*. In its 'Crime in India' 1994 and 1995 editions the NCRB further recognised the *irreparable damage caused by this crime to the National economy down to a common man affecting the growth and development of the Country*. Here, it appears that every crime or offence aimed at earning wealth by illegal means and being capable of causing damage to national economy, growth and development is a part of economic offence.

If we go by this definition then the traditional crime coming under the heads of theft, burglary, robbery, snatching etc. is also a part of economic offences as here in each case; intention is there to earn wealth through illegal means. All the activities in these acts of crime are illicit and violative of the laws of land. These offences, if committed in large magnitude in financial institutions like banks, are capable of affecting National Economy and subsequently the growth and development of the Country. The remaining part – *'the manifestation of Criminal acts done either solely or in an organised manner with or without associates or gangs'* is applicable in each category of crime. Here, the NCRB could not appreciate and incorporate the specific modus operandi with regard to the Economic Offences. The 'force' and 'fraud' the differentiating features of the Traditional and Economic Offences have not been identified here in clear terms while explaining the economic offences.

In Crime in India editions of 1997 to 2000, it has been stated by the NCRB that in most of these cases of Economic Offences, any individual person is not the victim. Instead, it is the State or Society as a whole which suffers economic loss due to such activities, taking advantage of the shortcomings of the existing legal provisions. The Reports of years from 2001 to 2015 widened the

area of impact through the statement that in these offences not only individuals get victimised, but more often such offences have serious impact on the national defence and security. The reports of years 2002-2015 have specifically stressed upon the damage caused to the National economy due to these offences. So far, the NCRB, however, has not come up with any universally acceptable definition of the economic offences.

In its publications – ‘Crime in India’ from the year 2002 to 2012, the NCRB was of the view that the Economic Offences are also the ‘White Collared Crimes’ and ‘Blue Collared Crimes’. It, however, does not seem to be correct as all these crimes, though overlapping to some extent, are distinctively separate from each other.

The NCRB in its publications of Crime in India for the years 1994-2015, mentions 24 crimes covered by 21 main Acts coming under the ambit of Economic Offences. The Acts incorporating the Economic Offences, as per NCRB, include : Income Tax Act; Customs Act, 1962; COFEPOSA, 1974; Central Excise Act, 1944; Antiquity and Art Treasures Act, 1972; Foreign Exchange Regulations Act, 1973; Money Laundering Act, 2002; Foreign Contribution (Regulation) Act, 1976; Transplantation of Human Organs Act, 1994; NDPS Act; Banking Regulation Act, 1949; Prevention of Corruption Act, 1988; Import & Export (Control) Act, 1947; Passport Act, 1920; Arms Act, 1959; Explosives Act, 1884; Explosive Substances Act, 1908; Copyright Act, 1957; 2000; Companies Act, 1956; MRTP Act, 1968 and IPC & related Acts.

The Economic Crimes are mentioned by the *NCRB*, in its publications of Crime in India for the years 1994-2015 in a tabulated form. Here, inclusion of certain Offences and Enactments i.e. Illicit Trafficking in Explosives under Explosives Act & Explosive Substances Act; Illicit Drug Trafficking under NDPS Act; Illicit Trafficking in Arms under Arms Act and Terrorist Activities under IPC and related Acts in this table by the NCRB seems to be inappropriate as these legislations exclusively deal with the Conventional or Traditional or Blue Collar Crimes and as such should not have been included with Economic Offences. Likewise, offences of Corruption and Bribery under the Prevention of Corruption Act also relate to specific provisions with regard to some particular illegalities and the same cannot meet with the characteristics of the Economic Offences. Now, NCRB itself treats these offences separately as is clear from the editions of 2016, 2017, 2018 and 2019 of Crime in India, the publication of NCRB. In these editions, the Corruption Offences have been treated separately from Economic Offences and the Crime Data of later does not include that of former.

3.4 LAW COMMISSION OF INDIA, 1966:

In the year 1966 itself, the problem of white-collar crime was identified by the law commission in its 29th report, giving it a considerable attention. Treating it as *a crime committed by a person of respectability and high social status in the course of his occupation*, the emphasis was laid on the *connection with occupation, facilitated by the profession or vocation of the individual concerned*. Though at that time white-collar crimes were representing today's economic offences, broad categorisation was made to differentiate these crimes from the traditional crimes and it was clarified that these crimes exclude crimes like murder adultery and intoxication even if committed by people of the upper class since these have nothing to do with their occupation.

The initial definitions of white collar crimes, however, were greatly impressed with the Sutherland's idea of profession and occupation. As discussed and analysed with regard to Sutherland and Taft & England, again these takes of Status and Respectability of criminals coupled with their connections of Occupation and Profession cannot hold good in today's time when any roguish mind can commit these offences.

3.5 MALIMATH COMMITTEE, 2003:

In an attempt to give a new definition to the Economic Crimes or Offences, Committee on Reforms of Criminal Justice System Government of India, Ministry of Home Affairs, under the Chairmanship of Dr. Justice V.S. Malimath in its Report Volume I, INDIA, March 2003, observed that the earlier definitions of Economic Crimes would be inaccurate today as generally, Economic Crimes are seen as newer versions (more technology driven) of conventional crimes. The result is, the lack of accurate information on these crimes, especially as there is no definition or proper classification. The Committee laid an emphasis on defining the Economic Crime in a broad way keeping in mind that it will need to be an 'umbrella' to cover future offences too.

Malimath Committee observing the earlier definitions of Economic Crimes to be inaccurate in today's scenario defined the same as, *"An illegal act (or set of acts) generally committed through misrepresentation or outright deception by an individual or a group with specialised skills, whether professional or technical with a view to achieve illegal, financial gain, individually or collectively"*. The Committee underlining the importance of this definition, commented that such a definition would include all contemporary economic crimes, would cover persons who are outside an organisation and would not be confined to just non-violent white-collar crimes. This would also include Corporations and members of professions such as the Law, Accounting, and Management etc. Further, it was observed that a transaction of the value exceeding Rupees five crores involving an illegal act or acts could be deemed to be a serious Economic Offence.

This applaudable work, perhaps, is the most concerted, sincere and serious endeavour of an appropriate authority in India so far, for defining Economic Offences – and that too 18 years back! Here, the commission has genuinely and rightly appreciated the root requirement of these offences as is clear from the words -‘*generally committed through misrepresentation or outright deception*’. The Misrepresentation and Deception, as per different studies and Courts Observations, are considered as the ‘Core Constituent Fibres’ running across the building material of Economic Offences.

With due respect and regards to this great work, however, here also, like Sutherland, Taft and England, qualifications of the offender have been underlined and the same have been impressed upon with the help of words, ‘*an individual or a group with specialised skills, whether professional or technical*’. This definition too needs the offender or criminal to qualify in terms of professional or technical specialised skills for committing the Economic Offences. As discussed above, this class requirement for an offender cannot hold good today and the same is required to be detached for the purpose of defining these offences when any person of vicious mind is capable of committing these offences.

3.6 FUGITIVE ECONOMIC OFFENDERS ACT, 2018:

The stringent provisions of this Legislation cater the needs of the Investigators of Economic Offences for effective implementation of the related legal provisions and meeting the challenges of these offences. The Fugitive Economic Offenders Act, 2018 incorporates a schedule wherein 55 offences under 15 different Acts coming under Economic Offences have been tabulated. These Acts include: Offences under the Indian Penal Code, Offences under the Negotiable Instruments Act, Offences under the Reserve Bank of India Act, Offences under the Central Excise Act, Offences under the Customs Act, Offences under the Prohibition of Benami Property Transactions Act, Offences under the Prevention of Corruption Act, Offences under the Securities and Exchange Board of India Act, Offences under the Prevention of Money-laundering Act, Offences under the Limited Liability Partnership Act, Offences under the Foreign Contribution (Regulation) Act, Offences under the Companies Act, Offences under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, Offences under the Insolvency and Bankruptcy Code, 2016 and Offences under the Central Goods and Services Tax Act.

4. UNDERSTANDING TODAY'S NEW AGE ECONOMIC OFFENCES - INTERPRETATIONS AND CONCLUSION:

'Border-Free Internet World' and 'Technologically Driven Universe' are changing the meaning of the Time and Distance. The world is coming together and as such, acquiring content density. Every human activity is changing its behaviour and pattern. So is the case with the world of crime which also is getting new horizons by acquiring latest updated ways and means to maintain balance and equilibrium with the advancement of the technology. The advanced means of communication and transportation have minimised the distances. The internet has abolished the international boundaries and barriers and brought humans and resources closer and together. Any innovation anywhere in the world is simply clicks away from any person. The distance and place have lost their meaning and significance in commission of offences.

The Economic Offences, in particular, can be committed from anywhere with the misuse of the technology, initially invented for overall welfare and benefit of the mankind. The internet has made it very simple and feasible for the economic offenders to do their work without getting physical with their targets. The accounts are hacked by the criminals sitting overseas and the hard earned money of the victims is stolen just with the click of the buttons. This technological advancement has made the task of the investigating agencies extremely difficult and posed before them the immediate need for acquiring advanced technical knowhow so as to meet the stiff challenge of the universal crime segment. However, the use of technology, in spite of the above, cannot be held mandatory in Economic Offences. It, at the most, may be facilitative in nature but not inevitable at all. Though, as the pace of the advancement may suggest, the technology might, at some time in future, be an integral part of the Economic Offences; but at present, for sure, it is not so. The old traditional methods also, still, can do worst.

In the present day world where Economic Offences are finding new modus operandi every day, qualifications of the offenders like being in particular Profession or Occupation and/or having specialised skills of Professional or Technical nature, have no meaning in defining these offences and as such, should not be taken in account while doing so. If a person without having any professional or technical skills of his own hires the services of an expert to commit an Economic Offence, can he, even being a mastermind, qualify for not being an economic offender? If such qualification is required for being a criminal to commit Economic Offence, then the unqualified conspirators playing crucial roles in the commission will be left out from these offences.

The Economic Offences, being very sophisticated and complicated, require every type of participant - skilled and unskilled, literate and illiterate, professional and unprofessional and the like - in their commission. In a case of bank fraud where loan is sanctioned to a non existing entity by the bank on the basis of forged papers, only the Professionals like bank Managers, Lawyers, Valuators etc. having the responsibility of carrying out proper verification, inspection and valuation cannot be held responsible. Instead, every Conspirator i.e. hired person appearing before the bank officials as an impersonator, a traditional blue collared criminal financing for the activities or the witnesses verifying the non existing entity – all too are equally liable and to be taken to task.

5. *CHARACTERISTICS OF ECONOMIC OFFENCES:*

As discussed, the Economic Offences have not so far, been defined in clear terms and universally acceptable form. Perusal of different Studies, Works and Court Judgements brings out these Characteristics of Economic Offences:



- Illegalities intended primarily for the Personal Financial Gains of the perpetrator – regardless of the loss to the Individuals, Society or Nation.
- Potential capability of affecting a large number of persons and causing predominating injury to the Society apart from individual victimisation.
- Crime against Society having capacity of affecting Social Health, Values, and Economy whether intended or not by the doer.
- Capability of causing Serious Impact on National Defence, Security, Growth and Development.
- Presence of Fraud, Inducement, Misrepresentation or Suppression of Material Information as integral parts - running through as the constituents of the central supporting fibre.
- Integral interwoven elements of Deception and Betrayal.
- Winning or Breaching the Trust imposed of the victims.
- Presence of element of Misuse of Power and Position.
- Not primarily directed against individual interests of the victims.
- Proper Planning and Management with Deep Conspiracies.
- Resulting Damage to Public Morals and Faith in the system.
- Triggering of Insecurity Feeling in the public.
- Taking Advantage of the Shortcomings of the Existing Legal Provisions and System Lacunae.
- Use of appropriate coercion, in case of requirement to maintain nondisclosure, safety & protection and to avoid detection, busting & apprehension.

6. JUDICIAL OBSERVATIONS WITH REGARD TO ECONOMIC OFFENCES:

The characteristics, psychology, nature, motive, impacts, trends, approaches and gravity of the Economic Offences have been dealt with in depth by the Supreme and High Courts during the hearings of different matters pertaining to these kinds of offences. The viewpoints with regard to the same as expressed by the Courts in the form of observations through these judgements help us knowing the Economic Offences which still are in the process of taking specific shape and structure on definitional point of view.

These observations of Courts during various judgements are being summarised herein after:

- Economic offences having deep-rooted conspiracies and involving huge loss of public funds.
- These offences are affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
- These offences need to be viewed seriously and considered as grave offences.
- The economic offence is committed with a well-planned, cool calculation and deliberate design with an eye of personal profit regardless of consequence to the society at large.
- The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book.
- The economic offences, in this era are actually public wrongs or crimes committed against society.
- The gravity and magnitude attached to these offences are concentrated at public at large.
- The economic offences stand on a graver footing.
- These crimes are professionally committed by white-collared people.
- These offences inflict severe injuries on both health and wealth of the nation.
- In economic offence, the view point is to be taken differently with different approach in case of bail.
- Such offences need to be dealt with a heavy hand and releasing such accused on bail will affect the community at large and also jeopardize the economy of the country.
- The economic offences have deep rooted conspiracies.
- These offences involve huge loss of public funds.
- These offences need to be taken seriously and considered as grave offences.
- The economic offences are affecting the economy of the country as a whole.
- These offences are posing serious threat to the financial health of the country.
- The pointing finger of accusation with regard to the economic offences is the seriousness of the charge.
- The economic offences result in loss to the State exchequer.

- Unfortunately in the last few years, the country has seen an alarming rise in white-collar crimes.
- This crime has affected the fibre of the country's economic structure.
- The economic offences are nothing but private gain at the cost of the public, and lead to economic disaster.
- Such serious offences are a threat to safety and security of the money of the customers lying in the bank.
- If such offences are viewed lightly, then, the confidence of the public will be shaken.
- The economic offenders, who continue to reap the benefit of the crime committed by them, do not deserve any indulgence.
- Any sympathy to these offenders would not only be entirely misplaced but also against the larger interest of the society.
- Such offences are preceded by cool, calculated and deliberate design, with an eye on personal gains.
- These offences bring imbalance in the economy of the country, which has the effect of making the life of majority of people, particularly those belonging to economically weaker sections of the society miserable.
- The ever growing materialistic outlook in the economic offences set the unscrupulous elements on a prowl to maximise material gains by unlawful means.
- The economic offences involve the kind of activities showing a great deal of deliberation, preparation and operation which can be done only by an intelligent person.
- The whole exercise in these offences is actuated by a mentality "to get richer overnight" at the instance of the general public or investors.
- This offence is committed with a mentality of a class of persons who have the capacity and the temerity to lead a lavish life and create assets at the miseries of the general public by making them invest their hard earned money with them.
- Criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest is required not to be given any emphasis.
- Economic offences constitute a class apart and need to be visited with a different approach.
- Power of Courts for anticipatory bails under Section 438 Cr.P.C., being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences.
- Economic offences stand as a different class as they affect the economic fabric of the society.

7. DEFINITION OF ECONOMIC OFFENCES, ANALYSIS AND SCOPE:

7.1 DEFINITION:

After careful considering all the points as discussed above, the following definition of Economic Offences has been designed so as to meet the outlined characteristics of these offences.

“The Economic Offences are the well planned and managed illegalities primarily involving deception and betrayal committed generally without coercion against individuals or public, exclusively for maximum personal financial gains of the perpetrator(s) with or without taking undue advantage of any or more of technical know-how, power, position, responsibility and system lacunae; being capable of affecting adversely - directly or indirectly, the Society as a whole in terms of any or more of Morals, Values, Health and Economy - with consequent after-effects over any or more of National Growth, Security, Defence and Development apart from triggering of Cross-Border Issues and/or Global Concerns.”

7.2 ARGUMENTS IN SUPPORT OF DEFINITION OF ECONOMIC OFFENCES:

This definition of Economic Offences can be interpreted and analysed with the help of following discussion:

- ***Well planned and managed illegalities:***

These are the illegal activities violating the existing legal provisions, which are very well planned and managed by the criminals. Proper planning is made and advance preparations done for committing these offences. The activities involved are cautiously managed and monitored by the perpetrators through coordination and communication for effective implementation of the planning. These offences thus, are not committed all of a sudden and under excitement but with cool mind and ample preparations.

- ***Primarily involving deception and betrayal:***

The deception and betrayal are the core constituents of these offences. The victims are first made to believe the version of the offenders through inducement, misrepresentation and suppression of the material information and when trust is imposed, it is shattered knowingly and intentionally for the exclusive benefit of the violators.

- ***Committed generally without coercion:***

Here, the force, coercion or violence is generally not used during the commission of these offences. However, their total absence is not mandatory as in cases of requirement for

maintaining nondisclosure, safety & protection and avoiding detection, busting & apprehension; the appropriate use of force can always be there.

- ***Against individuals or public:***

The victims targeted here involve individuals as well as public at large both. The Scams affect the masses. Even if the public at large is targeted, the unit sufferers are the individuals only.

- ***Exclusively for maximum personal financial gains of the perpetrator(s):***

The unlawful activities, during the commission of these offences, are primarily targeted at personal monetary benefits to the maximum possible extent. Here, in these offences, the personal financial gain is the main or principal object and as such, the other targets, if any, are only the secondary in nature. However, it is to be made clear that the presence of any other motive or target cannot disqualify the unlawful activities for being recognised as economic offences provided the principal motive involved is personal financial gain. Here, this personal financial gain also includes non payments against loans, escaping business losses, skipping financial liabilities etc.

- ***With or without taking undue advantage of any or more of technical know-how, power, position, responsibility and system lacunae:***

These offences at the time of their commission may procure required assistance of any or more of the technology, misuse of the power, position and responsibility of the perpetrator(s) and get undue benefit out of the system loopholes as the case may be. All these basically constitute 'Resource Centres' wherefrom the offenders may get the needed help and the tools. Using or not using any or more of these 'supports' however depends upon the desire, requirement, feasibility, capability and availability depending upon the particular circumstances of the offences and offenders.

- ***Being capable of affecting adversely - directly or indirectly, the Society as a whole in terms of any or more of Morals, Values, Health and Economy :***

These offences invariably have the required capacity to cause adverse impact on the society by hitting any or more of its prevailing morals and values, bringing down the physical and mental well being and blocking the economic development. The actual impacts so mentioned, however, may not be caused visibly in individual offences. Further, the magnitude of the ill effects may vary from case to case. Each economic offence leaves its scars and impacts though not seen and felt instantaneously. The contributed damages of the individual offences combine to produce the Social Quakes,

duly felt and feared all over. The qualifying clause here is the capability not the actual apparent impact.

- ***With consequent after-effects over any or more of National Growth, Security, Defence and Development:***

The capability of causing damages to the Society ultimately may affect the Nation as a whole resulting in any or more of the after-effects including blocks in the way of its growth, bringing in threats to the defence, safety and security of the Country. This level of impact is sufficient to explain the magnitude of gravity of these Economic Offences. Here, again, capability not the actual apparent impact is the underlying intention.

- ***Apart from triggering of Cross-Border Issues and/or Global Concerns:***

The illegalities, being defined as Economic Offences, operating from 'Border-Free Internet World' platform, are quite capable of infusing problems internationally through triggering of various Sovereign, Legal and other issues between the nations and/or creating Global Concerns. This aspect though may seem having no apparent issues at present, is expected to bear serious concerns in future. This has also duly been covered here by this present definition.

7.3 CONCLUSION:

This definition would cover all the contemporary Economic Offences like Builder and other related Property frauds, Business/Company frauds, Forgeries, Financial Institution frauds, NBFC Frauds, Share Market frauds, MLM/Ponzi Schemes/Chit Fund frauds, Mortgage and Loan frauds, Corporate frauds, Job Racket frauds, Fixed Deposit frauds, Air Ticketing frauds, Cooperative Group Housing Societies (CGHS) frauds, Insurance frauds, Investment frauds, Tax related frauds, Criminal Breach of Trust (CBT) frauds, RTGS frauds, Provident Fund (PF) Frauds, Post Office frauds, Pension frauds, Money Transfer frauds, Funds Misappropriation frauds, Manpower Rackets, Hawala Scams, Impersonation Frauds, Forged Debit/ Credit card frauds, FEMA & ROC violations, FDR frauds, Fake e- mail frauds, Export-Import related frauds, Billing frauds, ATM related frauds, Admission Rackets, Money Laundering, Intellectual Property Rights (IPR) and Trade Marks (TM) related offences AND all other Economic Offences not mentioned here.

The ambit and scope of this definition is quite wide capable of bringing in its ambit all types of Economic Offences incorporating Individual Sufferers, Multiple Victims, Mortgage Frauds, Corporate Scams, Real Estate Scams, Criminal Breaches of Trust, Cheatings, Forgeries, Copy Right & Trade Marks Violations, Impersonations, FEMA Cases, Tax Frauds, Money

Launderings, Hawala Scams, Export-Import Matters, various Ponzi Schemes, Share Market Frauds, E-Mail Frauds etc. committed within or across borders.

Here, the definition is going to explain the Basic Nature and all the Characteristics of these offences i.e. Planning and Management of Illegalities, Deceptive Intent and Prime Motive of the perpetrators, Scope of Victimization, capability of Adverse Social Impacts, consequential National Damage, Cross Border Issues and Global Concerns, optional Usage of Opportunities and Facilities and the Violence possibilities.

This definition may meet the requirement of a suitable definition of Economic Offences for catering the long awaited need of Legislation and Enforcement for formulation and implementation of appropriate Legal Enactments in order to effectively contain this growing monster of Economic Offences.



References:

- 1) Amarnathan L. C. 'Economic Crime in India'. *Annual Report for 1998, Resource Material Series No. 55, UNAFEI*, Fuchu, Tokyo, Japan, March 2000.
- 2) Andenaes J. 'Social and Economic Offenses - Theoretical Issues and Practical Considerations'. *Annual Report for 1977, Resource Material Series no. 15, UNAFEI*, Fuchu, Tokyo, Japan, 1978.
- 3) Antiquity and Art Treasures Act, 1972.
- 4) Arms Act, 1959.
- 5) Arnold Thurman. *Folklore of Capitalism*. Beard Books, Washington, D.C., 2000.
- 6) Arterberry John D. 'Economic Crime and the Global Economy: Understanding the Threat and Identifying Effective Enforcement Strategies and Countermeasures'. *Annual Report for 1998, Resource Material Series No. 55, UNAFEI*, Fuchu, Tokyo, Japan, March 2000.
- 7) Banking Regulation Act, 1949.
- 8) Bharti Animesh. 'Legislative Measures to Deal with Economic Crimes in India'. *128th International Training Course Participants' Papers, Resource Material Series No. 67, Part II, page 209- 215, UNAFEI*, Fuchu, Tokyo, Japan, December, 2005.
- 9) Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.
- 10) Brody G. Richard and Kent A. Kiehl. *From White-Collar Crime to Red-Collar Crime*. University of New Mexico, Albuquerque, New Mexico, USA, 2010.
- 11) CBI v. Maninder Singh, Criminal Appeal No. 1496 of 2009 (Supreme Court of India).
- 12) Central Excise Act, 1944.
- 13) Central Goods and Services Tax Act, 2017.
- 14) Champakbhai Amirbhai Vasava v. State of Gujarat, 2001 CrL. L.J. 4475 (Gujrat High Court).
- 15) Chandra Mahesh. *Socio-economic Crimes*. Tripathi, Bombay, 1979.
- 16) Code of Criminal Procedure, 1973.
- 17) COFEPOSA, 1974.
- 18) Companies Act, 1956, 2013.
- 19) Copyright Act, 1957.
- 20) Customs Act, 1962.

- 21) Date Sadanand Vasant (2003). *Monitoring of Economic Offences: A Management Control Systems Perspective*. University of Pune, India.
- 22) Davies David B. *Fraud Watch: A Guide for Business (Bottom-line Business Guides)*. Croner CCH Group Ltd, WS, UK, 2000.
- 23) Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105.
- 24) Dr. Mehta Deepa. 'Economic Crime in a Globalizing Society: Its Impact on the Sound Development of the State - An Indian Perspective'. *Annual Report for 2004, Resource Material Series No. 66, UNAFEI*, Fuchu, Tokyo, Japan, September 2005.
- 25) Explosive Substances Act, 1908.
- 26) Explosives Act, 1884.
- 27) Fairchild Henry P. *Dictionary of Sociology*. Vision Press, London, 1958.
- 28) Foreign Contribution (Regulation) Act, 1976.
- 29) Foreign Exchange Regulations Act, 1973.
- 30) Frank S. Perri and Terrance G. Lichtenwald. 'When White-Collar Crime Turns Red (Part 2)'. *Fraud Magazine*, ACFE, Austin, USA, July/August, 2007.
- 31) Fugitive Economic Offenders Act, 2018.
- 32) Gogoi Jupi. 'Socio-Economic Offences'. *Annual Survey of Indian Law 2013*, Indian Law Institute, New Delhi, India, 2016.
- 33) Grabosky Peter. 'The Prevention and Control of Economic Crime'. *Annual Report for 1998, Resource Material Series No. 55, UNAFEI*, Fuchu, Tokyo, Japan, March 2000.
- 34) Howard Davia, et al. 'Accountant's Guide to Fraud Detection and Control'. *EDPACS - the EDP audit, control and security newsletter*, 29(1):12-13, London, U.K., July 2001.
- 35) Import & Export (Control) Act, 1947.
- 36) Income Tax Act, 1961.
- 37) Indian Penal Code, 1860.
- 38) Insolvency and Bankruptcy Code, 2016.
- 39) Lalit Goel v. Commissioner of Central Excise, (2007) 3 JCC 2282.
- 40) Law Commission of India. *Proposal to include certain Social and Economic Offences in the Indian Penal Code*. 29th Report, New Delhi, 1966.

- 41) Limited Liability Partnership Act, 2008.
- 42) Malimath V.S. *Report of Committee on Reforms of Criminal Justice System*. Government of India, Ministry of Home Affairs, Volume I, India, 2003.
- 43) Money Laundering Act, 2002.
- 44) Mrs. Shivani Rajiv Saxena v. Directorate of Enforcement and another, Bail Application No.1518 of 2017 (Delhi High Court).
- 45) MRTP Act, 1968.
- 46) Mukesh Jain v. Central Bureau of Investigation, Bail Application No. 2179 of 2009 (Delhi High Court).
- 47) NCRB. *Crime in India*. National Crime Record Bureau, New Delhi, Ed.1994-2019.
- 48) NDPS Act, 1985.
- 49) Negotiable Instruments Act, 1881.
- 50) Nevada Properties Private Limited through its Directors v. State of Maharashtra and another, Criminal Appeal Nos.1481-1487 of 2019 (Supreme Court of India).
- 51) Nimmagadda Prasad v. Central Bureau of Investigation, AIR 2013 SCC 2821.
- 52) P. Chidambaram v. Directorate of Enforcement, Criminal Appeal No. 1340 of 2019 (Supreme Court of India).
- 53) Passport Act, 1920.
- 54) Prem Kumar Parmar v. State (CBI), 1989 RLR 131.
- 55) Prevention of Corruption Act, 1988.
- 56) Prohibition of Benami Property Transactions Act, 1988.
- 57) Ram Narain Popli v. Central Bureau of Investigation, (2003) 3 SCC 641.
- 58) Redo Slawomir. 'Crime as the Growing International Security Threat: The United Nations and Effective Countermeasures against Transnational Economic and Computer Crime'. *Annual Report For 1998, Resource Material Series No. 55, UNAFEI*, Fuchu, Tokyo, Japan, March 2000.
- 59) Reserve Bank of India Act, 1934.
- 60) Rohit Tandon v. The Enforcement Directorate, Criminal Appeal Nos. 1878-1879 of 2017 (Supreme Court of India).
- 61) Securities and Exchange Board of India Act, 1992.

- 62) Sellin Thorsten. *Annals of American Academy of Political and Social Sciences*. Vol. 218, Sage Publications, Inc., Nov., 1941.
- 63) Singh Parmajit. 'Economic Crime: Emerging Threats and Responses - Singapore's Experience'. *Annual Report for 2004, Resource Material Series No. 66, UNAFEI*, Fuchu, Tokyo, Japan, September 2005.
- 64) State of Gujarat v. Mohanlal Jitamalji Porwal and others, (1987) 2 SCC 364.
- 65) Sunil Dahiya v. State (NCT of Delhi), 2016 SCC Online Del 5566, Delhi High Court.
- 66) Sunil Grover v. State, 2012 SCC Online Del 3539.
- 67) Suresh Chandra Ramanlal v. State of Gujarat, (2008) 7SCC 591.
- 68) Sutherland and Donald R Cressey. *Principles of Criminology*. Lippincott, Chicago, 1960.
- 69) Sutherland Edwin H. *White-Collar Crime*. The Dryden Press, New York, 1949.
- 70) Sutherland Edwin H. *White-Collar Criminality*. American Sociological Review, American Sociological Association, Washington D.C., 1940.
- 71) Taft and Ralf W. England. *Criminology*. The Macmillan Company, New York City, 1964.
- 72) Transplantation of Human Organs Act, 1994.
- 73) Walsh Dermot and Adrian Poole. *A Dictionary of Criminology*. Taylor & Francis Ltd, London, UK, 2020.
- 74) Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation, (2013) 7 SCC 439.

