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## NATIONAL JUDICIAL ACADEMY



## ADVANCED COURSE ON ECONOMIC CRIMES

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### REPORT

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## ADVANCED ECONOMIC CRIME

Economic crimes are crimes against property, involving the unlawful conversion of the ownership (belonging to one person) to one's own personal use and benefit. These crimes also involve fraud (cheque fraud, credit card fraud, mortgage fraud, medical fraud, corporate fraud, securities fraud (including insider trading), criminal misappropriation, payment (point of sale) fraud, health-care fraud), corruption, scams or confidence tricks, tax evasion, bribery, embezzlement, identity theft, money laundering, and forgery and counterfeiting, including the production of counterfeit money and consumer goods and include computer and cyber-crimes. It may be carried out by individuals, corporations, or by organized crime groups. Victims may include individuals, corporations governments and entire economy.

In a broad way, the former can be sub-classified as: crimes involving government finances (eg. tax evasion, duty evasion, subsidy frauds etc.), crimes involving individuals', finances (eg. cheating, misappropriation, breach of trust etc.), crimes related to corporate management (eg. commissions as bribes, illegal gratification, floating fake firms, copyright violations etc.), crimes affecting national economy (eg. foreign exchange, stock & commodity market manipulations, counterfeiting currency etc.).

Economic crimes create black market or underground economy, a market in which goods or services are traded illegally. The key distinction of a black market trade is that the transaction itself is illegal. The goods or services may or may not themselves be illegal to own, or to trade through other legal channels because the transactions are illegal, the market itself is forced to operate outside the formal economy, supported by the established state power. Two common motives for operating in black markets are to trade contraband, or to avoid taxes or price controls. Typically the totality of such activity is referred to with the definite article as a complement to the official economies, by market for such goods and services, e.g. "the black market in bush meat".

Money itself is traded in the black market. This may happen for one or more of several reasons: the government sets ("pegs") the local

currency at some arbitrary level to another currency that does not reflect its true market value, government makes it difficult or illegal for its citizens to own much or any foreign currency, the government taxes exchanging the local currency with other currencies, either in one direction or both (e.g. foreigners are taxed to buy local currency, or residents are taxed to buy foreign currency). The currency is counterfeit. The currency has been acquired illegally and needs to be laundered before the money can be used.

### Impact on National Economy

Economic crimes cause significant damage to the general economy of the country, adversely affecting the growth and development of the nation. Internationally, it erodes confidence in the financial credibility and stability of the nation, thus weakening its global competitiveness and further, becoming unattractive to investments from within as well as outside. Where there is a high incidence level of economic crime, the government and bureaucracy are also viewed as being corrupt and weak. Some of the major impacts on the national economy that may be caused by the economic crimes are: increase in inflationary pressure, uneven distribution of resources and creation of elitism, marginalisation of tax base, generation of abundant black money, creation of parallel economy, undermining of developmental works/efforts, becomes a breeding ground for corruption, illicit businesses thrive affecting licit business, resources of financial and commercial institutions are diverted and distorted, weakens morale and commitment of citizens, poor/weakest continue to be at risk, countries' economic equilibrium with at stake. Economic offences, such as counterfeiting of currency, financial scams, fraud, money laundering, etc. are crimes which evoke serious concern and impact on the nation's security and governance.

A significant corollary to the above is the diversion and investment of the black money acquired by committing such crimes into furthering crimes and the hegemony of the criminal syndicates rule. The threats to public security and eventually national security, would appear imminent as an ultimate consequence.

The black money market situation in India is epidemic. India currently tops the list for illegal monies in the entire world, estimated to be almost 90,54,136 crore stored in Swiss banks in the form of unaccounted money as per the data provided by the Swiss Banking Association. India has more black money than the rest of the world combined. Indian Swiss bank accounts assets are worth 13 times the country's national debt, and, if this black money is seized and brought back to the country, India will have the potential to become one of the richest countries in the world. In 2007, Indian authorities began investigating Hasan Ali Khan, an Indian businessman for suspicion of money laundering. He reportedly had a Swiss bank account with \$8 billion in deposits and has stashed away billions into Swiss bank accounts with the help of Kolkata based businessman, Kashinath Tapuria using hawala. In December 2012, Finance Ministry told the Standing Committee on Finance that recovery of Hasan Ali's tax arrears (of approximately Rs 91,000 crore) is not possible. Evidence available with Enforcement Directorate shows that he had transactions of over 112,000 crore between years 2005 and 2006, and he is only one of the big tax offenders and this stash is only a part of the huge illicit outflow from India. This amount is enough to fund the national drinking water project in all the six lakh villages in India for the next 10 years.

Most of the economic crimes in India are committed through the cooperation and nexus between the corrupt politicians, bureaucrats, industrialists, businessman and middle-men. As far as criminality is concerned these economic offences, while bearing similarity to traditional offences, constitute a separate class by virtue of their scale and dimension; modus operandi; and in making individuals/state/society as collective victims of financial loss. With general acceptance on this fundamental, the call of tomorrow may be a comprehensive "economic offences code", distinct from penal codes, to effectively counter economic crimes. Criminologists, prestigious commissions and research bodies agree that government must go beyond law enforcement and criminal justice to tackle the risk factors that cause crime, because it is more cost effective and leads to greater social benefits than the standard ways of responding to crime. Interestingly, multiple opinion polls also confirm public support for investment in prevention.

Criminologist Waller uses these materials in *Less Law, More Order* to propose specific measures to reduce crime as well as a crime bill.