



 Research Article

FINANCIAL FRAUD, ECONOMIC OFFENCE IN INDIA: CRIME PREVENTION THROUGH HEURISTIC METHOD

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ABSTRACT

Financial inclusion is the decade's big achievement of the government of India through the opening zero balance saving accounts mass level in nationalized scheduled banks. In recent past, India is facing big challenges to tackle the white collar and economic crime problems responsible for ruining the entire economic management and system of public policy allocations. The present paper is analyzing the various publicly concerned financial fraud and multiple economic offenses which are directly or indirectly affecting the country's economy and responsible for sea-merging the financial condition of the nation. Even, there are multiple preventive provisions implemented to prevent such offences by the government and various initiatives taken parallel to combat the economic crisis. In this paper, a heuristic method of crime prevention has been suggested to tackle similar offences and reduce the occurrence of the frauds.

KEYWORDS

Financial Fraud, Economic Offence, Heuristic Method, India.



INTRODUCTION

The Government of India has under consideration the question of effectively dealing with certain economic offenders. The social and economic offence dealt with special legislations as Essential Commodities Act, Prevention of Food Adulteration Act, Drugs (Control) Act, Foreign Exchange Regulation Act, etc, Import and Exports (control) Act. These are basically non-emotional offences as in murder, rape defamation etc. and no emotional reaction as between the victim and the offender (Law Commission Report 47). India made appropriate laws or changes within the existing acts through amendments and also framed new legislations in handling the serious fraud or economic offences whenever required. Our minds are familiar with traditional offences or conventional offences like murder, rape and theft but it take time to realize the seriousness of non conventional crimes or economic offences. In economic offences, there is no immediate tangible object of the harm visible to the mind. Neither the offender nor the society adequately realizes the harm, because of the absence of an immediate victim.

Fraud as such, is not a criminal offence in India as per the definition of Reserve Bank of India. fraud is defined in section 17 of the Indian Contract Act for the purpose of a contract and insofar as the operation of the Contract Act is concerned. Financial frauds relating to the capital and securities market are already dealt with SEBI regulations. If any fraud is committed in a bilateral contractual situation or otherwise whether involving personal fund or public fund, also an act of cheating or if such an act involves impersonation, criminal breach of trust or criminal conspiracy, or forgery, or falsification or destruction of documents for wrongful gain, or embezzlement of funds, then and only then, such fraud can be an offence (RBI).

The Fugitive Economic Offender Act, 2018 is to be considered one of the important enacted legislation which deals with economic offenders in reaction with recently occurred high profile economic offences in India.

Crime is not evenly distributed across the social spectrum, and age, location, gender and socio-economic position are important variables in accounting for offending and victimization. Student of Lombroso, Raffaele Garofalo supported that crime can be understood only by scientific methods and formulated a sociological positivity definition of crime as immoral act that is injurious to society (Wayne 1995). He explained crime or offense violating the two basic altruistic sentiments common to all people, namely probity and piety. Economic offenders are having the sentiment of probity which increases criminality against society based on psychological orientation. In economic offences, the victims are usually the State or a section of public, particularly the consuming public. Consuming the public may be including the portion of consumer of goods or service, buys shares or securities or other intangible. Where there is an individual victim, the more important element of the offence is harm to society. Economic offences highly affect the Indian economy, illegal transnational organized crimes, trafficking and inflation.

Hybridization of the economy in the recent past was very transformative. Changes in class structure of society, state and globalization and occurrence of the wake of late modernity, free economic markets, cultural conservatism etc. made possible by the shifting economic interests of the skilled working class, the welfare and sometimes economic recessions as shown in India in 1992. Together these dynamics changes collectively and experience of economic crime



also has brought with it new freedoms, new wake of consumption and new possibilities for individual choice and new disorders and dislocations-above all new levels of crime and insecurity (Garland and Sparks 2000). One thing more important to mention here is fraud is applying both criminal and civil laws and the victim can file a civil lawsuit whereas the government can bring both charges in fraud lending.

These offences calculated to prevent or obstruct the economic development of the country and endanger its economic health includes evasion of taxes, misusing of position by public servants, hoarding, black marketing, adulteration of food and drugs, theft and misappropriation of public property funds, trafficking in licenses, permits etc. it also covers offenses in the nature of breaches of contracts, resulting in the delivery of goods not according to specifications.

If any person is robbed, assaulted or cheated, there is some person who is interested in getting the offender prosecuted, and because the act is a physical one having an immediate and direct impact, both individual and social vengeance are likely to be aroused. This element is however absent when for example essential commodities are hoarded, or foreign exchange is illegally taken out of the country or prohibited goods are imported.

Here, the most important feature of these offences is the fact that ordinarily they do not involve an individual direct victim but are punished because they harm the whole society. This constitutes the primary reason why special efforts have to be made to enforce them.

Economic efficiency and detection of crime

In the broader terms economic efficiency is a terminology of Economics and relating to the improvement of the condition or the situation in which

one or the other thing will get affected. (Jude Hemanth, Jasleen Kaur Sethi, Lalit Mohan Goyal and Mamta Mittal, 2019) These lexicons are typically used in microeconomics in order to assume the best of its output. The limited resources needs to be used in a judicially manner to come up with the solution of the various problems which are faced by the community or the society (Goredema, 2015). The optimal production of the resources are such which needs to be designed in such a way that the detection of the crime must be done as soon as possible with the generation of healthy environment.

In the economic models of crime the economic incentives are changing because of the changing nature of the criminals activities (Erling Eide and Paul Rubin, 2006). Evidence based crime prevention is possible in the countries if the cost –benefit analysis is done properly. Trends of crime in the country depend on the development of the demographical factors. The police force of the country needs to play very important role in reducing the crime in the country. The tools which will be applicable by them must be effective and efficient as well. When talking about the economic efficiency, there is necessity to have tools which will monitor the crime and the reasons behind that. Further the economic crimes in the country and its impact on the various strata of the society also matters which should be measured. The deterrence effects on the country and the responses by the criminals have changed the criminal justice system. (Freeman, 1999)

In the economic efficiency, it could be seen that the unemployment plays a very important role as most of the crime are dependent on it. The neo-classical theory of Becker mentions that the criminals are economically rational and respond suggestively to the deterring enticements by the criminal justice system. The



outcome of the criminal act is uncertain. The number of increase in the unemployment is also related to the rise in victims in the country (S Prabakaran and Shilpa Mitra, 2018). The economics of crime because crime is an area which put economic analysis into the rigorous test.

The market model of the crime in the society paves that the criminals from the civil society is/are labels and removed and later tabooed to an extent that the acceptance in the society reduces (Al-Sarraj, 2016). There is no elasticity towards the criminals in the society. When it comes to investigation and the detection of the crime, then tools can be used which would help the crime pattern and also the psychology analysis of the criminals. The data mining techniques and tools can also be helpful when it comes to the attribution of the types of crime (William C. Cunningham, Philip J. Gross and Hugh Nugent, 1978). The scientific detection of crime can also be helpful but that requires the high level models which will be dealing with economic efficiency of the area or the state where this has to be applicable. The extraction of new information should be such through which the maximum evaluation can be done and would generate the transparent analysis to the organization concerned. (Fernandez, 2019) This would be defiantly helpful for the tools and the data collection process which will be done to curb the crime in the society.

Heuristic Measures of Economic Crimes

The economic analysis exercise should be done with accurate objectives and evaluations which in a long run create policy interventions and benefits to a larger section. The other important measure is the sustainability of these types of models. To check the use of the resources which are available are also important to do the work more sustainably. In many countries, there are the programmes which are

running related to the economic efficiency and crime prevention. The law enforcements in these areas will be definitely helpful to reduce the crime (Ian John Stewart, Andrea Viski, Jonathan Brewer, 2020). The cost-benefit analysis and the cost-effective ratio needs to be more effectively implemented and heuristic approach should be adopted.

The crime rises in any country will defiantly effect the different sectors like the family, civil society, community, individual and the justice system as well. This is also going to hamper the financial incentives which are involved into it (Andrea Di Nicola and Alessandro Scartezzini, 2000). The victims and the offenders both are important for the society at a large because they needs to be converted into asset rather than the liability. Hence to look after towards them and to help the government and the other institutions with the economic efficient models it become very important to think on such programmes and to have think tanks. It is the responsibility of the citizens and also the government to look after these things. In these situation, there are heuristic methods can be used for economic management.

Basic Financial Crimes and Roots

Crime scientists and Economists alike attempt to identify pragmatic responses to what economists said 'market distortions' which create market failures and ultimately affect individual and societal welfare activities. In the criminological field, distortions may be thought of as crimes, and market failure as the subsequent negative externalities that affect both individuals and society at large. In terms of addressing market failure and minimizing the negative externalities associated with that failure, economists envisage their purview in research, policy and practice (Rechard Wortley 2019). Here economic offenders are institutionalized with increasing harm to society and



societal welfare. Generally, economic offenders are not served punishments for their act or misdeed, reason behind increasing the economic offences. A classified economic offence includes money laundering, frauds, tax evasion, cheating (Arjan Reurink 2016). Financial fraud covers the financial statement fraud, investment scams and fraudulent financial mis-selling (Arjan 2016).

The criminal of economic offences have a motive of greed, materialistic avarice or rapaciousness and operation mode of these offences is fraud, not force, deliberate and willful. The social interest in the preservation of the property, wealth or health of its individual members and national resources and in general the economic system which is whole from exploitation or waste by individuals or groups. Social interest in the augmentation of the wealth of the country by enforcing the law relating to taxes and duties, foreign exchange, foreign commerce, industries and the others alike.

Our analysis shows that the 'peak point recognized for economic offences at the time of gigantic process of government of social and economic planning and they affect health and wealth of the entire community'.

Socio-economic offences such as white collar crime could also be an interesting part of economic offence. White collar crime described as a crime committed in the course of one's occupation by a member of the highly respectable society or upper class of the society (Sutherland 1940). A manufacturer of drugs or illicit drugs who deliberately supplies sub-standards drugs is a white collar criminal as it is a big corporation guilty of fraudulent evasion of tax. Similarly smuggler we cannot include white collar criminals as they are coming from lower class strata but may be charged as a guilty person of socio-economic offence. Fore stance, economic offences are those which affect the

country's economy and not merely the wealth of an individual victim.

Merton's social structure and anomie (Merton 1938), modern capitalist society was seen as being under pressure, and the strains and tensions within it, Merton thought, led to crime and deviance distinguishing between a social 'structure' which provide economic roots to success and 'culture' which provided norms, values and goals. Merton explained that deviance occurred where there was an imbalance between social structure (approved social means) and culture (approved goals). The tension or norm breakdown in this way is something related with economic offences (anomie). Economic offenders or fugitive offenders of developing countries, such as India are more prone to act economically because of having a dream of a wealthy man and wanting to become elite in society.

There are economic factors in shaping criminality and began to produce a genuinely social account that found the roots of crime to lie not in individual people but in the organization and working of the wider society. Offenders wanted to become at the economic level between a 'future as part of the socially mobile elite' or as part of the 'new lumpbenproletariat'.

Roots of the economic crime and financial fraud generally has several legal elements as; misrepresentation of a material fact; knowledge on the part of the accused that they were misrepresenting the fact; the misrepresentation was made purposefully, with the intent of fooling the victim; the victim believed the misrepresentation and relied upon it and the victim suffered damaged as a result of the misrepresentation. Financial fraud includes mail fraud, bank fraud, tax evasion, bankruptcy fraud, security fraud, racketeering, wire fraud, embezzlement and counterfeiting etc.



Fraud and Financial Crimes	
Fraud	Bribery
In depth information about fraud in general and definitions of the various types of fraud such as wire fraud; tax evasion; insurance fraud; and identity theft and other for identifying fraudulent activity.	Act of accepting or offering something of value in exchange for influence or power in connection to an elected position or public employment.
Embezzlement	Money Laundering
A crime that occurs when an individual steals money or property that he or she has been entrusted to manage.	A crime involving the movement of illicit money and other gains into legitimate channels in order to disguise the money's illegal source and thwart tax officials.
White Collar Crimes	Tax Evasion
Crime committed by high respected person of the society in the course of his or her occupation encompass many separate individual crimes, most commonly related to the use of deceit for financial gains, such as securities fraud	The Crime of not paying one's legally required share of either central or state government's taxes. Ignorance of personal liability. Deliberately avoiding paying tax. It charges economic criminality of individuals, corporate and trusts.
Securities Fraud	Identity Theft
Securities fraud is a crime in which a corporate officer makes misleading statements about the company's stock performance or discloses confidential information related to its stock.	When someone unlawfully uses another's personally identifying information such as PIN or personal other information to commit other crimes. For instance credit card fraud.



Mortgage Fraud	Racketeering
Define as of the various different illegal schemes related to the misrepresentation or misstatement of mortgage documents for the purpose of defrauding another party, such as a lender or a homeowner.	Crime committed at a state level in the course of acquiring a business operation through illegal means and using business operation to commit illegal acts such as illegal gambling, prostitution rings, drug trafficking etc.

Networking in Economic Offence

Economic offences closely relate with ‘fraud will’ and this Mens Rea of fraud is considered crime. There is also a distinction between civil and criminal fraud. Criminal fraud involves taking something through force or by stealth where fraud revolves around a purposeful misrepresentation of fact. Prosecutor can take a fraud case in both ways but a criminal case would be taken by the party or victim of the misrepresentation.

Corporate or economic offenders enjoy the economic and social benefits of their position with little challenges from either legal or populist quarters. They profit from activities that damage the quality of life of others and from economic crimes that pass losses onto consumers via higher prices, workers losing pensions or jobs, and compromised health and safety programmes leading to accidents and manslaughter death of employees (Alvesalo and Tombs 2002).

Left realism perspective is directly related to the economic crisis and fugitives. At the time of economic crisis of any country, economic offences such as economic offences (fugitive) increase (Jock Young 1979). It covers a range of perspectives on crime and law, interactionism’s micro-social approach arguably as a coercive concept of order and an unwillingness to deal with aetiology, statistics and reform. The

Government of India recently started to drastic economic reforms, tycoon of business started to fraud with the government, and flees from country who are now listed as fugitive offenders (i.e. Vijay Malya, Neerav Modi etc.). They did not accept the taxation reforms of the government and decided to lunch with them.

Internet and Cyber crime

The Internet has revolutionized communications, inter connections, trade and commerce, businesses and sharing of information by making the world a single place irrespective of geographical boundaries. In the last decade access to the internet has increased exponentially around the world owing to networks and connection by tech giants. The Internet remains the powerful tool that it can be used for almost any purpose and it is accessible by every individual who connects to one of its constituent networks and individuals can have easy access to the internet. It supports host of human communications.

The invention of cyberspace, the term first coined by William Gibson in 1982 referring to the widespread online world of computer networks, was made to make the lives of people better, but it showed its dark side when it became the hub for people to exploit this unguarded space (Mshana, n.d). Information



Technology which was administered as a troubleshooter in the banking system, as it smoothed the functioning of interbank and intra-bank connectivity as it does not have any limitations related to boundaries, but soon it became obvious that Information Technology along with its benefits has brought down some threat that is commonly called cybercrimes and has become a preferable tool for committing frauds (Goel and Manjusha, 2012). With the arrival of cyberspace, the growth of economic offences has skyrocketed (Kancharla, 2020).

One of the root causes identified behind the increasing rate of economic offences using internet has been conceptualised as that the invention of internet was never intended for commercial business but for research purposes only, making all of its protocols open and unsecured and this is the reason that the data, including confidential ones, that are transmitted over internet are easily intercepted and stolen (Broadhurst and Chang, 2012). The motivation to commit crime in cyberspace is further elucidated in General Strain Theory of Robert Agnew (1992). It was clearly articulated that a situation of strain is created when people experience failure to achieve the desired goals, lose some positive aspect in their lives or some negative aspect is presented in their lives. With the introduction of stressful lifestyles resulting in lack of social support, people feel strained, compelling them to resort towards committing the frauds in cyberspace which are very easily accessible and not easily exposable (Greenwood, 2016).

The platform of the internet has provided people with anonymity, fast connections and accessibility encouraging the motivated offenders to take the undue advantage. This switch of perpetuating economic offences from physical space to cyberspace is well explained in Space Transition Theory. According

to Jaishankar (2008), because of flexibility, anonymity and lack of deterrence, this dynamic spatio-temporal nature of cyberspace is mostly preferred by those people who were repressing their criminal behaviour in the physical space due to fear of stigmatization from the members of society.

Gradually cyberspace started accommodating darknet markets which is fast becoming the favourable medium of economic offences for black market to trade illegal goods (Saxena and Lata, 2016). The increasing popularity of anonymizing software such as Virtual Private Networks and Tors to access the Dark web has also given the motivation to fraudsters and hackers to commit worldwide fraud and identity thefts by removing their traces and making it difficult for authorities to pinpoint the location of suspects (Omar and Zakariye, 2020).

Tackling the ascending rate of economic offences through cyberspace is one of the major concerns of the Government of India. Evolving nature of technology and subsequent crimes arising out of it is making it difficult for police and prosecutors to tackle this issue because of the lack of basic understanding of the nature and characteristics of cyber space from their side (Menon and Siew, 2012). With no geographical boundaries to limit, cybercrimes have transgressed internationally motivating a perpetrator sitting in one country to target the victim at the other end of the world with specific regards to economic offences. Lack of planning, legal infrastructure and proactive role of lawmakers, our country is unable to face off the evolving nature of cyber crimes, nevertheless having the number of preventive laws (Arora, 2016).

Another factor behind rising cases of economic offences using cyberspace is slow progress of the Criminal Justice System. Based on the analysis of NCRB report of year 2014-18, the pendency of the cases was



increased by four times and majority of the cases were disposed off by the police due to lack of evidence or taken as a mistake of fact (Kancharla, 2020). The loopholes generated from the cyber laws are motivating the perpetrators to use the platform of cyberspace to commit economic offences. Becarria (1974) through his theory of Deterrence has effective deterrence only be achieved by making the punishment for crime certain, swift and severe. In the absence of these three elements and an increasing backlog of the cases, perpetrators are motivated to prefer the mode of cyberspace to commit economic offences.

Combating Financial Frauds with Artificial Intelligence (AI)

John McCarthy coined the term Artificial intelligence in the year 1950 he is also known as father of AI. According to McCarthy, artificial intelligence is “The science and engineering of making intelligent machines, especially intelligent computer programs”. Artificial intelligence is basically the ability of the computer program to learn and think like humans and mimic their actions. The goal of artificial intelligence includes learning, reasoning and perception and problem solving. Artificial intelligence is based on the principle that human intelligence can be defined in a way that a machine can easily mimic it and execute tasks, from the most simple to those that are even more complex. To modern day AI has endless possibilities and applications the technology can be applied to many different sectors and industries. Artificial intelligence includes vastly major sub fields that work on large amounts of data, processing and generating output. It includes Machine Learning, Natural Language Processing, Cognitive computing, Neural Networks, Deep learning etc. All of these technologies have to do with preventing crimes. AI has

specific applications in detecting, reducing and preventing crimes well within time, and especially frauds of myriad nature in corporate, industries and businesses.

Natural Language Processing

Natural Language Processing (NLP) and graph analytics has applications in detections of frauds. NLP is a means by which computers study, comprehend and derive meaning from human language in a smart and useful way. Graph analytics is concerned with understanding structures in networks. It is a method of mapping and exploring relationships between individuals that is behind prompts.

Future Direction of Financial Crime Prevention

Economic offences extend to deliberate evasion of taxes and the question that arises for consideration is how drastically and swiftly penal action can be taken to prove a deterrent against commission of such offenses.

There are threats to the national economy arising from a violation of the restrictions imposed in the interest of conserving foreign exchange could constitute an equally serious danger to the survival of the nation. Economic bankruptcy can pose as serious a problem as political insecurity.

The current trend of legislation and also the judicial approach to such offences appears to be that these offences are treated lightly and the punishment is not adequate having regard to the gravity of such offences.

The suppression of economic crimes in any modern society is of obvious importance. The transition from a rural and simple society to an industrialized and



complex one entails regulation by or under law of activities having an economic import.

Consistently, with India's approach in dealing with the menace to social health and wealth posed by economic offences, it is recommended an increase in punishment for the principal offences under most of the act. In doing so, India's main object is to give adequate expression to the social disapproval of such crimes. One of the object of punishment is the emphatic denunciation of the crime by the community, and we believe that this denunciation could be achieved only if the gradation of punishments is so devised as to evoke in the public mind an intelligent reaction, and this in its turn would be facilitated if the scales of punishment exhibit a modicum of uniformity based on rational considerations. The increase of the maximum punishments will also make the offence cognizable and non-bailable and that we regard as a welcome consequence (Law Commission Recommendation).

Important recommendation in Indian scenario regarding the economic offender is preventive detention. It is advice whether persons suspected of large scale smuggling of goods or violations of foreign exchange law should be brought without the Act providing for preventive detention.

By introducing the territory oriented approach at international level, establishing the collaboration and coordination with global agencies of investigations, prosecutions and law enforcement, battle against the rise of economic offences using cyberspace can be fought upon. This will help in building a multilateral platform to raise the common standards for privacy.

To prevent the people from becoming the victims of common cyber crimes such as phishing, vishing or spoofing, educational interventions such as aggressive awareness campaigns need to be initiated including

but not limited to guide manuals, posters, pop-up ads, commercial advertisement and caller tunes focusing specifically on cybercrimes. This approach will not only enhance the behavioural skills of people but develop their cognitive development also, resulting in reduction and subsequent prevention of victimisation in the cases of economic offences using cyberspace (Jahankhani, 2013).

[Conflict of Interest/Competing Interest: The manuscript entitled 'Financial Fraud, Economic Offence in India: Crime Prevention through Heuristic Methods' submitted by me have NO affiliations with or involved in any organization or entity with any financial interest or non financial interest in the subject matter or materials discussed in this manuscript. I declared that there is NO any conflicting issue related to the manuscript.]

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