

DE JURE NEXUS LAW JOURNAL

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GANG CRIMES AND SPECIAL LAWS DEALING WITH THEM**INTRODUCTION**

A group of 3 or more people that has a common goal and they have a primary purpose of committing crimes.

The gangs generally start with one person who gets involved in crime activities and recruits a few underlings. When he succeeds in making money through his chosen way of committing crime, be it smuggling or bootlegging or any other criminal profession. He establishes himself in his area of operation, which is initially quite small, then he manages to buy protection for himself and his henchmen by bribing the law enforcement agencies of his area, generally the local police headquarters. And this is how a gang is created.

These gangs usually have a common sign or symbol and all the gang members have a similar pattern of crime activity.

The general work done by a gang is:

1. Extortion and seeking protection money from the locals in the area where the gang resides.
2. Contract killing
3. Gambling and prostitution on their area.
4. Kidnapping for money
5. Smuggling of illegal and expensive items to avoid government taxes.
6. Drug trafficking
7. Arms and human trading

Laws related to Gang crimes

There is no such law for gang crimes in India.

But all gangs commit the same crime as a normal criminal like kidnapping, extortion and murder, and all these offences are covered by IPC and other Special Acts

Therefore, these offences, when reported to the police are registered under the relevant sections and laws and they are taken up for investigation. Some cases do get detected in due course of time and arrests are made and the culprits are prosecuted.

Laws in IPC relating to gang crimes.

Section 120-A of the Indian Penal Code defines criminal conspiracy:

“When two or more persons agree to do, or cause to be done an illegal act, or an act which is not illegal by illegal means. Such an agreement is designated as criminal conspiracy: provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof merely incidental to that object”.¹

Section 120-B of the India Penal Code provides for punishment for criminal conspiracy: *“Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence. Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both”*.²

Section 391 of the Indian Penal Code defines Dacoity:

“When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of Persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt amount to five or more, every person so committing, attempting or aiding is said to commit dacoity”.³

Section 399 which gives *“punishment for the preparation to commit dacoity”*.⁴

Section 402 which gives *“punishment assembly for the aim of committing dacoity”*.⁵

Section 400 which gives *“punishment for the act of belonging to a ‘gang’ of persons associated for the aim of habitually committing dacoity”*.⁶

¹ Database of Legislation Section 120A

² Database of Legislation Section 120B

³ Section 391 in The Indian Penal Code

⁴ Section 399 in The Indian Penal Code

⁵ A Lawyers Reference: IPC Section 402 - Assembling for purpose of committing dacoity

⁶ Latest Laws: IPC Section 400. Punishment for belonging to gang of dacoits

Section 364-A which gives “*punishment kidnapping for ransom etc*”.⁷

Special laws

Terrorist and Disruptive Activities (prevention) Act (TADA)

TADA was reused by the police as this Act had a wide definition of Terrorist act and gang crimes could easily come under this as the act says “*Whoever with intent to overawe the government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or lethal weapons or poisons or noxious gases or other chemicals or by any other substances of a hazardous nature in such manner as to cause, or as is likely to cause death of, or destruction of, property or disruption of any supplies or service essential to the life of the community, or detains any person and threatens to kill or injure such person in order to compel the Government or any other person to do or abstain from doing any act, commits a terrorist act*”.⁸

There are some advantages which are given by this act to the police while they are dealing with Gangs and Gang crimes.

- 1) Gang crimes comes under the definition of Terrorist Act as per the definition of TADA.
- 2) Confession to be recorded by a police officer of the rank SP.
- 3) Investigation to go on beyond 180 days without putting any charge sheet and the accused remain in the custody.
- 4) No bail to be issued without the hearing of the public prosecutor and after the hearing the court can still come to a conclusion that no case was made out.

National Security Act 1980

The Act authorizes the Central Government, the State Government, or any of the officials authorized by the government to hold a person in order to prevent him from causing harm to others. As a result, it provides for state-sanctioned detention of an individual. The detention order is often given for a year. This system was put in place to guarantee that an individual does not act in a way that jeopardizes the country's security, jeopardizes the defense forces, or impedes ties with foreign countries. This order must be authorized by a board led by a judge from the High Court. This is an advisory board, and it must operate in a way that balances individual liberty and national interests. This Act is largely used to stop terrorists, anti-nationals, and gangsters who are planning to escape the country. The order's detention is an executive action with no right to a trial.

⁷ Section 364A in The Indian Penal Code

⁸ (THE) TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) ACT, 1987. (THE) Terrorist and Disruptive Activities (PREVENTION) ACT, 1987

Narcotics Drugs and Psychotropic Substance Act

The purpose of this Act is to combat the illegal trafficking of narcotic narcotics and psychotropic substances. Narcotic and psychotropic drugs pose a serious threat to people's health and well-being in any community. Gangs and individuals attack the national economy's foundations of impact. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act of 1988, for example, contains measures that allow for the imprisonment of those who deal in these substances. By making an order, the Act authorizes the Central Government, the State Government, or any of the officials authorized by the government to hold an individual in order to prevent him from doing any harm. This imprisonment is generally for one year, although it can be extended to two years under exceptional circumstances.

Ordinance passed by Maharashtra State Government

Mumbai is considered as a main hub of Gangs and Gang violence. Only 10 of the 294 charge sheets filed in Mumbai resulted in convictions, with 96 cases still pending. i.e., 10 convictions in 198 determined cases with all of these regulations, with 1998 being the high watermark in terms of gang crimes. The killings and kidnappings go on without any fear and gang crimes continues to thrive.

Looking at this condition of Maharashtra the state brought out an Ordinance called "*The Maharashtra control of Organised Crime Ordinance 1999*"⁹ in February 1999. This Ordinance tackles to most of the requirements and conditions necessary to fight against organized crimes.

The features of this Ordinance are:

1. Organised Gangs and Crimes have been redefined and are differentiated from other normal crimes so that they can be identified more clearly and are delt separately.
2. The Ordinance provides for minimum sentences of imprisonment and fines. Under this Ordinance, numerous offences are punishable by a minimum of 5 years in jail and a minimum fine of Rs. 1 lakh to Rs. 5 lakhs. Under this Ordinance possession of wealth and property taken through gang crimes is made punishable with deterrent punishments.
3. Authorization has been granted for the interception of wire, electronic, and spoken conversations.
4. Confession to be made to a police officer to an S.P. rank or above is admissible as an evidence.
5. Protection is being offered to the witness by keeping their identities as secret. Anyone found disclosing their identity should be punished by one year of imprisonment and a fine of 1000 rupees.

⁹ Wikipedia Maharashtra Control of Organised Crime Act

6. Convicted people's property is forfeited. During the trial, property might be attached.
7. Detention of the accused during the investigation has been extended to 180 days.
8. No grant of Bail without the consultation of public prosecutor without his clearance.
9. The court will assume that the accused committed the crime if illegal guns or other material is recovered from him or his fingerprints are found at the scene of the crime.
10. The court will assume that anybody who provides financial support to a gangster for the commission of a crime has committed the crime.
11. The act or omission of a public servant assisting and abetting organised crime is punishable by three years in jail and a fine.

Punjab, Delhi, and Kolkata have all enacted similar ordinances. This Ordinance looks to have sufficient teeth to allow the police to successfully combat organized crime.

Problems and suggestions related to gang crimes

To successfully deal with organized crime, the Criminal Justice System as a whole will have to approach the problem from a new perspective. Organized gang crimes have built-in safeguards to protect the perpetrators from punishment. The actual culprits, the gang commanders, are completely immune to any judicial punishment. This is due to the fact that, despite all of the proposals made by numerous experts, the type of evidence necessary to prosecute them simply cannot be collected by the police. Telephone tapping, photographs, listening devices, and other methods of gathering evidence against gang bosses have been suggested, but any such evidence may be shredded by a skilled lawyer in court. To convict a gang boss, it must be proven beyond a reasonable doubt that the offence was committed.

Unfortunately, Indian courts are more interested with evidence than with the truth. Their focus is on delivering judgments rather than dispensing justice. In the great majority of criminal cases, the evidence provided is insufficient to satisfy our courts' standards for establishing the guilt of the accused in accordance with natural justice principles and persuading the person sitting on judgement. As a result, even if the judge is certain that the accused did the crime, he would seek absolute cast iron proof to convict him. It is therefore critical to modify the mindset of the courts so that they are more justice oriented rather than evidence driven. Under these circumstances, the prospect of controlling organized crime through the legal system is nil. The police's only other option is to either abandon the fight against the gangs or join them and split the loot because looking the other way and sharing the wealth is considerably safer and more profitable. They go through the motions of being aggressively engaged for a week or two in the event of public anger or media pressure, and they arrest a few people. Then everything returns to normal, and the same scenario repeats itself.

Conclusion

Organized crime is extremely important problem within the country. Due to the sheer vastness and increasing dimensions of India, the resolution and legal mechanism to regulate it's the necessity of the hour. The states must adopt an establish a coordinating mechanism between all the states to stay in track of the gang crimes. Further, it's clear that the ball is within the judicial courts to make a decision whether they want to delay the justice by not making any direct law on gang crimes or they should come up with a permanent solution with the crimes done by gangs. Thus, fight against organized crime shouldn't be left alone only to police but to all the wings of the state should come up and fight it all together.



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