

CRIME IN INDIA

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I. CRIME IN INDIA

A. General

There were 61.8 million criminal cases reported in 1998 with a rate of 6366 per million population. 77.8% of cases investigated were chargesheeted in a court of law. There were 5.7 million cases pending in courts of which trail was completed in 15.8% of cases and of these, 37.4% cases ended in conviction. There are 41.6 police personnel per sq. kilometers and 1360 per million population. 634 police personnel were killed on duty during 1998.

B. Organized Crime

In India, organized crime is at its worst in the commercial capital of India, the city of Mumbai. The first well-known organized gang to emerge was that of Varadharaj Mudaliar in the early sixties. His illegal activities included illicit liquor, gold smuggling, gambling, extortion and contract murders. Three other gangs emerged shortly thereafter namely, Haji Mastan, Yusuf Patel and Karim Lala. Haji Mastan and Yusuf Patel resorted to gold smuggling whereas Karim Lala operated in drugs. During Emergency in 1975 when there was crackdown on the Mafia, new gangs emerged. Dawood Ibrahim, the most successful, came in conflict with the Pathan gangs of Alamzeb and Amirzada which led to bitter internecine gang warfare. The Pathan gangs were liquidated to leave the field free for Dawood Ibrahim. In 1985, there was increased police pressure which made Dawood Ibrahim to flee. In March 1993, Dawood Ibrahim was behind the

serial bomb blasts in Mumbai in which 257 persons died and 713 were maimed. Public and private property worth several millions of rupees was destroyed. Investigation revealed transnational character of the conspiracy the objective of which was to cripple the economy, create communal divide and spread terror in the commercial capital of India. Dawood Ibrahim, Tiger Memon and Mohammed Dosa are operating from Dubai. Their field of activity is to extort money from builders and film producers, mediate in monetary disputes, and undertake contract (Supari) killings. There have been instances of investment of the dirty money in business with the result that unsuspecting businessmen have fallen prey to the Mafia warfare. The killings of Thaquiuddin Wahid of East West Airlines in 1996, Sunil Khatau of Khatau Mills in 1994, Om Prakash Kukreja of Kukreja Builders in 1995 and Ramnath Payyade, a prominent hotelier in 1995 are grim reminders of Mafia in Mumbai.

The other gangs of Mumbai indulging in organized crime are those of Chhota Rajan (Drug Trafficking and Contract Killings), Arun Gawli (Contract Killings and Protection Money), Late Amar Naik (Protection Money) and Chhota Shakeel. State of Maharashtra has enacted Maharashtra Control of Organized Crime Act, 1999. Other forms of organized crime in India are kidnappings for ransom, gun-running, illicit trafficking in women and children, money laundering etc.

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Organized crime exists in other cities too, though not to the same extent as in Mumbai. Ahmedabad city has been the hotbed of liquor mafia because of Prohibition policy (Banning of liquor). The Mafia became synonymous with the name of Latif who started in mid seventies as a small time bootlegger and grew up to set up a 200 strong gang after eliminating rivals with intimidation, extortion, kidnappings and murders. He won municipal elections from five different constituencies with strong political patronage. He was killed by police in an encounter in 1997.

There are several gangs operating in Delhi from neighbouring State of Uttar Pradesh indulging in kidnapping for ransom. The going rate was around Rupees 10-50 millions. Land Mafia has political connections and indulges in land grabbing, intimidation, forcible vacation etc. Of late, the ganglords of Mumbai have started using Delhi as a place for hiding and transit. Chhota Rajan group is strengthening its base in Delhi.

Boom in construction activities in Bangalore city has provided fertile breeding for the underworld. Builders are used for laundering black money. Forcible vacation of old disputed buildings is a popular side business for the underworld. The local gangsters in the State of Karnataka have connections with the underworld of Mumbai. One of the Mumbai gang operating here is the Chhota Rajan gang.

II. ILLICIT DRUG TRAFFICKING

India is geographically situated between the countries of Golden Triangle and Golden Crescent and is a transit point for narcotic drugs produced in these regions to the West. In India opium is grown under official control of Narcotics Commissioner

in three states namely Uttar Pradesh, Rajasthan and Madhya Pradesh. It is exported to foreign countries for medicinal purposes. Indian opium is considered best in world. Turkey & Australia are the other licit opium growing countries in the world. A part of the licit opium enters the illicit market in different forms. Besides, there is illicit cultivation of opium in the hill tracks of some states. There is a moderately sized chemical industry producing precursor materials for lawful purposes. The illicit cultivation of opium as well as the precursor chemicals can be used for manufacture of heroin. However, there is a great price differential between India and the West. A Kilogram of Heroin that goes for a hundred thousand Rupees in India may fetch Rupees ten million in the international market. Illicit drug trade in India has centered around five major substances, namely heroin, hashish, opium, herbal cannabis and methaqualone. The Indo-Pak border has traditionally been most vulnerable to drug trafficking. Drugs trafficking through India consists of Hashish and Heroin from Pakistan, Hashish from Nepal, White Heroin from Myanmar and Heroin from Bangladesh. In the early eighties, the Border State of Punjab became affected with narcoterrorism with the smuggling of narcotic drugs and arms from across the border. This was also the time when drug Mafia emerged in Golden Crescent countries. There were a number of seizures of a mixed consignment of narcotic drugs and arms in Punjab. In 1996, 64 % of the heroin seized was from the Golden Crescent. Although opium production is strictly under Government control in India, illicit poppy plantations have been reported in some places.

Drug addiction in India has not assumed such a serious magnitude as in some of the western countries, but there are no grounds for complacency. There have been reports

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of drug use among the students of universities in Delhi, Mumbai, Calcutta and Chandigarh. The society does not agitate too much with consumption of Bhang, crushed leaves of the cannabis plant. It is customary in some places to consume Bhang on the popular festival of Holi. There is no such tolerance for charas or ganja which are derived from the same cannabis plant.

The Narcotic Drugs and Psychotropic Substances Act, 1985 deals with the offences of Drug trafficking. Section 21 is the penal provision which stipulates that whoever manufactures, possesses, sells, purchases, transports, imports inter-state, exports inter-state or uses any manufactured drug shall be punishable with Rigorous Imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine. In repeat offences, there is provision for death penalty too.

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 provides for detention of persons connected with illicit drug trafficking upto two years. An officer of the rank of Joint Secretary to the Government, specially empowered under the Act, can issue orders for detention of the any person (including a foreigner) with a view to preventing him from engaging in illicit traffic of narcotic drugs and psychotropic substances. On an average about 50 persons are detained under the Act every year.

There were 18273 cases registered under the NDPS Act in 1998 which was an increase of 31.8 % over 1988, but a decrease of 4.2 % over the quinquennial average of 1993-1997. 21386 persons were arrested under the NDPS Act of which major work was done by Narcotics Control Bureau, a

central agency for dealing with cases of drug trafficking. It has registered 11330 cases in 1998 of which 5809 cases were for Ganja, 2713 were for Heroin and 1771 cases were for Hashish. 62591 kgs of Ganja, 8478 kgs of Hashish and 597 kgs of Heroin were seized. During 1998, 12601 persons were arrested by Narcotics Control Bureau, which included 95 foreigners. 11612 persons were prosecuted in a court of law, 2782 persons were convicted and 5712 persons were acquitted. 16.9 % of drug cases pending in trial were disposed by the courts during 1998. Property worth Rupees 23.85 million was forfeited and worth Rupees 30.64 million was frozen. In a recent case, the Government of Orissa (State Government) confiscated property worth over Rupees thirty million of drug lord Mohammed Azad Parvez of Balasore, Orissa which included an ice factory, a saw mill, a market complex, a cloth store, three residential buildings and three acres of land. The accused was apprehended by Narcotics Control Bureau in 1998 on charge of heroin trafficking alongwith his wife and associates. Financial investigation was conducted by the agency into the movable and immovable properties under Chapter V-A of the NDPS Act, which led to confiscation.

India is signatory to three UN Conventions on Narcotics Drugs and Psychotropic Substances held in 1961, 1971 and 1988. India is a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. Government of India has entered into bilateral agreement and Memorandum of Understanding with a number of countries. The countries with which India has signed bilateral agreement for drug control are USA, UK, Afghanistan, Mauritius, Russian Federation, Myanmar, Zambia, UAE, Iran, Egypt, Bulgaria, Romania, Mauritius. India has also signed a special bilateral agreement with

Pakistan in this regard.

III. ILLEGAL FIREARMS TRAFFICKING

Small arms used in guerilla warfare in some parts of the world are now available at cheap cost in other parts of the world. According to an estimate, there could be 750 million small weapons for such arms trafficking. India has a long coastline of about 7500 kms. and a long border with Pakistan, Nepal, Bhutan, China, Myanmar and Bangladesh. Border Security Force guards the borders, but it is not possible to have presence across each and every inch of the border. Customs Department has also seized illicit arms in significant quantities.

In India, states of Punjab and Jammu & Kashmir have been particularly vulnerable to arms trafficking across the border. More than 7500 pistols and revolvers, 2500 magazines and 28000 rounds of ammunition have been seized from the state of Jammu and Kashmir. During 1997, the Border Security Force seized several AK series rifles, 7 heavy machine guns, 204 pistols/revolvers, 18 rocket launchers, 54 other type of rifles and ammunition from Punjab and Jammu & Kashmir.

On 17th February 1996, Delhi police recovered 361 pistols of 0.30 caliber with the inscription "Made in China by Norinco", 728 magazines and 3738 live rounds in a cavity in the undercarriage of a caravan bus. A Swiss national and an Iranian living in Pakistan since 1981 were detained. Investigation disclosed that this infact was the second consignment, the first one having been successfully transported in 1995. 22 persons including five foreign nationals have been prosecuted in the court of law in this case.

Delhi Police caught five fugitive members of the Chhota Rajan gang including an Assam Rifles jawan and two Nepali nationals who were planning to set up a major arms and money distribution base in Delhi.

In 1993, a consignment of AK-56 rifles, magazines, live rounds and hand grenades were sent from a Gulf country to land at the coast of Dighi Jetti in the State of Gujarat. Subsequently huge quantity of arms, ammunition and explosives (RDX) were smuggled by sea route at Shekhadi in District Raigad. These were used for Bomb blasts in Mumbai on 12th March 1993, which caused terror, widespread damage, and loss of 257 lives and maiming of 713 persons. During investigation, some of the arms recovered included 62 AK-56 rifles with 280 magazines and 38,888 rounds, 479 hand grenades, 12 pistols of 9 mm make with ammunition, 1100 electric detonators, 2313 kgs. of RDX and many other weapons. In the state of Madhya Pradesh in central India, 24 AK-56 rifles, 5250 cartridges, 81 magazines and 27 hand grenades were recovered by police on 4th November 1995.

Hijacking of an Indian Airlines flight on the 24th December 1999 in Kandahar was the latest incident of the use of illegal weapons in the hands of terrorists. After investigation, the CBI filed a chargesheet in the court of law against five hijackers and their accomplices.

A sensational case called Purulia arms drop case was an example of illicit arms trafficking by air. On 17th December 1996, an Antonov 26 aircraft dropped over 300 AK 47/56 rifles and 20,545 rounds of ammunition, dragnov sniper weapons, rocket launchers and night vision devices in Purulia village in West Bengal. The aircraft was bought from Latvia for US\$2 million and chartered by a Hong Kong

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registered company Carol Airlines. Payments were made mostly from foreign bank accounts. The aircraft picked up consignment of arms from Bulgaria using end-users certificate issued by a neighbouring country. The arms were airdropped over Purulia in the state of West Bengal.

This case was investigated by the Central Bureau of Investigation and chargesheeted in the City Sessions Court, Calcutta. After trial, the court found the accused persons guilty of offences under Indian Penal Code, Explosive Substances Act, Arms Act, Explosives Act, and the Aircraft Act and sentenced Mr. Peter James Gifran Van Kalkstein Bleach (British National), Mr. Alexander Klichine, Mr. Igor Moskvitine, Oleg Gaidash, Evgueni Antimenko, Mr. Igor Timmerman (all Latvian nationals) and Vinay Kumar Singh (Indian national) to various terms of rigorous imprisonment on 2nd February 2000. The five Latvians were released on 22nd July 2000 when their sentences were commuted by the President of India.

Illicit trafficking in arms is punishable under Arms Act, 1959. The incidence of the Arms Act cases showed an increase of 20.8 % over the decade 1988-1998. In 1998, 63518 cases were reported which showed a decrease of 4.2% over the quinquennial average of 1993-1997 and 14.3 % over 1997. 66868 persons were arrested for violation of the Arms Act. 19.3 % of cases pending trial were disposed by the courts in 1998.

IV. HUMAN (WOMEN AND CHILDREN TRAFFICKING)

Commercial sex in India is a 400000 million Rupees annual business. Thirty percent of the sex workers are children who earn about Rupees 110000 million every year. There could be about 0.3 million child sex workers in India of which 0.1 million

could be less than 18 years of age. 15% of the sex workers are in the six metropolitan cities of Mumbai, Calcutta, Delhi, Chennai, Bangalore and Hyderabad. Delhi receives sex workers from 70 districts, Mumbai from 40, Bangalore from 10 and Calcutta from 11 districts. Some sex workers have also come from Nepal and Bangladesh. Mumbai and Goa have had incidence of paedophilic offences too. These places draw a number of foreign tourists. Fear of AIDS has contributed to the involvement of minor girls in the business because demand for virgins has increased exponentially with the fear of infection. There is also a myth that young girls in their pre-puberty can not be infested with AIDS. A number of young girls from southern India have been sent to the Arab countries. There have also been reports that India has served as a transit point for trafficking of young virgins from Nepal, Myanmar and Bangladesh to the Middle East, mostly Dubai.

Suppression of Immoral Traffic in Women and Girls Act, 1956 was the main Act to deal with these offences. This Act was amended in 1978 and was reenacted under the name of 'Immoral Traffic (Prevention) Act in 1986' to rectify some lacunae in the older Act. Punishment could be imprisonment for a period of 7-10 years or for life. Indian Penal Code stipulates that sexual intercourse with or without her consent with a girl less than 16 years of age amounts to rape punishable with imprisonment for life.

National Commission for Women is a body that reviews laws, conducts inquiries for redressal of complaints, undertakes promotional research for policies, advises the Government and ensures custodial justice for women. Section 10 (4) of National Commission for Women Act, 1992 gives the Commission powers of a Civil Court. The National Commission for

Women has formed an Expert Committee and has formulated a ten year National Plan of Action (1997-2006) to co-ordinate with the ninth and tenth Indian Five Year Plans. There were 8695 cases reported under the Immoral Traffic (Prevention) Act in 1998.

The number of cases showed a steadily declining trend upto 1996 but increased by 4.5 % over 1997. 15363 cases of kidnapping of women and girls were reported in 1998, which were up by 4.8 % over the previous year. 146 cases of importation of girls were

reported in 1998 compared to 78 cases in the previous year showing an increase of 87.2 %. 171 cases of procurement of minor girls were reported in 1998 as against 87 in 1997 but 206 in 1994. 11 cases of selling of minor girls for prostitution, 13 cases of buying minor girls for prostitution and 699 cases of kidnapping of minor girls were reported. 17247 male and 1217 female offenders were arrested for kidnapping and abduction of women and girls. 12879 persons (11617 males and 1262 females) were arrested under the Immoral Traffic (Prevention) Act.

V. CARD FRAUD

Some of the popular credit cards in India are as given below:

Card name	Type	Annual Fee	Interest Rate	Max.Credit
American Express Gold	International	Rs. 2400	2.50 %	51 days
Bank of Baroda	Domestic	100	3.00 %	51 days
Citibank Silver/ Classic	International	750	2.50 %	45 days
Stanchart/ Gold	International	2000	2.50 %	52 days
HSBC Gold	Domestic	1500	2.50 %	48 days
Stan Chart/ Executive	International	1200	2.50 %	50 days
ANZ Grindlays / Gold	International	2000	2.9 %	45 days
SBI Card	Domestic	500	2.50 %	50 days

There are 8000 million Rupees worth of Master Cards, 7000 million Rupees worth of VISA cards in circulation. Merchant/ service establishments are about 95000. In India, credit card fraud losses have occurred as per the following categories:

- (i) Counterfeit 32%
- (ii) Lost cards 30%
- (iii) Stolen cards 20%
- (iv) Multiple imprint 5%
- (v) Mail/Tele orders 4%
- (vi) Others 9%

VI. MONEY LAUNDERING

In India, money laundering is indulged in mainly by corporate houses to evade taxes unlike in some other countries where

it is mostly related to illicit drug trafficking. Non-resident Indians have been given some special banking facilities. These facilities are misused to bring back the money as white money. For example, a portfolio account is opened in a foreign country and the money is laundered back to be invested in the stock markets. Another *modus operandi* is to launder the money through bogus exports. The conversion of black money is done by over-invoicing of the products to countries like Russia and the former Soviet Republic countries. Some shell companies are set up to issue bill or invoices accompanied by bogus transport receipts in order to obtain funds against these documents from bank/ financial institutions and then divert major

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part of such proceeds by issue of cheques in the names of non-existent front companies of cheque discounters. The cheque discounters then handover cash immediately to the party after deduction of their commission. The cheque discounters are generally associated with commodities market where fake transactions in commodities can largely go unnoticed. The cheque discounters also issue fake Letters of Credit and false bills. The cheque discounters file income tax returns in which the commission is shown as taxable income.

In India, tackling problem of laundered money is correlated with the problem of tackling black money. There is a wide gap between the number of persons with taxable income and the numbers who actually pay income tax. This is despite the requirement of compulsory filing of income tax returns by any one having taxable income. Benami Transactions (Prohibition) Act makes the pseudo owner the real owner of the benami property. Tax raids and seizures, penalties and prosecution have been some of the measures to check black money. However, success has not been satisfactory. Certain special measures such as Voluntary Disclosure Scheme under which the evader discloses income on promise of concessional rates and immunity from penalties and prosecution. There have been other schemes like issue of Special Bearer Bonds, Special Levy on deposits in the National Housing Bank, waiver of penalty and interest, Foreign Remittance Scheme in 1991-92, India Development Bonds, and Gold Bond Scheme of 1992.

Money laundering had so far been dealt with under the Foreign Exchange Regulation Act, 1973, but with effect from June, 2000, FERA has been replaced by Foreign Exchange Maintenance Act and a Bill to enact money laundering law to be

named The Prevention of Money Laundering Bill has been introduced in the Parliament by the Government of India. Money laundering has been proposed to be a cognizable crime punishable with rigorous imprisonment of 3-7 years which could be extended to 10 years and a fine upto Rupees 0.5 million. The acquisition, possession or owning of money, movable and immovable assets, from crime, especially drugs and narcotics crimes, would tantamount to money laundering. Concealment of information on proceeds or gains from crime made within India or abroad is an offence too. An adjudicating authority is proposed which would have powers to confiscate properties of money launderers. An administrator may be appointed to manage the confiscated assets. An appellate tribunal is proposed to be set up with three members to hear appeals from the orders of the adjudicating authority. The rulings of the adjudicating authority are thus not contestable in the local courts. Financial institutions are expected to maintain transaction records and furnish these to the adjudicating authority. Failure to do so is punishable too.

The alternative remittance system through non-banking channels is called Hawala in India. It is based on trust in which the remitter pays the Hawala dealer in foreign country and the associate of the Hawala dealer pays the receiver in the home country. Since Hawala dealings are illegal, the transactions take place through word of mouth or other non-conventional means of communication. Since there is no audit, no control and no check, anonymity of the customers is maintained. There are hawala dealers in India and wherever people from Indian sub-continent are settled. Hawala routes are used both by ordinary people as well as drug traffickers, terrorists and unscrupulous businessmen.

In one of the cases of money laundering dealt with by the Central Bureau of Investigation, an organized group of the Hawala dealers operating from London and Dubai used to receive remittances from foreign banks for transferring to India. A telephonic message in coded words would be passed to agents in India to pay money in Indian rupees. The remittances so received by the above mentioned persons in dollars or Pound Sterling at London and Dubai were used for purchase of gold, drugs, arms, ammunitions and explosives through the underworld. The arms, ammunitions and explosives were used to be smuggled into India and sold to various criminal/terrorist groups while the drug used to be distributed to the traffickers.

Electronic Payment Technologies are coming to India and these are going to pose new challenges to Law Enforcement Agencies. The anonymity in transactions is bound to promote money laundering and other offences. The money launderer finds the electronic money easy to convert and transfer, and safe to store. The format of legal framework, code of conduct of business and self-regulation regarding e-commerce is under examination.

VII. MAJOR TRANSNATIONAL ORGANIZED CRIMINAL GROUPS

A. Dawood Ibrahim Gang

Dawood Ibrahim group is the most dreaded mafia gang with countrywide network and foreign connections. He has stationed himself in Dubai since 1985 and has indulged in drug and arms trafficking, smuggling, extortion and contract killings. His brother Anees Ibrahim looks after smuggling, drugs and contract killings; Noora looks after film financing and extortion; and Iqbal is incharge of the legitimate business which includes stock broking in Hong Kong. Anees is in legitimate business too managing Mohd.

Anees Trading Company in Dubai. His business interests in India are shopping centres, hotels, airlines and travel agencies in Mumbai with an annual turnover of about Rupees 20000 million. Extradition of offenders from Dubai has not been possible since there is no extradition treaty with Dubai. Moreover, some of these offenders have strong social links with politicians and other top personalities in Dubai.

B. Chhota Rajan Gang

Chhota Rajan was a member of Dawood gang but parted company after the 1993 serial bomb blasts in Mumbai. He raised his own gang in 1994-95 which is reported to have a membership of 800 persons today. Chhota Rajan himself is in a foreign country to avoid elimination from Dawood gang. His gang indulges in drug trafficking and contract killings. In collaboration with another local gang, he organized killing of a trusted leader of Dawood Ibrahim gang, Mr. Sunil Samant, in Dubai in 1995.

C. Babloo Shrivastava Gang

“Om Prakash Shrivastava @ Babloo Shrivastava” is facing 41 cases of murder, kidnappings for ransom etc. He was arrested in Singapore in April 1995 on the basis of a Red Corner Notice issued by INTERPOL and extradited to India in August 1995. He has since been in jail but his gang has continued to indulge in organized kidnappings and killings. The ransom amount is received by them in foreign countries through hawala (alternative non-banking remittance channel). The power of this gang has dwindled after his arrest.

VIII. ELECTRONIC SURVEILLANCE

The Government of India has made a legal provision in the licensing conditions formulated alongwith the cellular

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operators to make it mandatory on the part of the cellular companies to provide parallel monitoring facilities for all communications being received and emanating from a particular mobile set. Cellular operators operating in four metropolitan cities of Mumbai, Calcutta, Delhi and Chennai have made this facility available whereas others are bound to provide this facility within three years of the initiation of the mobile network.

Interception of messages, transmitted or received by any telegraph is covered under sub-section 2 of section 5 of the Indian Telegraphic Act - 1885 (13/85) which states:

"On occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States of public order or for preventing incitement to commission of an offence, for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order."

The issue of the constitutional validity of this section came under scrutiny of the Supreme Court of India in a writ petition filed by the People's Union for Civil Liberties. The Supreme Court passed a judgement on 18th December, 1996, upholding the constitutional validity of the

Act but laid down certain guidelines prescribing that the order will be issued by the Home Secretaries at the Centre and in the States. A copy of the order should be sent to the Review Committee within a week. The order will cease to have an effect after two months unless renewed. The Review Committee will review the order passed by the authority concerned within two months of the passing of the order. The total period shall not exceed six months.

IX. IMMUNITY

There is provision in Section 306 of the Criminal Procedure Code to obtain evidence of an accomplice by tender of pardon subject to his making full and true disclosure of facts and circumstances concerning an offence. This provision is applicable in offences punishable with imprisonment of seven years or more.

X. WITNESS AND VICTIM PROTECTION PROGRAMME

There is no legislation at present for protection of witnesses and the members of their families. Section 171 of the Criminal Procedure Code prohibits the police officers to carry the complainant or witness to court. The intention of such legislation appears to be to ensure independence of evidence given by the witnesses without any influence of police.

In cases where it is important to keep the trial proceedings away from public gaze, resort could be made to the provisions of in-camera trial at the desire of the parties concerned or the court itself. In-camera trial is permitted under section 237(2) of Criminal Procedure Code. Its validity has been upheld by the Supreme Court of India in the so-called Kartar Singh case.

XII. ASSET FORFEITURE SYSTEM

The following provisions for forfeiture of proceeds of crime exist:

- (i) Criminal Law Amendment Ordinance (1944)
- (ii) Sections 111 and 112 of Customs Act (1964)
- (iii) Foreign Exchange Maintenance Act
- (iv) Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act (1976): *“This Act applies to persons convicted under the Sea Customs Act 1878, Custom Act 1962 or detained under Conservation of Foreign Exchange and Prevention of Smuggling Act. The main purpose of the Act is to forfeit the illegally acquired properties of such smugglers and foreign exchange manipulators in whosoever’s name these may have been kept. It shall not be lawful for any person to whom the Act applies to hold any illegally acquired property either by himself or through any other person on his behalf. Any property so held is liable to be forfeited to the Central Government. Section 6 provides for issuance of show cause notice of forfeiture and section 7 provides for passing of final orders of forfeiture. Under section 8, burden of proving that any property specified in the notice is not illegally acquired property shall be on the person affected and under section 11, transfer of properties specified in the notice can be declared null and void.”*
- (v) Section 68 of Narcotic Drugs and Psychotropic Substances Act (1985)
- (vi) Sections 102 and 452 of Criminal Procedure Code

XIII. INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

India has entered into Mutual Legal Assistance Agreements / Treaties in criminal matters with United Kingdom (1992) (Agreement concerning the investigation and prosecution of crime and the tracing, restraint and confiscation of the proceeds and instrument of crime, including currency transfers and terrorist funds), Canada (1994), France (1998), Russia (1993), Kyrgyzstan, Kazakhstan (all Mutual Legal Assistance Agreements in Criminal Matters), Egypt, China, Romania, Bulgaria and Oman. Mutual Legal Assistance Treaty has been negotiated with United Arab Emirates but is yet to be ratified. Negotiations are going on for signing of treaty on Mutual Legal Assistance in Criminal Matters with countries such as Australia, Norway, Mongolia, Turkmenistan, Bulgaria, Hong Ling, Ukraine, Uzbekistan and Azerbaijan.

India has extradition treaty with Nepal, Belgium, Canada, Netherlands, United Kingdom, United States of America, Switzerland, Bhutan and Hong Kong. Extradition Treaty is in various stages with Russia, Germany, UAE, Bulgaria, Thailand, France, Ukraine, Romania, Oman, Spain, Kazhakastan, Greece, Egypt, Malaysia and Mauritius. India has extradition arrangements with Sweden, Tanzania, Australia, Singapore, Sri Lanka, Papua New Guinea, Fiji and Thailand.

Section 166 Criminal Procedure Code deals with reciprocal arrangements regarding processes. A court in India can send summons or warrants in duplicate to a court in a foreign country for service or execution and the said foreign court will cause the service or execution. Section 166-A of Criminal Procedure Code deals with letter of request to the competent authority

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for investigation in foreign country. A criminal court in India may issue a letter of request to a court or a competent authority to examine orally any person supposed to be acquainted with facts and circumstances of the case, to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing. Section 166-B deals with letter of request from a country or place outside India to a court or an authority for investigation in India. Under its provision, the Central Government may forward a letter of request received from a foreign country to a magistrate who may summon such person and record his statement. The Central Government can also send the letter to a police officer who will investigate into the offence.

indiscriminate violence involving death or serious injury, or serious damage to property.

Extradition Act, 1962 deals with extradition of fugitive criminals. Extradition can be made if the offence is an extradition offence i.e. an offence provided for in the extradition treaty with a State which is a treaty state and for other countries, an offence which is specified under the Second Schedule. Under this schedule, there are 18 types of offences.

India is a signatory to the South Asia Association for Regional Cooperation (SAARC) Convention for Suppression of Terrorism. SAARC countries consist of India, Pakistan, Bangladesh, Nepal, Sri Lanka, Maldives and Bhutan. Pursuant to the SAARC Convention, India enacted the SAARC Convention (Suppression of Terrorism) Act. Extraditable crimes include unlawful seizure of aircraft; unlawful acts against the safety of civil aviation; crimes against internationally protected persons; common law offences like murder, kidnapping, hostage taking; and offences relating to firearms, weapons, explosives and dangerous substances etc. when used as a means to perpetrate