



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

PROGRAMME: B.A., LL.B (HONS) FYIC

DETAILS OF COURSE OFFERED

ODD SEMESTER (VII) – ACADEMIC YEAR

| SL. NO | COURSE CODE | COURSE TITLE | L | T | P | CR | CH |
|--------|---|-------------------------------------|------------------|---|------------------|----|----|
| 1 | BL706.7, CRIMINAL LAW, SPECIALIZATION GROUP PAPER-II | FINANCIAL & SYSTEMIC FRAUD | 4 PER WEEK | | 1 PER WEEK | 4 | |

- A. CODE AND TITLE OF THE COURSE: BL706.7 CRIMINAL LAW ,
FINANCIAL & SYSTEMIC FRAUD
- B. COURSE CREDIT: 4 (TOTAL MARKS : 200)
- C. MEDIUM OF INSTRUCTION: ENGLISH
- D. COURSE COMPILED BY: MS. NIKITA BAROOAH
- E. COURSE INSTRUCTOR: MS. NIKITA BAROOAH

1. COURSE OBJECTIVES

Serious financial frauds affect society and economy in harmful ways, belittling the common man's trust in the system. Financial frauds take place when money or assets are taken from someone through deceptive and criminal means and systemic fraud refers to those situations in which fraud is endemic and entrenched in the system. These frauds include Corporate frauds, banking frauds, money-laundering, corruption among others and have been increasing in India at an alarming rate with grave consequences. Over the years there has been a significant change in the types of frauds affecting the banking industry with the introduction of new technology and channel for customers. Frauds in the banking sector are one of the key concerns not just for the regulator, but also the government and the banking industry as a whole. Tax havens and syndicates run shell companies which help fraudsters to escape the clutches of the law. There are several types of economic crimes and the focus of this paper is on Financial and Systemic frauds in India. Studying these crimes is important as it helps criminologists, students, researchers, members of the public and policy makers to gain more insight into the trends of criminal activity and offender styles and to strategize effective prevention and intervention systems to tackle and prevent these crimes. Further, understanding the underlying dynamics of different financial and systemic frauds can help in developing responsive strategies and policies based on those dynamics and understand the lacunas in the laws addressing these crimes.

The objectives of the course are:

- i. To familiarise the students with the concept of Financial and Systemic Frauds.
- ii. To study the impact of Financial and Systemic frauds on the society.
- iii. To develop a comprehensive understanding of the various legislations dealing with Financial and Systemic Frauds in India.
- iv. To understand the lacunas in the laws addressing these crimes Financial and Systemic Frauds.
- v. To analyse the underlying causes contributing to increasing trend of these crimes in India to identify the existing financial crimes and the new crimes emerging in the contemporary world.
- vi. To enable the students to understand Financial and Systemic Frauds and the legal control mechanisms to combat such offences thereby making them skilled in interpreting the provisions and applying them in cases.

- vii. To inculcate critical thinking and awareness pertaining to key issues ^[1]_{SEP} concerning Financial and Systemic Frauds.

2. TEACHING METHODOLOGY

The teaching methodology shall comprise of Lecture method along with alternative strategies such as Assignments, Group Discussions, Seminars etc. This aims at involving the students in class discussions on various legislations, law commission reports, specific economic offences , punishments, legal principles and precedents. Assignments shall be in the Written or Presentation mode and they will be allotted in advance to the students.

3. COURSE LEARNING OUTCOMES

At the completion of the course it is expected that the students shall :

1. Understand the concept of Financial and Systemic Frauds and its impact on the society.
2. To understand the various legislations in India addressing these types of offences.
3. Acquire the skill of in-depth analytical research with respect to Financial and Systemic Frauds and the various legislations dealing with such crimes in order to publish articles.
4. Be able to interpret the provisions of law and apply them to real life situations so that they can enhance their skills for building a career in criminal litigation .
5. Understand the offences and the legal control mechanisms to combat such offences thereby making them skilled in interpreting the provisions and applying them in criminal cases.
6. To find the lacunae prevailing in the present laws enacted in India to prevent such crimes.
7. Develop critical thinking and articulate opinions on the significant, controversial and various legislations dealing with such offences in India.

4. COURSE EVALUATION METHOD

The course shall be assessed for 200 marks. The Evaluation scheme would be as follows:

| Sl. No. | Marks Distribution | |
|---------|----------------------------|-----------|
| 1 | Seminar Paper | 60 marks |
| 2 | Seminar Paper presentation | 30 marks |
| 3 | Moot Memorial | 50 marks |
| 4 | Moot Oral | 50 marks |
| 5 | Attendance in class | 10 marks |
| | Total | 200 marks |

5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

MODULE I

Financial Crimes

- Socio-Economic Offences
- Santhanam Committee Report
- White Collar crimes
- Economic Crimes: Report of Committee on Reforms of Criminal Justice System (2003)
- Types of Financial Frauds
- Corporate Frauds and Banking Frauds
- Enforcement Agencies : Police; Serious Fraud Investigation Office; CBI.

MODULE II

Regulatory provisions and legislations governing Financial frauds in India

- **Prevention of Money Laundering Act, 2002**
- **The Fugitive Economic Offenders Act, 2018**
 - Objectives of the Acts

- Definitions
- Presumptions
- Burden of Proof
- Offences
- Punishment
- Enforcement Authorities
- Adjudication
- Appeal
- Scheduled Offences.

MODULE II

Prosecution, punishment and penalties for Financial Frauds under

- Prevention of Corruption Act, 1988.
- The Essential Commodities Act, 1955.
- Income Tax Act, 1961.
- Companies Act 2013.
- Securities and Exchange Board of India Act, 1992.
- Foreign Exchange Management Act, 1999.

MODULE IV

Major Corporate and Banking Frauds

- Enron Scandal (2001)
- Bernard Madoff (2008)
- Saradha Group Financial Scam (2013)
- Coalgate Scam (2012)
- Commonwealth games Scam (2010)
- Augusta Westland VVIP Helicopters Bribery Scandal (2013)
- Satyam Scam (2009)
- 2G Spectrum Scam (2008)

- Telgi Scam (2002)
- Bihar Fodder Scam (1996)
- Hawala Scandal (1996)
- Harshad Mehta & Ketan Parekh Stock Market Scam (1992)
- Global Trust Bank Scam
- Bofors Scam
- Mining Scam of Odisha
- Indian Black Money Scam
- Wakf Board Land Scam
- Adarsh Housing Society Scam
- Andhra Pradesh Emmar Scam
- Punjab National Bank Scam
- Kingfisher Airlines
- DHFL

Students are required to keep abreast with the latest financial frauds and scams around in India and other countries in the world.

6. PRESCRIBED READINGS

- Debashish Basu, Sucheta Dalal , *The Scam: From Harshad Mehta To Ketan Parekh Also Includes JPC Fiasco & Global Trust Bank Scam*, (KenSource; 11th Edition 2016).
- Furquan Moharkan, *The Banker who Crushed his Diamonds: The Yes Bank Story*, (India Penguin, 2021)
- Edwin H. Sutherland, *White Collar Crime – The Uncut Version* (Yale University press, Reprint. 1985)
- Edwin H. Sutherland, *The Professional Theft*, (Chicago: University of Chicago Press, 1937).
- J. Kelly Strader, *Understanding White Collar Crime*, (Lexis Nexis, 3rd ed. 2011).
- Howard E. Williams, *Investigating White Collar Crime*, (Charles C. Thomas, 2nd ed.)

- Nuzhat Parveen Khan, *Law Relating to Socio-Economic Offences*, (Universal Law Publishing, 2015)
- J. Kelly Strader, *Understanding White Collar Crime*, (Lexis Nexis, 3rd ed. 2011).
- Howard E. Williams, *Investigating White Collar Crime*, (2nd ed. Charles C. Thomas)
- Mahesh Chandra, *Socio-Economics Crimes*, (N.M.Tripathi Private Ltd., Bombay 1979)
- J.S.P. Singh, *Socio- Economic Offences*, (New Era Law Publication, Rep.2018)
- Seth and Capoor's, *Anti- Corruption Laws with Commentaries on Prevention of Corruption Act*, (Law Publishers (India) Pvt Ltd. 2018)
- Simon Obidiaro, *Transnational Corruption and Corporations: Regulating Bribery through Corporate Liability*, (Taylor & Francis Group, London & New York ,2016
- M. C. Mehanathan, *Law on Prevention of Money Laundering in India: Commentary on Prevention of Money-laundering Act, 2002 : Related Regulations, International Conventions and Provisions of NDPS Act, 1985*, (Lexis Nexis, 1st edn. Rep.2015)
- Shailendra Kumar, *It's Raining Black! Chronicles of Black Money, Tax Havens & Policy Response*, (Lexis Nexis, 1st edn. 2015)
- Jonathan E. Turner, *Money Laundering prevention: deterring, detecting and resolving financial fraud*, John Wiley& sons, Inc. New Jersey (2011)
- Ernesto Savona, *Responding to Money Laundering: International perspectives*, (Harwood Academic Publishers, 1997)
- William C. Gilmore, "*Money laundering: the international aspect*", David Hume Institute, Money Laundering; Hume Papers on Public Policy, vol. 1, No. 2; (Edinburgh University Press, Edinburgh 1993)
- Howard Schilit and Jeremy Perler, *Financial Shenanigans: How to Detect Accounting Gimmicks and Fraud in Financial Reports*, (New York: McGraw-Hill, 3rd ed. 2010)
- Ed Chancellor, *Devil Take the Hindmost*. New York: Plume, 2000
- Peter Gottschalk, *Policing Financial Crime: Intelligence Strategy Implementation*, Universal Publishers, 2009
- Peter Gottschalk, *White Collar Crime: Detection, Prevention and Strategy in Business Enterprises*, Universal Publishers, 2009.
- H.S. Gour, *Penal Law of India (As Amended by criminal Law Amendment Act, 2018)*, Vol II (Law Publishers(India) Pvt. Ltd , Allahabad, 11th edn 2018)

NOTE: Students are required to read the latest journals, periodicals, reports and articles to keep abreast with the developments in this area of law.

Statutes

- The Indian Penal Code, 1860
- The Code of Criminal Procedure, 1973
- The Food Safety and Standards Act, 2006
- The Essential Commodities Act, 1955
- Prevention of Corruption Act, 1988.
- Foreign Exchange Management Act, 1999.
- Income-Tax Act, 1961
- Drugs and Cosmetics Act, 1940
- Foreign Exchange Management Act, 1999
- Prevention of Money Laundering Act, 2002
- The Fugitive Economic Offenders Act, 2018
- Companies Act, 1960
- Benami Transactions (Prohibition) Act, 1988
- The Prize Chits and Money Circulation Schemes (Banning) Act, 1978
- Chit Funds Act, 1982

Law Commission of India Reports:

- 29th Report (1966) on “Proposal to include certain Social and Economic Offences in the Indian Penal Code”.
- 47th Report (1972) on “The Trial and Punishment of Social and Economic Offences.”
- Santhanam Committee Report of 1964.

Cases:

Sakhawant Ali v. State of Orissa AIR 1955 SC 166.

Centre for Public Interest Litigation v. Union of India and Ors AIR 2014 SC 49.

Swami Achyutanand Tirth & Ors. v. Union of India & Ors. (2016) 9 SCC 699.

Hoechst Pharmaceuticals Ltd. & Ors v. State Of Bihar & Ors 1983 AIR SC 1019.

Suraj Pal Sahu v. State of Maharashtra & Ors 1986 AIR SC 2177.

Shambu Dayal Agarwal v. State of West Bengal & Anr (1990) 3 SCC 549.

Atiabari Tea Co. Ltd v. State of Assam and Ors AIR 1961 SC 232.

Dashrath Singh Chauhan v. Central Bureau of Investigation Criminal Appeal No. 1276 of 2010 (SC).

Y.S Jagan Mohan Reddy v. Central Bureau of Investigation AIR 2014 SC 1933.

State of Punjab v. Karnail Singh AIR 2009 SC 372.

Dr. Subhramaniam Swamy v. Dr. Manmohan Singh and Anr. AIR 2012 SC 1185.

Soma Chakravarthy v. State 2007 (5) SCC 403.

Kanwarjit Singh Kakkar v. State of Punjab And Anr (2011) 6 SCR 895.

State of Maharashtra v. Dyaneshwar Laxaman Rao Wankhede (2010) 2 SC C (Cri.) 385.

C.M. Girish Babu v. CBI, Cochin, High Court of Kerala (2009) 3 SCC 779 .

Pareena Swarup v. Union of India (2008) 14 SCC 107.

Union of India vs. Hassan Ali Khan & Anr. (2011) 10 SCC 235.

Directorate of Enforcement v. Hari Narayan Rai (Jharkhand) W.P. (Cr.) No. 325 of 2010.

Abdul Karim Telgi & Anr V. Union of India, through CBI 2014(2) JLJ 136.

Directorate of Enforcement Vs. Arun Kumar Mishra (2015 SCC OnLine Del 8658).

Uday Shankar Awasthi Vs State of UP & Anr (2013) 2 SCC 435.

Attorney General for India v. Amratlal Prajivandas (1994)5 SCC 54.

Gautam Kundu vs Manoj Kumar Assistant Director (SC) Criminal Appeal No. 1706 of 2015

P. Chidambaram vs Directorate of Enforcement (SC) Criminal Appeal No. 1340 of 2019.