

Nabbing absconders: on Fugitive Economic Offenders Ordinance

Last Saturday, within hours of Prime Minister Narendra Modi's return to Delhi from an overseas tour, the Union Cabinet approved the promulgation of the [Fugitive Economic Offenders Ordinance, 2018](#). A fugitive is defined as someone who has left India to avoid criminal prosecution or who is already overseas and refuses to return to face the law. In recent weeks, banks have been asked to mandatorily collect passport details of those borrowing above 50 crore, and the passports of some wilful defaulters are being impounded too. Given that the proposed legislation was announced well over a year ago, the trigger for this belated haste is easy to see. While presenting Budget 2017-18, the Finance Minister referred to instances of offenders fleeing the country to escape its justice system, and said the government was looking at a law to confiscate the assets of such persons till they return to face the law. By September, the Finance and Law Ministries had agreed on a draft Bill, but it was only introduced in the Lok Sabha this March, in a session that proved to be a washout. The government is no doubt conscious of the clamour for tough action on absconding offenders, particularly those involved in financial misdemeanours and wilful defaulters of bank loans.

President promulgates Fugitive Economic Offenders Ordinance

There remains great consternation over liquor baron Vijay Mallya's flight from the country, with his now-defunct Kingfisher Airlines having run up outstanding loans of over 9,000 crore from Indian banks. Both Mr. Mallya and former Indian Premier League commissioner Lalit Modi, who faces an Enforcement Directorate probe for foreign exchange law violations, are in Britain. They left Indian shores for safer climes under the NDA government's watch, as did diamond merchants Nirav Modi, Mehul Choksi and their associates, whose firms defrauded the country's second largest public sector bank of over 12,800 crore. India is no closer to getting Mr. Modi or Mr. Mallya back to face the law, with extradition proceedings against the latter crawling through U.K. courts. No clear indications about whether their return could be expedited emerged during Prime Minister Modi's meeting with his British counterpart Theresa May last week. Meanwhile, though government agencies have attached the diamond merchant duo's assets in India, an American court has disallowed the sale of their assets in other jurisdictions while allowing their U.S.-based entity to offload its assets. The reason: India is yet to pass a model law mooted by the UN for cross-border insolvency cases. It is not clear whether this ordinance can tide over this major handicap. The government may have opted for the ordinance route to deflect the heat from these cases of fraud, but it needs to present a coherent vision about its plans to bring back those fugitives who have already got away and plug the remaining loopholes in the system.

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