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Deterrence and Prevention in Economic Crime Control: A Comparative Study of India's Fugitive Economic Offenders Act and Australia's AML/CTF Framework

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ABSTRACT

Financial crimes, especially money laundering and the escape of economic offenders, are ongoing problems for national economies and the global financial system. This study examines and compares the laws and institutional responses of India and Australia. It focuses on India's Fugitive Economic Offenders Act (FEOA), 2018, and Australia's Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Act, 2006. Through a qualitative comparison of legal provisions, enforcement methods, and cooperative frameworks, the research highlights the different ideas behind the two systems. India focuses on deterrence and asset seizure, while Australia uses a preventive, compliance-driven model. Although both systems meet Financial Action Task Force (FATF) standards and emphasize international cooperation, differences in institutional independence, legal protections, and technology use greatly affect enforcement results. The paper ends with suggestions for improving India's framework. It recommends a hybrid approach that keeps its deterrent focus while adding preventive measures taken from Australia's model.

KEYWORDS

Fugitive Offenders, Money Laundering Prevention, Asset Confiscation, Financial Regulation, Transnational Crime, Compliance Systems, Financial Intelligence Units.

Introduction

In today's global finance world, economic crimes like large-scale fraud, embezzlement, and money laundering have become more widespread and complicated. Advances in technology, the ease of moving capital, and gaps in international law enforcement enable offenders to quickly transfer assets across borders and take advantage of differences in legal systems. One major issue is the escape of economic offenders—people who avoid prosecution by moving to other countries—which has gained more attention from policymakers and lawmakers. India and Australia have created different legal tools to address these threats. India's Fugitive Economic Offenders Act, 2018, aims to deter high-value offenders by allowing thorough asset confiscation and limiting access to the court system.[1]. On the other hand, Australia's Anti-Money Laundering and Counter-Terrorism Financing Act, 2006, focuses on preventing financial crimes before they happen by enforcing strict compliance rules and monitoring obligations across all sectors.[2]. Although both countries share the goal of protecting financial integrity, their methods differ significantly, reflecting unique legal traditions and approaches to enforcement. This paper provides a detailed comparison of the two legal systems, focusing on legislative intent, enforcement structure, procedural protections, and international cooperation. It also examines the strengths and weaknesses of each framework and suggests reform options for India, inspired by Australia's preventive approach, while maintaining the deterrent effect of its own laws.

Methodological Approach

The research uses a method that compares legal systems. It focuses on interpreting laws, reviewing institutional frameworks, and examining available enforcement data. The sources include primary legislation, subsidiary regulations, court rulings, and official enforcement reports, along with academic commentary and policy analyses.

The comparison is organized into four main themes:

1. Legislative Purpose and Scope – understanding the main goals and coverage of each framework.

2. Institutional Structure and Autonomy – assessing the agencies responsible for enforcement and how independent they are.

[1] Fugitive Economic Offenders Act, No. 17 of 2018.
[2] Anti-Money Laundering and Counter-Terrorism Financing Act, No. 137 of 2006 (Australia).

3. Procedural and Enforcement Mechanisms – evaluating tools for detection, prosecution, and asset recovery as well as procedural protections.

4. Cross-Border Cooperation – reviewing methods for legal assistance, extradition, and sharing intelligence.

Instead of looking at each jurisdiction separately, the analysis moves between them to show where they are similar and where they differ. This method provides a deeper understanding of how legislative design interacts with institutional culture and how these elements affect each system's effectiveness in fighting economic crime.

Legislative and Institutional Context

Efforts to fight economic crime in India and Australia have taken different paths due to their national priorities and law enforcement traditions. In India, a significant moment occurred with high-profile financial scandals, like the Punjab National Bank case involving Nirav Modi and Mehul Choksi.[3]. These cases revealed how hard it is to recover assets once the offenders have left the country. This prompted the creation of the Fugitive Economic Offenders Act (FEOA) in 2018. This law is based on the idea that offenders should be stripped not only of their illegal gains but also of any assets that could help them escape justice. In contrast, Australia's approach to economic crime was not a response to a single scandal but came from a growing recognition, influenced by Financial Action Task Force (FATF) recommendations, that the financial sector needed a strong preventive framework.[4]. The Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Act, introduced in 2006, places heavy compliance demands on financial institutions, gambling operators, bullion dealers, and other high-risk industries. The focus is on recognizing suspicious activity before criminal networks can take advantage of the system.

Both countries depend on specialized institutions to enforce their laws. In India, the Enforcement Directorate (ED) leads FEOA investigations, backed by intelligence from the Financial Intelligence Unit–India (FIU-IND)[5]. Cases are handled in Special Courts created under the

[3] Hindustan Times, How Mehul Choksi cheated Punjab National Bank of ₹13,500 crore, available at: https://www.hindustantimes.com/india-news/how-mehul-choksi-cheated-punjab-national-bank-of-rs-13-500-crore-pnb-loan-fraud-case-101744604571009.html (last visited Sept. 16, 2025).

[4] Financial Action Task Force (FATF), International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, available at: https://www.fatf-gafi.org (last visited Sept. 16, 2025).

[5] Ministry of Finance, Financial Intelligence Unit–India, available at: http://fiuindia.gov.in/ (last visited Sept. 16, 2025).

Prevention of Money Laundering Act (PMLA), 2002. These courts can classify a person as a fugitive economic offender and order the seizure of their property, whether it is domestic or foreign, tangible or intangible, and including benami holdings. In Australia, the Australian Transaction Reports and Analysis Centre (AUSTRAC) serve two main purposes. It is the regulator that makes sure everyone follows the AML/CTF Act and also acts as the national financial intelligence unit (FIU)[6]. AUSTRAC can receive reports from the private sector, including suspicious transaction reports and threshold cash transaction declarations. It analyses patterns across datasets and shares intelligence with local and international enforcement partners. Related laws, like the Proceeds of Crime Act 2002, give Australian authorities powers to seize and manage assets[7]. These powers are similar to those under India's FEOA, but Australia requires a stronger link between seized assets and specific illegal activities.

This highlights a difference in legislative approach. India's system focuses on targeted, post-offense action in high-value cases. In contrast, Australia's system emphasizes ongoing monitoring across the entire sector. However, both countries work within the broader framework of international anti-money laundering standards. This shows a mutual understanding that economic crime cannot be contained within national borders.

Operational Mechanisms and Enforcement Practices

While the legislative blueprints of the FEOA and the AML/CTF Act differ in philosophy, their effectiveness rests on how each law is implemented through institutional processes. In India, the enforcement journey begins when the Enforcement Directorate (ED) gathers sufficient evidence to demonstrate that an accused—charged with a scheduled offence involving at least ₹100 crore—has deliberately remained outside the country to avoid prosecution[8]. Once the application is filed before a Special Court under the *Prevention of Money Laundering Act* (PMLA)[9], the court may issue a notice requiring the accused to appear. If the summons is ignored, the court can declare the person a fugitive economic offender, unlocking the law's most powerful provision: comprehensive confiscation of assets[10]. This extends to all property under the offender's control, including those

[6] AUSTRAC, AML/CTF Act, available at: https://www.austrac.gov.au/business/legislation/amlctf-act (last visited Sept. 16, 2025).
[7] Edward Greaves, Proceeds of Crime Act 2002: Lawyers' Guide, available at: https://egreaves.com.au/proceeds-of-crime (last visited Sept. 16, 2025).
[8] Fugitive Economic Offenders Act, supra note 1.
[9] Prevention of Money Laundering Act, No. 15 of 2003 (India).
[10] Directorate of Enforcement, Annual Report 2022–23, Ministry of Finance, Government of India, p. 17.

held through proxies or *benami* arrangements, and is not limited to the direct proceeds of crime[11]. Confiscated assets may be disposed of by the government, with proceeds directed to the public exchequer[12].

Australia's system operates differently. Under the AML/CTF Act, there is no need for a formal "designation" of an offender to trigger preventive measures. Instead, the focus is on continuous oversight of the financial sector. Regulated businesses are required to implement tailored compliance programs, perform risk-based customer due diligence, and submit three core types of reports to AUSTRAC: Suspicious Matter Reports (SMRs) when activity raises concerns of illegality, Threshold Transaction Reports (TTRs) for cash dealings above AUD 10,000, and International Funds Transfer Instructions (IFTIs) for any cross-border transaction. These reports are aggregated into intelligence databases, which AUSTRAC analyses for anomalies, enabling early detection of criminal financial activity.[13].

In both countries, asset confiscation is an essential enforcement tool, though the evidentiary thresholds differ. Under India's FEOA, the declaration of "fugitive economic offender" effectively presumes a risk of unjust enrichment.[14], allowing seizure without linking each asset to the predicate offence. Australia's *Proceeds of Crime Act*, in contrast, typically requires a demonstrable connection between the asset and the alleged criminal activity, aligning with the preventive, case-by-case orientation of its AML regime. Both frameworks are supported by cooperation with domestic agencies—India's ED works with FIU-IND, the Central Bureau of Investigation (CBI), and regulatory bodies like the Reserve Bank of India (RBI), while AUSTRAC coordinates with the Australian Federal Police (AFP), the Australian Criminal Intelligence Commission (ACIC), and the Australian Border Force (ABF). International cooperation also features prominently: both jurisdictions rely on mutual legal assistance treaties (MLATs), information exchanges through the Egmont Group of FIUs, and direct liaison with foreign enforcement authorities.[15].

[11] Benami Transactions (Prohibition) Act, No. 45 of 1988 (India).
[12] Financial Intelligence Unit–India (FIU-IND), Annual Report 2022–23, Ministry of Finance, Government of India, p. 42.
[13] AUSTRAC, Assessment of Comparable AML/CTF Laws in Foreign Countries, February 2009, available at: <https://www.austrac.gov.au> (last visited Sept. 16, 2025).

[14] Law Commission of India, Report No. 279: Usage of Electronic Evidence in Courts p. 33 (Ministry of Law and Justice, Government of India, 2023).
[15] Egmont Group of Financial Intelligence Units, Operational Guidance for FIUs, p. 9 (Egmont Secretariat, 2021).

Despite these operational similarities, the tempo of enforcement diverges. India's interventions are often high-profile and concentrated on a small number of large-value cases, while Australia's approach is continuous and systemic, producing a steady flow of intelligence rather than episodic headline prosecutions.

Challenges and Criticisms

Despite their legislative complexity, both India's FEOA and Australia's AML/CTF framework face practical and conceptual challenges that limit their effectiveness. One common issue is the conflict between strong enforcement and protecting legal rights. In India, the FEOA's broad confiscation powers, which allow seizing all assets owned by a declared fugitive, receive commendation for their deterrent potential but criticism for their extent. Legal experts have expressed concerns that these provisions, if used without enough judicial oversight, could violate constitutional protections, especially property rights and the presumption of innocence. This issue is worsened by procedural delays in getting cooperation from foreign jurisdictions, particularly where mutual legal assistance treaties are either absent or limited.

Australia's AML/CTF regime, while generally more balanced in its processes, faces its own set of restrictions. Its strong reliance on the private sector for initial detection means the quality of compliance can differ greatly between large, well-funded companies and smaller, cash-strapped ones. Smaller businesses often view the compliance demands, which include training, record-keeping, and risk assessments, as too heavy for their size, which can discourage complete participation. There is also the ongoing issue of "defensive reporting," where organizations submit large amounts of low-quality data just to fulfill legal requirements without providing valuable information.

Both frameworks must deal with the evolving nature of financial crime. The rise of cryptocurrencies, decentralized finance (DeFi), and other digital payment innovations is testing how well existing laws adapt. While Australia has acted relatively quickly to include virtual asset service providers within its AML/CTF scope, India's regulatory strategy in this area is still in the works, creating possible weaknesses. Finally, the shared need for international cooperation introduces a structural vulnerability. Even with treaty obligations in place, asset tracing and extradition can be slowed by political sensitivities, differing evidence standards, and competing priorities among partner jurisdictions. In practice, this indicates that the success of both

frameworks often depends more on the strength and reciprocity of international partnerships than on the quality of domestic laws.

Lessons for India from Australia's Model

The difference between India's deterrence-focused system and Australia's prevention-oriented approach provides useful insights for policymakers looking to reform the FEOA and the broader anti-economic crime structure. Although the two systems have different philosophies and ways of operating, some aspects of the Australian model could be modified to enhance India's approach while keeping its main goals intact. One important lesson is Australia's use of technology in enforcement. AUSTRAC can process large amounts of data from various sectors using analytics, machine learning, and real-time anomaly detection. This lets authorities respond to early warning signals instead of waiting for offenses to worsen. For India, investing in similar technology within the Financial Intelligence Unit–India (FIU-IND) and the Enforcement Directorate (ED) could considerably reduce investigation times and lessen reliance on reactive asset-tracing efforts.[16].

Another key strength is the independence of Australia's enforcement agencies. Organizations like AUSTRAC and the Australian Federal Police (AFP) operate with a high level of autonomy, supported by legal protections against political interference.[17]. Adapting this model in India by giving functional independence to FIU-IND and protecting key appointments from political influence could improve both domestic trust and international collaboration. Australia also shows the importance of a compliance culture rooted in the financial sector. AUSTRAC works closely with regulated entities, providing guidance and training alongside its oversight role. This builds a partnership where compliance is not just a legal requirement but part of managing risk within institutions. India could develop a similar environment by combining strict penalties for non-compliance with rewards for proactive reporting and high compliance standards.

Inter-agency teamwork is another area where Australia excels. The strong coordination between AUSTRAC, AFP, the Australian Criminal Intelligence Commission (ACIC), and the Australian Border Force (ABF) enables effective intelligence sharing and quick, unified actions. India's enforcement landscape, often hindered by overlapping jurisdictions and communication gaps, could improve by creating permanent multi-agency task forces focused on economic crime.

[16] Financial Intelligence Unit–India, Ministry of Finance, Official Website, available at: <https://fiuindia.gov.in> (last visited Sept. 16, 2025).
[17] Australian Federal Police Act 1979.

Finally, Australia's active role in global enforcement networks—like the Egmont Group and FATF working groups—ensures that it both contributes to and benefits from cross-border intelligence sharing. Although India is already involved in these groups, focusing on operational engagement rather than just formal membership could speed up extradition requests, enhance asset recovery rates, and boost India's reputation as a dependable partner in the global fight against financial crime[18].

These lessons do not imply a need to replace the FEOA's deterrent framework. Instead, they suggest ways to enrich it with preventive, intelligence-driven capabilities. A blended model could combine the visibility and symbolic strength of India's current system with the subtle yet effective disruption strategies that drive Australia's success.

Policy Recommendations: Strengthening India's Framework

Drawing from the comparison between India's FEOA and Australia's AML/CTF regime, several strategic reforms can improve India's ability to prevent, detect, and prosecute fugitive economic offenders. These suggestions aim to selectively incorporate elements that have proven effective in similar areas, rather than fully adopting foreign models. A top priority is to refine the legislative framework of the FEOA. While the Act has played a key role in enabling asset confiscation, its effectiveness could improve with clearer procedural timelines and provisions that allow for the provisional attachment of assets earlier in the investigative process. Broadening the Act's scope to recognize and enforce foreign confiscation orders would also help prevent offenders from moving their wealth between jurisdictions to avoid recovery. Importantly, these reforms should include stronger safeguards for due process to ensure that the law remains effective and constitutionally sound.

Alongside legislative changes, strengthening institutions will be crucial for sustained progress. The FIU-IND would benefit from dedicated funding to expand its analytical capabilities, hire specialists in forensic accounting and cyber-tracking, and use data-processing tools. Special Courts handling FEOA cases should receive targeted training in transnational financial crime, allowing them to evaluate complex evidence without unnecessary delays. The success of the framework will depend not only on the law's design but also on the skill and independence of the institutions responsible for enforcing it. Technology must also become a key part of the

[18] Financial Action Task Force (FATF), Official Website, available at: <https://www.fatf-gafi.org> (last visited Sept. 16, 2025).

enforcement strategy. Using real-time transaction monitoring, AI-driven anomaly detection, and integrated databases that link tax, customs, corporate, and banking information can shift India's approach from reactive to preventive. However, these advancements must be balanced with privacy protections to maintain public trust.

On the global stage, India could benefit from a more assertive diplomatic strategy focused on expanding and implementing extradition and mutual legal assistance agreements. Actively engaging with countries that are often used as havens for fugitives would ensure that India's legal requests are not delayed by procedural or political obstacles. Involvement in joint investigation teams and regional intelligence networks could also boost India's influence in establishing global standards for asset recovery and financial transparency. Finally, the financial sector's role in spotting and combating economic crime should be fully acknowledged through structured public-private partnerships. By working with banks, fintech firms, and compliance technology providers, the government could help develop advanced fraud detection systems and sector-specific risk indicators. Offering incentives for voluntary information sharing, along with a system of proportional penalties for failures, would encourage a compliance culture focused on prevention as well as legal obligations.

In summary, these recommendations aim to guide India toward a more integrated, technology-driven, and globally coordinated framework. Such changes would not only bolster domestic enforcement but also improve India's reputation as a reliable partner in the fight against economic crime.

Conclusion

The comparative study of India's Fugitive Economic Offenders Act, 2018, and Australia's Anti-Money Laundering and Counter-Terrorism Financing Act, 2006, highlights the need for a responsive and globally aware regulatory environment to fight financial crime. Both countries are committed to breaking down illegal financial networks, but their strategies show different priorities. India's FEOA is mainly corrective and punitive. It focuses on confiscation and deterrence through legal penalties. In contrast, Australia's model is preventive. It incorporates strict compliance requirements, active monitoring, and institutional independence into its enforcement system. This difference is telling; India's legal approach has been effective in high-profile cases, but its long-term deterrent impact will depend on procedural efficiency, institutional independence, and the ability to keep up with changing global threats. Australia's framework

shows how technology-based surveillance, well-coordinated agencies, and a strong compliance culture can lower risks before crimes happen. For India, the challenge is to combine its powerful laws with an operational system that can achieve a similar level of prevention.

Way Forward

Looking ahead, India's strategy for tackling financial crime must grow in three connected areas: institutional resilience, technological capacity, and international integration. Building the independence and technical skills of agencies like FIU-IND and the Enforcement Directorate will be crucial for fair, evidence-based action. On the technology side, analysing transactions in real-time, using predictive modelling, and integrating data across platforms can change investigations from reactive efforts to proactive actions.

It is also vital to develop stronger global partnerships. Economic criminals take advantage of differences between jurisdictions. Closing these gaps requires not just more extradition and mutual assistance treaties, but also collaboration with foreign law enforcement and financial intelligence units. By actively contributing to and influencing the standards of multilateral forums, India can position itself as both a beneficiary and a leader in global best practices. Ultimately, responding effectively to fugitive economic offenders demands a balance between deterrence and prevention. Legislative authority must go hand in hand with institutional ability, technological progress, and credible international cooperation. By following this integrated approach, India can enhance the integrity of its financial system, boost public trust in the rule of law, and contribute significantly to the global fight against economic crime.

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