



## Mains Practice Question

**Q.** Who is a fugitive economic offender in India? Examine the steps taken by the government in this regard. (250 words)

30 Mar, 2019 GS Paper 3 Economy

### Approach

- Give introduction by providing need of FEO act and definition of FEOs as given in FEO 2018 Act.
- Enumerate the steps taken by the government for tackling FEOs.
- Highlight criticism of FEO Act 2018.

### Answer

#### Introduction:

- In recent years there were number of instances where a number of economic offenders escaped the country to avoid prosecution.
- To deal with the situation central government brought the **Fugitive Economic Offenders Act, 2018** which allows for a person to be declared as a fugitive economic offender (FEO) if: (i) an arrest warrant has been issued against him for any specified offences where the value involved is over Rs 100 crore, and (ii) he has left the country and refuses to return to face prosecution.

### Body

#### Steps by government:

- **Fugitive Economic Offenders Act, 2018**
  - The FEO Act provides that no civil claim can be made in any Indian court with regard to confiscation of the fugitive economic offender's property. Earlier act to deal with economic offences, like the **Prevention of Money Laundering Act (PMLA)**, was silent on the same.
  - The act allows authorities to provisionally attach properties of an accused, while the application is pending before the Special Court.
  - FEO Act empowers the Indian Government to confiscate the property of economic offenders absconding from India until they submit themselves to the jurisdiction of the appropriate legal forum. Thus unlike the PMLA which has a punitive effect, the Fugitive Economic Offenders Act seeks to have a deterrent effect.
- **Nine Point Agenda at G-20**
  - India suggested Nine Point Agenda to G-20 for action against Fugitive Economic Offences and Asset Recovery, including Cooperation in the legal processes such as effective freezing of the proceeds of crime; early return of the offenders and efficient repatriation of the proceeds of crime should be enhanced and streamlined.
  - India also suggested in FATF should be called upon to assign priority and focus to establishing international co-operation that leads to timely and comprehensive exchange of information between the competent authorities. FATF should be tasked to formulate a standard definition of FEOs. FATF should also develop a set of commonly agreed and

standardized procedures related to identification, extradition and judicial proceedings of FEOs.

### **Criticism of FEO Act 2018**

- Under the Act, any court or tribunal may bar FEO from filing or defending civil claims before it. Barring these persons from filing or defending civil claims is likely to violate **Article 21** of the Constitution i.e. the right to life. Article 21 has been interpreted to include the right to access justice.
- An FEO's property may be confiscated and vested in the central government. The Act allows the **Special Court** to exempt properties where other persons may have an interest in such property (e.g., secured creditors). However, it does not specify whether the central government will share sale proceeds with any other claimants who do not have such an interest e.g.(secured creditors).
- The Act does not require the authorities to obtain a search warrant or ensure the presence of witnesses before a search. This differs from other laws, such as the **Code of Criminal Procedure (CrPC), 1973**, which contain such safeguards. These safeguards protect against harassment and abuses like planting evidence.
- The Act provides for confiscation of property upon a person being declared an FEO. This differs from other laws, such as CrPC, 1973, where confiscation is final two years after proclamation as absconder. The time duration provide for due process without harming the legal interest of person being prosecuted.

### **Conclusion:**

- Dealing with FEO requires domestic policy changes as well as ability to act outside the Indian Territory. While FEO Act 2018 secures latter objective the ability to extradite the FEOs will depend up on agreement and diplomatic efforts with partner countries.
- Even though FEO Act, 2018 is strong legislation, government agencies should ensure that fundamental rights under constitution even to FEOs should not be violated.

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