



Socio Economic Offences

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Abstract

Socio Economic offences are such wrongs which are committed against society and affect the economy of nation. These are the offences committed against a group and not particularly against an individual. Such offences do not require the existence of mens rea along with the act. These offences impact on the health, morals, social, or overall well-being of the community as a whole rather than just the individual victim. Several Committees were established in India from time to time in order to frame regulatory policies for socio economic offences and provide punishment for the same. There are various kinds of socio economic offences prevailing in India. The Government has framed several laws for regulation of such offences. Yet such kind of offences are growing at pace. The present paper focuses on the different aspects of Socio Economic offences and to study the methods to regulate the same.

Keywords: Society, Economy, Offences, Crime, Mens rea

1. Introduction

Crime is an action or omission which constitutes an offence and is punishable by law. It is any behavior or activity in violation of legal code. A human conduct that is believed to be harmful in effect to the social interests is considered as crime.

According to Blackstone, 'a crime is an act committed or omitted, in violation of a public law either forbidding or commanding it'. A crime is basically an act which a particular social group regards as sufficiently harmful to its fundamental interests.¹

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¹ Meaning of Crime under IPC, available at <https://lawctopus.com/clatalogue/clat-pg/meaning-of-crime-ipc/>

The maxim *actus non facit reum, nisi mens sit rea* i.e. the act does not amount to guilt unless it is accompanied by guilty mind. Hence the basic condition to charge someone against penal liability is evil intention. Mere guilty act and mere guilty mind are independently not sufficient, there has to be a nexus between the two.

As per Indian Penal Code, an action committed or omitted which constitutes an offence and is punishable by law, is a crime. Crime is an unlawful act that is forbidden and punished by the State or the law. In other words, anything which is injurious to public welfare is a crime.

In Islamic law, crimes are generally associated with sin. Thus crimes have to be morally wrong. Further, this morality is not based upon what the public may consider being right or wrong, that is, moral or immoral, rather it is the lawgiver who determines the morality or immorality of an act.²

Socio-economic offences are the one which affects the social and economic situation of a country. They affect a number of people at a large scale. The crime is committed against a very large number of people and thus affects the whole of society. It affects the morals and social health of the society. The economy of a country is also affected by this type of crime. Mens Rea is not essentially required in socio economic crimes. Some examples of these types of crimes are black marketing, food/drug adulteration, tax evasion etc.

It is believed that White Collar crime and socio-economic offences are the same. But, White Collar crimes and socio-economic offences are different from each other as the White Collar crimes are committed only by the rich and the upper caste people whereas the socio-economic crimes can be committed by anybody whether it is a low caste person or upper-caste person. Social crimes are those which affect the health and material of the community and economic crimes are those which affect the country's economy and not merely the victim. Hence it can be safely assumed that socio economic offences are those which affects the country's economy as well the health and material of the society.³ Such offences are done by the shrewd persons only for the purpose of their profit in planned way and in secret and sophisticated manner.

2. Classification of Crimes

Crime can be classified in many ways. Crime can also be grouped by subject. For example, crimes such as assault, murder, and rape are classified as "personal crimes" because they tend to cause bodily harm to another person. A crime against property can also be classified if the purpose of the crime is to harm another person by taking away or damaging that person's property. Following are certain categories into which crimes can be classified:

1. Personal Crimes – Personal crimes are those that an offender commits against another individual. A violent crime that causes the victim physical, emotional, or psychic suffering is typically referred to as a personal

² Classification of Crimes in Criminal Law, available at <https://lawwithshaheen.com/classification-of-crimes/>

³ Socio-Economic Offences and White Collar Crimes, available at <https://gyansanchay.csjmu.ac.in/wp-content/uploads/2022/01/Socio-Economic-offences-and-White-Collar-Crime.pdf>

crime. Personal crimes may be punished under state or federal law as felonies or misdemeanours. Murder, which is the wrongful taking of another person's life, assault, rape, hurt, manslaughter, kidnapping are the examples of a personal offence.

2. **Property Crimes** – Property crimes, such as theft, burglary and arson, entail the theft of property without causing physical injury. In a property crime, a property of the victim is stolen or destroyed, without the use or threat of force against the victim. Property crimes can be violent, fraudulent, stealthy, entrepreneurial or destructive, which may vary in terms of commission of act depending upon time and place.
3. **Hate Crimes** – A hate crime is defined as 'Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person's race or perceived race; religion or perceived religion; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by hostility or prejudice against a person who is transgender or perceived to be transgender.'⁴ Crimes motivated by prejudice or animosity against a person's colour, ethnicity, religion, disability sexual orientation, or transgender identity are referred to as "hate crimes."
4. **Victimless Offences** – Victimless crime refers to certain criminal acts that do not directly infringe upon or pose a danger to the rights of any other people. Private criminality is what it is by definition. Such laws have as a defining trait that no one is immediately motivated to file a police report or provide evidence against the offenders since no third party is affected. The major factors affecting victimless crime are victim awareness and victim unawareness. He or she is a victim of crime, but victimless crime occurs when the victim is unaware of the crime and the harm it has caused. Examples of victimless crimes are drug abuse, abortion, and homosexuality.
5. **White-Collar Offences** – White-collar offenses are non-violent crimes that are committed for financial gain. They include offenses such as fraud, embezzlement, insider trading, and money laundering. These are the crimes which are committed by upper class of the society during the course of their occupation, For example, a big multinational corporation guilty of tax evasion.
6. **Organized Crimes** – Organized crime refers to criminal activities that are coordinated and controlled by a group of people. Organized crime is crime committed by structured groups typically involving the distribution of illegal goods and services to others. The term organized crime can refer to any group that exercises control over large illegal enterprises. These groups are typically involved in activities such as drug trade, human trafficking, and racketeering, illegal gambling, prostitution, weapons smuggling, or money laundering.
7. **Conventional Crimes** – Conventional crimes are crimes that are committed against individuals or property. These are also said as traditional crimes or illegal behaviors that most people think as crime. These include offenses such as theft, assault, murder, and vandalism.
8. **Non-Conventional Crimes** – Non-conventional crimes are crimes that are not typically associated with criminal activity and are usually less violent crimes. Mens rea is not an essential element in such crimes. These include offenses such as cybercrime, environmental crime, and terrorism.

⁴ What is hate crime? available at <https://www.met.police.uk/advice/advice-and-information/hco/hate-crime/what-is-hate-crime/>

9. **Socio-Economic Offences** – Socio-economic offenses are crimes that are committed against society as a whole. Social crimes are those which affect the health and material of the community and economic crimes are those which affect the country's economy and not merely the victim. Thus socio economic offences are those which not only affects the country economically but they also damage the very social fabric of the society. These include offenses such as tax evasion, corruption, and bribery.

3. Relevance of Mens Rea in Socio Economic Offences

Under the traditional criminal jurisprudence, the act does not make someone guilty unless it is accompanied by guilty intention. Yet with respect to socio-economic offences, the legislature has curtailed the requirement of mens rea in order to make someone liable of criminal offence. The harm done by these kinds of offences are greater than that of traditional crimes. Such offences affect the morality of, health and welfare of people as a whole and have the tendency to diminish the economy of nation. The element of guilty mind is always present in socio-economic offences but it is difficult to prove the same legally. The actus reus in such offences clearly demonstrates the existence of crime. Hence it is essential to formally exclude the requirement of mens rea from socio economic offences and adopt the principle of strict liability which was firstly introduced in the case of *Rylands v/s Fletcher*⁵. Strict liability is when crimes are the result of modern legislative policy rather than traditional morality.

Lord Cranworth in *Fletcher's* case mentioned that “if a person brings or accumulates on his land anything, which if it should escape may cause damage to his neighbor; he does so at his risk. If it does escape and cause damage, he is responsible, how careful he may have been, whatever precautions he may take to prevent the damage.” In 19th century, in *R v/s Woodrow*⁶, the Court dispensed with the proof of mens rea in pity offences.

In few cases in India, the Legislature has dispensed with mens rea so much that offences automatically entail strict liability. Instances of strict liability can be seen in legislation concerning food and drugs, liquor licensing and many other matters.

In 1987, the Supreme Court of India in *MC Mehta v/s Union of India* propounded the principle that if a person or enterprise engaged in hazardous or inherently dangerous activity causes harm to others irrespective of willful or negligent act is ‘absolutely’ liable.

The Indian approach to socio-economic offences suffers from certain inconsistencies. Indian Penal Code includes offences for which no elements of mens rea is required, for example, waging war against the government. The majority of enactments focus their attention on the acts themselves, regardless of mental goal. In a developing country like India, constraints of economic resources have necessitated the imposition of certain social controls to

⁵ (1868) LR 3 HL 330

⁶ (1846) 153 E.R. 907

promote planned development (licensing, regulation, distribution of scarce commodities etc.) As the goal is public good, hence to some extent, imposing strict accountability for setting standards of conduct is essential.

There are instances where the doctrine of mens rea is dispensed with (like public nuisance contempt of court and libel). This was justified because (i) it was difficult to prove mens rea in some cases, (ii) as they were penalised under social welfare legislations, a purposive construction was required to further the objectives of the act. (iii) punishment in these cases is usually light and (iv) they are offences which are in the nature of mala prohibita (wrong prescribed by statute) and not mala in se (wrong in itself).⁷

The principle of strict liability holds great importance in socio-economic offences. The Supreme Court in MC Mehta's case suggested following grounds for recognizing the principle of strict liability:

- For certain offences, it will be difficult to prove mens rea
- It is of paramount importance to take into consideration the social purpose of a statute, which should be so framed and interpreted as to give effect to the intention of Legislature.

Thus the absence of guilty mind is not a good defense in cases of socio-economic offences. The laws dealing with socio-economic offences impliedly or expressly exclude the requirement of mens rea and hence the Court itself cannot read or introduce the same. Hence such offences are strictly or absolutely liable.

4. Socio-economic Offences in India

The growth of socio-economic offences in India can be traced after the world war, when there was scarcity of essential things, resulting in increased demand of such things and the businessmen becoming greedy. After freedom and partition, due to lack of good legal and administrative control, this problem increased. After urbanization, such offences became rampant and Government started to recognize these problems and appointed different committees to investigate the issue and tried to control situation by implementing such measures.

The idea of socio-economic offences in India was framed in 29th Law Commission Report. This identified certain features of socio-economic offences which are as follows⁸:

- Victims of the offences are unascertainable persons usually the State or community
- Offences are committed by the 'upper classes' of society.
- Upper classes themselves set the moral standards of society, and hence a serious view is not taken of these offences.

⁷ Exclusion of mens rea and socio-economic offences in India, available at <https://www.lawteacher.net/free-law-essays/criminology/exclusion-of-mens-rea-in-india-law-essay.php#ftn29>

⁸ Id.

The Santhanam Committee Report of 1962 was also recommended by 29th Law Commission Report. According to this report, the penal code does not satisfactorily deal with the activities that may be regarded as social offences due to the particular conditions under which they are committed. Pecuniary advantage and unjust enrichment are the major characteristics of socio-economic offences. The Santhanam Committee also recommended a new chapter to be added in Indian Penal Code but 29th Law Commission of India Report doubted such need and did not agree to the proposal and further observed that “such offences are better left to be dealt with by special and self-contained enactments which supplement the basic criminal law”.⁹

The committee suggested changes in the legal framework for the purpose of ensuring the speedy trial of the cases relating to bribery, corruption or the cases of criminal misconduct which can help in making the law more effective; the committee has suggested the changes after going through numerous cases in the light of the present social context and the social changes and the economic objectives, which actually helped in the growth of these types of offences.¹⁰

Such offences may broadly be classified into:

- the offences which actually prevent the economic development of the country and thereby consequently creates danger for the economic health of a country,
- evasion and avoidance of taxes lawfully imposed,
- misuse of the position by the public servants,
- delivery by individuals or industrial & commercial undertaking of such goods which are not in accordance with agreed specifications in fulfillment of contract entered,
- offences relating to hoarding, profiteering and black marketing,
- adulteration of foodstuffs and drugs,
- theft and the misappropriation in relation to public property and funds,
- Offences related to trafficking in the sector of licenses as well as permits etc.

Later in 47th Law Commission Report, a new composite category of socio-economic offences was established. These include unlawful economic operations, illegal commercial and related transactions, avoidance of public taxes or monetary responsibilities. This report depicted certain features of socio-economic offences:

- (1) *Motive* of the criminal is avarice or rapaciousness (not lust or hate).
- (2) *Background* of the crime is non-emotional (unlike murder, rape, defamation etc.). There is no emotional reaction as between the victim and the offender.
- (3) The *Victim* is usually the State or a section of the public, particularly the consuming public (i.e. that portion which consumes goods or services, buys shares or securities or other intangibles). Even where there is an individual victim, the more important element of the offence is harm to society.

⁹ 29th Law Commission of India Report (1966) para 41 at p.21

¹⁰ Supra Note 3 at P. 1.

- (4) Mode of operation of the offender is fraud, not force.
- (5) Usually, the act is deliberate and wilful.
- (6) Interest protected is two-fold:
 - (a) Social interest in the preservation of:
 - (i) the property or wealth or health of its individual members, and national resources, and
 - (ii) the general economic system as a whole, from
 - (i) exploitation, or
 - (ii) waste by individuals or groups.
 - (b) Social interest in the augmentation of the wealth of the country by enforcing the laws relating to taxes and duties, foreign exchange, foreign commerce, industries and the like.¹¹

In *Ishardas v. State of Punjab*¹² the Supreme Court observed that the 47th report of the Law Commission recommended the exclusion of the probation Act to socio-economic offences. Further, the prevention of food Adulteration Act is aim at uprooting and curbing such evils and to safeguard the public health and the courts should not lightly give the benefit of the provisions of probation of offenders Act in such cases.

In a similar case of *Nimmagadda Prasad v. CBI*,¹³ the appellant was accused of committing economic offence of allocating some lands to chosen private companies under the veil of development with deception. The court held that socio-economic crimes unlike other crimes are executed with deliberate design and calculations and with an objective of personnel benefit without regard to the harmful consequences to the community or society. The court held that bail should not be granted.

5. Methods to check Socio Economic Offences

In order to accomplish planned growth, economic resource constraints in a developing nation like India necessitated the implementation of specific social laws (licencing, regulation, distribution of scarce goods, etc.). Strict accountability is necessary to some level in order to develop standards of behavior. To reduce the threat of socioeconomic crimes, the criminal justice system should take serious action.

1. Reviewing of Legislative provisions – The foremost legal measure that can be taken is modification and amendment of existing provision of laws dealing with socio-economic offences. There are certain special Statutes such as Essential Commodities Act, Food Safety and standards Act, Foreign Exchange Regulation Act, Prevention of Corruption Act etc. In spite of these Statutes, such offences are treated lightly and punishment is not adequate with regard to the gravity of offences. The Law Commission of India in 1972 presented 47th

¹¹ Forty-Seventh report on the Trial and Punishment of Social and Economic offences, available at <https://patnahighcourt.gov.in/bja/PDF/UPLOADED/BJA/MISC/298.PDF>

¹² AIR 1972 SC 1295

¹³ (2013) 7 SCC 466.

Report suggesting the inclusion of certain social and economic offences in Indian Penal Code which is yet to be accepted. Hence there is need to revisit the existing laws.

2. Punishment Theories – Prevention is always better than cure and this is equally true in context of socio-economic crimes.¹⁴ The major part of criminal law deals with prevention of crimes. The theories of punishment play an important role with this regard. The deterrent theory of punishment provides for prevention of crime in a way that there should be threat of punishment that will deter people from committing crime. When a person is prosecuted for his wrongful act, it creates deterrent effect on prospective offenders. The idea is to punish the sinful act as per the social harm done.
3. Imprisonment – The harm done by socio economic offences is usually more than that of traditional offences. Hence in order to combat this issue, minimum period of imprisonment should be provided. There should be mandatory minimum imprisonment. Though the Legislature has provided different pattern of punishment in Laws dealing with socio-economic offences, still there is need to adopt more such statutes to adequately and effectively grant punishment for such offences.
4. Fines – The socio-economic crimes are performed as a result of greed, avarice and rapacity and make heavy financial gains to the offenders. It is equally essential that the offenders should not be permitted to receive any gains from their crimes. Therefore in addition to minimum compulsory imprisonment, the wrongdoers should be imposed with reasonable high fines. The punishment with fine act as supplementary punishment for persons and heavy fines will act as additional liability for companies and corporations
5. Procedural Law alteration – The traditional concept of taking cognizance of offences depends upon the quantum of punishment imposed. Moreover the existing process of trial of criminal cases with long delays without any justification is not hidden. But the socio-economic crimes call for urgent and expeditious handling due to their nature and content as well as their affect on health and welfare of the society and nation. Successful and prompt trial of socio-economic criminal if essential to control any newer from of criminality. Time duration should be prescribed by the statutes to dispose of the cases of socio-economic crimes.
6. Media Efficacy – Press is said to be the fourth pillar of democracy which plays an important role in keeping additional check on the three official branches i.e. Legislature, Executive and Judiciary. The media and investigative journalism play a crucial role in bringing allegations of corruption cases among politicians, bureaucrats and contractors into the notice of enforcement agencies through news and combating impunity. Media is one of the strongest weapons to fight corruption. Because of Media several scams have been pushed into limelight such as Panama Papers case, VYAPAM scam, 3G scam, HAWALA Scam, Commonwealth scam etc.

7. Conclusion

¹⁴ Goutham Baruah, "Socio-Economic Crimes in India – Causes and Solution", 147 *the Legal Frontier: Research Journal of USLR, USTM*, available at <https://www.ustm.ac.in/wpcontent/uploads/2020/02/gar5IKK9G3yr7jC8mq51lo4OiLK6ZnEJLepQzuxL.pdf>

The traditional criminal behavior was a result of the offender's physical, environmental, or societal abnormalities. To deal with such abnormalities, reformatory measures can be adopted. On the other hand, socioeconomic crime committed due to the greed and need for money rather than by any other type of disorder. The harm brought about by these misdeeds is greater than the harm brought about by regular offences. They threaten the stability of the economy and have ill effect on people's morality, wellbeing, and health as a whole. Therefore, in these circumstances, severe and terrifying punishment is regarded as justifiable, and reformatory measures should not put into action. Socioeconomic offenses can have a significant impact on society. Measures such as increasing awareness and enforcing laws can help keep check on these offenses. Providing education and training to people can help prevent socioeconomic offenses. People should be made aware about the consequences of such offenses. Proper education and training should be provided to the public to improve their economic conditions. Policies need to be framed for promoting ethical business practices. Further steps like creating new laws or amending existing ones, increasing penalties for those who commit such offenses, and improving the efficiency of the legal system can be done to ensure that justice is served. Media can also play an important role in curbing such offences by bringing true picture of these incidents into light.