

SOCIO-ECONOMIC CRIMES IN INDIA- CAUSES AND SOLUTION

Goutam Baruah*

ABSTRACT

Socio-economic crime has spread its poisonous tentacles like octopus not only in our country but throughout the world as a whole. It is like cancer to our society. It is different from traditional or blue-collar crime in the sense that traditional crime affects only the health or wealth of an individual or a group of individual but socio-economic crimes affects the society as a whole. Characteristics of Socio-economic crime and how it is different from traditional crime is enumerated here. Exclusion of mens rea and conviction only on the basis of actus reus in case of socio-economic crimes is discussed here. Growing consumerism, low remuneration and more discretionary powers of Govt. officials, lack of morality and feelings of nationalism, no effect on the status of the person committing socio-economic crimes, lack of transparency in the Govt. mechanism, poverty and low literacy rate and various other causes behind socio-economic crimes are discussed here. Different measures such as fine, confiscation of property of the offender, speedy trial, standardization and quality control, blacklisting and various other measures to fight against this menace are also discussed here. Here, author is going to discuss nature of Socio-economic Crime, its causes in India and possible remedies. Doctrinal research methodology is followed here.

Key words: Consumerism Red tapism-Indian philosophy-Spiritualism-Standardisation- control-Black listing- Administrative reform-Death penalty- Mas

Introduction: “Corruption and hypocrisy ought not to be inevitable product of democracy, as they undoubtedly are today.”¹ Money and corruption are ruining the land, crooked, politicians betray the working man, pocketing the profits and treating us like sheep, and we are tired of hearing promises that we know they'll never keep. Socio-economic Crimes is a burning question of the day, not only for our country but for the world as a whole. Socio-economic offences are defined as those crimes which either affect the health and material welfare of the community as a whole or the country's economy and by and large are committed not by low class people but invariably the middle class and the elite of the community, most often during the course of their occupation, i.e. trade, profession, commerce or business.²

Socio-economic offences are also termed as “white-collar crime”. It is different from traditional crime i.e. “Blue Collar Crime”. White-collar crime is also termed as “Public Welfare Offences”. The concept of “White-Collar Crime” found its place in criminology for the first time in 1941 when Sutherland published his research paper on white-collar criminality in the American Sociological Review.

*Research Scholar, Deptt. Of Law, Gauhati University

¹ M.K.Gandhi

² Mahesh Chandra; Socio Economic Crimes, p.72

He defined “White Collar Crime” as a “Crime committed by persons of respectability and high social status in course of their occupation.” Thus misrepresentation through fraudulent advertisements, infringement of patents, copy rights and trademarks etc. are frequently resorted to by manufacturers, industrialists and other persons of repute in course of their occupation with a view to earning huge profits. Other illustrations of white collar criminality include publication of fabricated balance sheets and profit and loss account of business, passing of goods, concealment of defects in the commodity for sale etc. Moreover, developments in commerce and technology have broadened the scope of white-collar crime to include cybercrime (computer crime), health-care fraud, and intellectual property crimes, in addition to more-traditional crimes involving embezzlement, bribery, conspiracy, obstruction of justice, perjury, money laundering, antitrust violations, tax crimes, and regulatory violations.³

Characteristics of Socio-economic offences:

The following are the chief characteristics of Socio-economic offences-⁴

1. The socio-economic offences are considered graver wrong than traditional offences because they affect not only the health and material welfare of an individual but also the economic structure and social fabric of a nation.
- 2 Unlike traditional offences, socio-economic offences are committed by middle and upper class people of the society in the course of their trade, business or profession.
3. Unlike blue collar crime the motive behind the commission of socio-economic offences is greed for money.
4. Socio-economic offences are committed by way of fraud, misrepresentation etc rather than force and the act is deliberate and willful. Thus socio-economic crimes are not committed in emotions.
5. Socio-economic offences are product of corrupt mind.
6. Unlike traditional crime socio-economic offence do not carry with them any stigma.

Socio-economic crimes and Mens Rea-

Under the traditional criminal jurisprudence an act does not make one guilty unless there is guilty intention. However, with respect to socio-economic offences, the tendency of the legislature is to curtail the requirement of mens-rea for criminal liability. The harm done by these offences are greater than that of traditional crimes. They affect the morality, health and welfare of the people as a whole and have a tendency to undermine the economic fabric. The element of guilty mind is ever-present in socio-economic offences but it is very difficult to prove it legally. While in such offences, actus reus may be easily proved. Therefore, it is essential

³ <http://www.reference.com/browse/computer+crime>

⁴ Indian Penal Code, 14th edition, S.N.Misra, P.28

and necessary to formally exclude the requirement of mens rea from the socio-economic offences. In such cases the burden of prosecution is only to prove the actus reas and the burden of proving innocence lies on the accused. With reference to socio-economic offence, the attitude of the Supreme Court in relation to mens rea was that it is an essential ingredient of an offence. ⁵

Main causes of socio-economic crimes:

Socio-economic crime has its roots in power and discretion of the public officials and the opportunities generated by policy environment and outdated colonial laws. In a state controlled mixed economy like India, civil servants apply their discretion and power and indulge themselves in interpreting laws and procedures that suit them most. All these cause delay or red-tapism in administration. Speed money can remove this hurdle. An Indian is supposed to offer bribes to collect birth certificate, pass port, driving license, plan sanction and mutation of a building, tax assessment, ration card, pension order, death certificate and what not to circumvent the rules and regulations. Poor drafting of laws also gave unscrupulous officials opportunity to interpret them according to their wishes, whims and fancies.

Status of a person not affected:

One reason for the multiplicity of socio-economic crime is relatively high socio-economic status of these criminals. They belong to an influential group, which is powerful enough to handle their occupation tactfully and persons affected thereby hardly know that they are being victimized. It is also often alleged that criminal justice administrators, enforcement agencies, investigating agencies and judges being members of upper strata of the society are generally sympathetic towards socio-economic criminals while dealing with them. Their status in society is not affected because they are not looked down upon as traditional criminals like rapist, murderer, thief, robbers and dacoits. Even they boast of in society by committing high profile scandals or scams.

The case of M. H. Haskot vs. State of Maharashtra ⁶ illustrates the attitude of the lower judiciary towards socio-economic criminals. Mr. Haskot, a reader in Saurashtra University was found guilty of an attempt to concoct degree certificates of the Karnataka University. The session Court awarded him a single day imprisonment. The court justified the token punishment on the basis of the background of the offender where as Section 468 of IPC prescribe an imprisonment up to 7 years.

⁵ 05.Nathu Lal's Case, 1965 S.C.R. 322

⁶(1978) 3SCC; 1978 SCC (Cri) S.68.

Lack of moral education and nationalism:

C.S Lewes, a well known thinker has also noted, “the greatest evil is not done in those ‘sordid dens’ of crime that Dickens loved to paint. It is conceived and moved, seconded, carried and minted in clean, carpeted, warmed and well lighted offices, by quiet men with white collars and cut finger nails and smooth shaven cheeks who do not need to raise their voices”.

Lack of moral education at school and college level is also major cause of corruption. There is a down gradation of morals in people’s private and public life. The morality does not deter the people from committing frauds and other unethical practices in their professions. Above statement of C.S.Lewes clearly indicate the status of socio-economic criminals.

Lack of Nationalism also causes corruption because people work towards their own interest and profit motives than national interest. During Independence struggle Nationalism was highest among Indians. They fought together to eradicate the British rule and their corrupt officials. But after independence, lack of Nationalism germinated among Indian and after two decades of Independence, corruption in public offices and professions had increased multifold due to lack of Nationalism. It is also seen that wherever the public servants, Ministers and rulers have acquired monopolistic and unlimited powers, corruption gains momentum. Incentives for corrupt behavior arise whenever public officials have wide discretionary powers and little or no accountability.

Low remuneration and more discretionary powers of public servant:

People with pitifully low wages come to feel that they have no option. They have to demand bribes if they want to make a decent living. And when those who extort bribes or pay them to gain an unfair advantage go unpunished, few are prepared to swim against the tide.⁷

It is a fact that public servants are paid low remuneration as per their status, which might tempt them for illegal gratification, to meet their high status and family requirements. Some time they have to send their wards to study in foreign countries. With their salaries, they cannot meet their expenditures. The former Chief Vigilance Commissioner Mr. N. Vittal has identified three important causes of corruptions.

Scarcity of goods.

Red tape and delay.

⁷ <http://www.chinadaily.com.cn/English/doc/2004-02/09/content>

Legal cushions of safety which ensure corrupt officer can use to claim that he is innocent until he is proved guilty in a court of law.

Voltaire said “Power Corrupts and absolute power corrupts absolutely” So, more discretionary powers and unlimited powers to civil servants are major causes of corruption. It has been established by our Apex court in plethora of judicial pronouncements that “Art. 14 enact primarily a guarantee against arbitrariness and inhibit state action, whether legislative or executive, which suffers from the vice of arbitrariness”. Every state action must be non arbitrary and reasonable otherwise, the court would strike it as invalid. So, unlimited discretionary powers of public servant have been curtailed by the Apex court so that, they can exercise their powers judiciously. Santhanam Committee report suggested few points on discretionary powers of public servants.

- i) The discretionary powers of public servants must be minimized by laying down certain guidelines for exercise of those powers.
- ii) The assumption of new responsibilities by the Govt. has resulted in the multiplication of the administrative process. There is a vast field of administrative action in which the administrative authority may act outside the strict scope of law and propriety without the injured citizen being in a position to obtain effective redress. Administrative power and discretion are vested at different level of the executive. Where there is power and discretion, there is always the possibility of abuse, more so when power and discretion to be exercised in the context of scarcity and controls and pressure to spend public money.

Emergence of consumerism:

In fact this is the western concept, which encourages ultra modern life style of people. Each individual in family demands more and more. The day to –day requirement to the families had increased multifold, with the emergence of variety of products in the market and because of industrialization and globalization.

There is a global convergence of economic functions of different countries, free trade interstate or intra state and also emergence of World Trade Organization (WTO) and SAFTA in South Asia. Consumerism society is that sets an inordinate value on consumers’ goods. It tends to regard it not merely as the ultimate aim of all economic activity but as the ultimate good of the society also and the ultimate aim of all economic activity is the satisfaction of human wants by means of the consumption of goods and services. These goods and services are big houses, cars, washing machines, dish washers, refrigerators, TVs, vacuum cleaners, furniture and good clothes etc.

But Indian philosophy of ‘simple living and high thinking’ is different from USA philosophy of modern life style. Modernization tends to become such a universal doctrine that the historical uniqueness of different cultures gets smothered under its weight. Consumerism is a restless and agitated competitive struggle for more. It

is the guise of usurpers of the necessities of poorest, and cost them in the role of heroic creators of wealth, who are performing universal philanthropy in their very acquisitiveness and greed. Greed gives birth to many ills, crime and corruption. How the marvelous farm houses owned by politicians, businessmen and bureaucrats have come up in last two decades in outskirts of Delhi, Mumbai, Bangalore, Chennai etc. Their life style and conspicuous consumption, the proliferation of new model cars like ants on the roads and low yield of taxes are all indication of large scale corruption prevailing in India.

Lack of transparency in the functioning of the government:

Now the functions of the state is not limited to law and order, health and education, making of laws and formulation of policies, defence and foreign affairs, but with the emergence of industrialization and liberalization, foreign direct investments, multinational companies, privatization, the functions of state have increased multifold. So, high level of distortion in the policies through controls and regulations result in high level of corruption, so corruption is more rampant at highest level of Government, in the awarding of major contracts supply order, the allocation of import quota, and regulation of natural resources. While awarding these contracts, there is a lack of transparency in the functioning of Government officials. The ‘inspector raj’ is thriving and breeding massive corruption. Wider the gape in demand and supply in any of economic goods or services, lead to higher level of corruption, which is a fertile grounds for white collar crimes, in India.

Poverty and low literacy rate in India:

No doubt, poverty and low literacy rate in India is major cause of white-collar crimes because most of the people exploited by privileged class are poor and illiterate. They are not aware of their political, educational and cultural and economic rights, which provide a fertile ground for the people in high echelon of power to commit a scam or scandal of any magnitude without coming to the knowledge of their popular voters.

The Fodder scam and Bitumen Scam in Bihar indicate that how the funds allotted for the purpose of developmental works, were misappropriated by politicians with the help of senior government officials. Because illiterate people in these states do not agitate for good roads, drinking water and other basic amenities which a welfare state is supposed to do for its citizens. They believe in short term gains. During Elections, Politician throw this money to voters for liquor, foods, clothes and even in cash to purchase votes and again fool them of next five years.

The poverty is also a cause of corruption because majority of developing and poor countries of the contemporary world, are getting billions of dollars as loans from World Bank as well as from developed countries like USA, UK, France, Germany, Japan etc. These loans are meant for the development of basic infrastructures like

health, hygiene, primary education, technology development, rural development, poverty alleviation etc. However it is a matter of recognition to ascertain whether the assistance is reaching to bottom or to the real beneficiaries down the hierarchy.

However poverty and illiteracy both are the cause of corruption because the downtrodden people who are very poor as well as illiterate cannot fight this corrupt system. So literacy rate has to be improved. Studies indicate that in last decade it has improved in some states. Our parliament by amending the Constitution made the elementary education a fundamental right through Article 21 (A) which is a step forward in this direction.

The explained cause and areas of socio-economic crimes are not exhaustive, there are so many areas where tendencies of socio-economic criminality is on the rise and in the future more new fields may emerge with the changes in the way of life of the people. The relative 'fixity' of ways and aspirations of former times and the operation of a moral code tending towards austerity, frugality and simplicity of life, profoundly influenced the mechanism of social control and social responses. In emerging Indian society, with its emphasis on purposively initiated process of urbanization alongside of the weakening of the social morals of the simpler society, the signs are visible of materialism, growing impersonalism, importance of status resulting from possession of money and economic power, group loyalties, intensification of parochial affinities, unwillingness or inability to deal with deviations from the highest standards of political, economic and professional field, of faith in the rule of law and disregard there of where adherence there to is not convenient. The economic necessity in some cases encouraged those who had the opportunities to succumb to temptations, thus increase in the areas of corruption.

Slow sentencing process:

"Because sentence against a bad work has not been executed speedily, that is why the heart of the sons of men has become fully set in them to do bad," observed King Solomon.⁸ It is said that justice delayed is justice denied. The accused persons of socio-economic crimes hardly get convicted and punished which lures others to commits such crimes. This also fuels in increasing socio-economic crimes. When there are not punitive measures to assure transparency, monitoring, and accountability through a working justice system, some people will participate in corrupt behavior simply because they can get away with it. Politicians and other individuals require a legal, monitoring system to assure that corruption will not occur in the planning and execution of public sector budgets. Social and internal

⁸ Ecclesiastes 8:11

control mechanisms are required for civil society and autonomous state auditing agencies. Without them or with only weak enforcement measures, people in power are more likely to embezzle money from the national budget, sway votes or participate in other actions that will result in personal gain at the public's expense.

Possible remedies:

Prevention:

In order to achieve the much desired welfare of the community and its preservation and protection against the abuses of the socio-economic crime it has become essential to deviate from the adopted notions of traditional criminal jurisprudence and to modify the procedural and substantive criminal law. The new socio-economic criminality is the handiwork of businessman, industrialists and the professional people, all belonging to the upper strata of society and it is committed in the course of their occupation with the help of expert scientific and technological know-how, and the old concepts do not admit of proper and sufficient treatment in the background of traditional concepts, and therefore some rethinking has become essential in this behalf. The question of effectively and swiftly dealing with socio-economic crimes being uppermost in the interest of the society and state, a new thinking is very essential on the trial and punishment thereof. These crimes cannot be treated lightly and the punishment in their context cannot naturally be light or inadequate to the gravity thereof and must commensurate with the danger and the harm inherent in them. Therefore to achieve the desired result it has become necessary and important to review not only the existing legislative provisions but also the questions relating to their cognizance, investigation, trial and punishment.

Prevention has always been considered as better than the cure and this is equally true in the context of socio-economic crimes and vigorous efforts on legal and extra legal plans are needed for the prevention of socio-economic crimes. In fact, perusal of criminal jurisprudence would bear enough testimony to the theory that prevention is better than cure; the major part of the criminal jurisprudence is devoted to prevention of crimes. The deterrent theory of punishment of crimes is primarily concerned with it. Punishment is considered as a deterrent not only to the criminals but also to the would be criminals. There may be a difference of opinion upon the extent of efficacy of punishment being deterrent but there is no denying the fact that punishment does act as a potential deterrent. If it were possible to prevent and check the commission of socio-economic crimes, many of the problems faced today would die a natural death. But the utopia, totally free from socio-economic crimes is mere wishful thinking. This however should not imply that there should be no efforts to prevent and check the concurrence of these crimes, rather these efforts would have to be multiplied and would have to be both on the legal and extra legal planes.

Legal measures:-

On the legal plane, it may consist of modification and amendment of the existing provision of the laws dealing with socio-economic crimes including the law of evidence and procedure. It may equally call for enactment of new law and new provisions to deal with new situations. Experience of working of various laws dealing with socio-economic crimes has brought out certain lacuna and defects in the legal provisions which create difficulties in the detection, enforcement, investigation or prosecution and therefore it is necessary to modify and amend these provisions so that these crimes are easily and more efficaciously detected and punished. The ingenuity of these criminals is too well-known and this necessitates constant updating of the laws dealing with socio-economic crimes.

Drastically swift investigation followed by equally quick prosecution and successful termination of these offences is of utmost important for containing these crimes. Each successful prosecution entails two fold reactions: while on the one hand it results in the development and restoration of confidence of the general public in the machinery of administration of justice, on the other hand it has a deterrent effect upon the prospective offenders. On the other hand every unsuccessful prosecution undermines people's faith in the efficiency of courts of justice and also emboldens the criminals and creates a psychology that they can commit a crime and got away with it. Therefore every effort is called for to ensure swift and successful trial and punishment of the offenders.

Keeping in view this, the Government of India referred the entire question of the trial and punishment of social and economic offences to the law commission of India. The broad question which has been referred to the commission can be thus stated. "The Government of India had under consideration the question of effectively dealing with certain anti-social and economic offences. There are certain special Acts intended for the benefit of general public and the offences under such Acts are antisocial in nature. There are special legislations as Essential commodities Act, Prevention of food Adulteration Act, Drugs (Control) Act; Imports Exports (control) Act, Foreign Exchange Regulation Act, etc. These anti-social offences also extend to deliberate evasion of taxes and the question that arises for consideration is how drastically and swiftly penal action can be taken to prove it as deterrent against commission of such offences. The present trend of legislation and also the judicial approach to such offences appears to be that these offences are treated lightly and the punishments are not adequate having regard to the gravity of such offences....."⁹

The Law Commission of India has submitted a detailed report (47th Report of the Law commission) in 1972. Earlier the somewhat related question of; inclusion of certain social and economic offences in the Indian Penal Code was examined by

⁹ 47th Report of the Law Commission of India, P1.

the Law Commission on a reference by the Government of India (29th Report of the Law Commission). Quite a few of the recommendations of the Law commission have already been accepted but much still remains to be done.

Punishment:-

According to Bentham the seriousness of crimes should be measured by their respective social harm rather than by the sinfulness of the other transcendental qualities and when crimes are caused by rational efforts of man to augment their pleasure, as the case with socio-economic crimes, those deserve to be punished strictly and adequately so that the retributive and deterrent purpose of punishment is properly secured. But unfortunately more often it is found that they are treated lightly and leniently and the punishment awarded is inadequate and in most commensurate with the gravity of the offence.

Imprisonment:-

Thus what is needed is that for socio-economic offences imprisonment should not only be mandatory but further a minimum period of imprisonment should also be provided. The legislature should not be content with only providing maximum punishment but should go further to provide for mandatory minimum imprisonment. Opinions have often been expressed against any such provision on the plan that it would have the effect of interfering with the discretion of the courts. But instances have been very few where the courts have recognized the need for dealing with socio-economic offences differently than traditional crimes in the matter of crimes. To illustrate, *Indo China B. Navigation Co.V. Jagjit singh*¹⁰ is the case in which the supreme court had laid down a distinction between persons who commit what would be known as traditional crimes and other who violate social and economic legislations passed for the benefit of the community but even in this case deterrent fine was sufficient. The courts, even recognizing the need, find it difficult to adopt a different pattern of punishment in cases where socio-economic offences are concerned and thus it would fall upon the legislatures to give the lead. Already the legislatures in India have recognized this need, find it difficult to adopt a different pattern of punishment in cases where socio-economic offences are concerned and thus it would fall upon the legislatures to give the lead. Already the legislatures in India have recognized this need and have incorporated such provisions in the Prevention of Corruption Act, 1988, and the Prevention of Food Adulteration Act, 1954; this should be increasingly adopted so that these offences are properly and effectively dealt with and adequately punished.

Fines:

As socio-economic crimes are born of greed, avarice and rapacity and essentially are productive of heavy financial gains and therefore it is equally necessary that the offenders are not permitted to pocket the gains of their crimes. Therefore in

¹⁰ 1964 S.C.1140

addition to minimum mandatory imprisonment, reasonable high fines should also be imposed upon these wrongdoers. These fines should again be commensurate with the gains. As observed by Bentham¹¹ “to prevent an offence, it is necessary that the repressive motive should be stronger than the seductive motive. The punishment must be more an object of dread than the offence is an object of desire. An insufficient punishment is a greater evil than an excess of vigor; for an insufficient punishment is an evil wholly thrown away. No good results from it, either to the public, who are left, exposed to like offences, not to the offender, whom it makes no better.”

While punishment by fine can act as supplementary punishment in the case of persons, for institutions like companies and corporations the only method to penalize them is through heavy fines. It may sound odd but it is not wrong to say that in the punishment of socio-economic offenders it is not criminal justice only which needs be vindicated; social justice must be equally bargained for, otherwise the institution of justice would get into disrepute and people would lose faith in it.

Forfeiture of property and confiscation of goods:-

It was found that the measures to contain smuggling and foreign exchange manipulations and other similar activities were not yielding much result in the prevention of these socio-economic crimes. To prevent them from reaping the gains of their ill gotten money and property, the Indian Parliament has enacted the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, which provides for forfeiture of the properties of smugglers and foreign exchange manipulators hold in their names or in the names of their relatives or associates under certain specified circumstances. The efficacy of this measure is yet to be gauged, but there is no doubt that it should prove very effective in course of time to check, prevent and control these crimes.

Apart from it, confiscation is also a recognized form of punishment. Therefore, it is equally essential to ensure that economic stability and health of the community are protected and the only way to do it is through the confiscation and destruction of adulterated or substandard drugs, cosmetics and foodstuffs and confiscation of foreign exchange and articles.

In a society which is governed by the concept of rule of law, the measures discussed above would not suffice by themselves and would also need the backing of necessary law and this necessitate modification in the existing provisions of criminal law, particularly the procedural ones and the laws of evidence.

Procedure:-

¹¹ Theory of Legislation, 1895. Tripathis's Reprint, 1975 P.201

In dealing with Socio-economic crimes more effectively the following changes in procedure may be helpful.

Burden of proof:-

In view of their peculiar nature, planned execution and undeniably grave danger involved in socio-economic crimes, it is very essential to modify these principles of burden of proof. The secretive, shrewd and dexterous execution of these offences makes it extremely difficult and sometimes even impossible to detect them and bring these criminals to the court of law to face a trial and these crimes go undetected and unpunished in large measure. These crimes do not admit of strict proof and therefore it is necessary and essential to dilute the vigour of these principles of criminal jurisprudence relating to burden of proof and presumption of innocence of the accused in the context of socio-economic crimes.

It is not possible to defend the rules which give excessive protection to the accused persons in socio-economic offences. As observed by the Supreme Court in Shivaji V. State of Maharashtra¹², the dangers of exaggerated devotion to the rule of benefit of doubt at the expense of social defence and to the soothing sentiment that all acquittals are always good regardless of justice to the victim and the community, demand special emphasis in the contemporary context of escalating crime and escape.⁷

Further the old concept of cognizance of offences should be changed and the traditional distinction between the cognizable and non-cognizable offences is too old and outmoded and should be done away with. This traditional distinction hampers the detection of socio-economic offences. All these crimes should be declared cognizable offences without exception as far as possible. The traditional categorization of such crimes as non-cognizable is not conducive to their timely and effective detection. The old concept of independent witness must change. Inclusion of officials as witnesses should be recognized as just and equitable.

Trial:

The existing procedure for trial of cases in the criminal courts has come under much criticism and not altogether without any justification. The inordinate delays of the criminal courts have become proverbial. The socio-economic crimes call for urgent and expeditious handling not only because of their nature and content, but also because they undermine the health and material welfare of the entire community and nation. Successful and expeditious trial of socio-economic criminal is of vital importance to the control and containment of this newer form of criminality. One successful prosecution resulting in adequate punishment of

¹² 1973.2.Cr.L.J.1783

these criminals in itself a sufficient deterrent to many a would be criminal and therefore every effort is needed for reforming the procedure for trial of socio-economic crimes to avoid unnecessary delay. Most of the problems are solved by providing for a trial by courts of Sessions. It is ensured in a Sessions trial that the evidence is not recorded piecemeal and the case is heard from day to day. Furthermore, superior courts of sessions are immune to and free from undue pressures resulting from the high status of these criminals. Matters can be further improved by avoiding other pitfalls in expeditious disposal of these cases.

To avoid unnecessary delay, right of appeal may be restricted to only one, but as long as even the semblance of justice is to be meted out to these criminals, a summary trial would be inopportune and inappropriate.

Effective enforcement:

An efficient, effective, diligent and ever vigilant, enforcement agency curtail if not altogether terminate, the incidence of socio-economic crimes. To be effective, enforcement agencies would need special powers of inspection, search, seizure and discovery including that of taking samples. These powers play a pivotal role in preventing and detecting these crimes. By and large statutes dealing with socio-economic crimes do confer some powers of inspection, search, seizure, discovery and sampling but those have been found to be inadequate and therefore need to be enlarged in scope.

Standardisation and quality control:

The incidence of socio-economic crimes is greater in the field of food stuffs, drugs, medicine and cosmetics. Sale of adulterated food stuffs, spurious drugs and medicines and substandard cosmetics is much too common and is very adversely affecting the health and hygiene of the community.

To protect the malady, standards are prescribed for such articles of human consumption and a strict vigil is kept at the place of manufacture, sale of food stuffs, drugs, medicines and cosmetics through quality control. Adherence to the prescribed minimum standards of purity and contents would go a long way to eradicate this evil.

Further, in order to increase and multiply the sales of their product, the manufacturers community resort to all sorts of means including promulgating false and misleading propaganda and concocted research reports, data and a demand is created for a particular product in the making, and thereafter the product is propagated and advertised and thus people are persuaded, misled, and instigated into purchasing their product.

As such, these deception and fraud which are perpetrated through misrepresentation by false and misleading advertisement and propaganda, deserves

to be checked. Some means, apart from and in addition to quality control, must be devised whereby it is ensured that the goods advertised must conform to the claims made in the advertisement, and thereby to save the community from such frauds and to prevent recurrence of such crimes.

Publication and blacklisting:

Secrecy is detrimental to social interest and the stigma of crime has just the opposite effect on socio-economic criminals than on the ordinary offenders. It is very sad state of affairs that the society or the community at large has meager means to know and learn of the criminality of such persons, so much so that quite often even the conviction and punishment of these upper class criminals is either not known to or not taken due notice of by the people. As such, it would be necessary to have due and sufficient publicity to the names and particulars of these persons, firms and other organization which have been convicted of such anti-social activities at their won expenses. This would go a long way to degrade these criminal in the estimation and eyes of their fellow community beings, resulting in such improvement is the overall situation of socio-economic crimes. Some provisions for publicity have already been incorporated in Prevention of food Adulteration Act, 1954,¹³ also. The effort may be further extended to other similar enactments with much benefit.

These efforts should further be supplemented by blacklisting the individuals, firms and corporations thereby debarring them from grant of any licenses, permits, quotas and contracts from the government, local bodies and public corporations. The move to setup an ombudsman type institution in the State is also effective step in this direction.

The basis of the socio-economic criminality is the erosion of morals and ethical values in those who engage in them and therefore cultivation of these morals and ethical values through proper education is one of the ways to combat and contain these crimes and the interest of the society at large can be safeguarded.

All reforms in the law should have an active support of the public opinion. The assistance of the public in the enforcement of laws relating to socio-economic crimes is imperative.

Of course the success and failure of our enforcement agencies in the prevention and detection of socio economic crimes would depend much upon the state's reaction to the suggestions delineated above.

¹³Section 16(2) Income Tax Act,1961(2.Section287) and Drugs and Cosmetics Act, 1940(3.Section33)

Administrative reforms:

1. Establishing accountability at all levels of administration.
2. Adopting hire and fire policy for the recruitment of public servants, who should be given appointment on contract for a certain period and its terms only to be extended with the recommendations of the community and not by the politicians.
3. Incentives for honest public servants and disincentives and punishment for corrupt officials and
4. Creation of watch dog organizations who should focus not only on those who receive bribes, but also on those who pay them.

Recommendation of P.C.Hota Committee.¹⁴

NDA Govt. set up a committee of 16 members under the Chairmanship of former chairman of UPSC Mr.P.C.Hota to study the Indian Civil Services functioning and suggest some measures to improve the efficiency of administrations. This committee has submitted 64 recommendations and to infuse young blood and weed out corrupt elements.

1. Rigorous performance assessment.
2. Bring down the entry age to civil services.
3. Assess the services of civil servant and if he is not performance oriented, then not to give extension after 15 years of services.
4. Civil servants should be responsible and citizen friendly, transparent, accountable and ethical in its action and interface with the people.
5. Protection to honest officers against wrongful pressure exerted by administrative superiors, political executives, business interest and other vested interest.
6. Summary dismissal of corrupt and lazy officers.
7. Curbing post retirement assignments.
8. Cleaning out the antiquated rules etc.

Role of mass media:

The role of mass media cannot be ruled out in curbing the crimes in society by means of highlighting through news and bring to the notice of Enforcement agencies. Media has helped even in unearthing the many scams and politicians accepting the bribes on camera. Tehlka.Com brought the revolution in the investigating journalism by recording the people or persons in high seats of power by their spying camera and by carrying out the sting operations. They have shown to the people of this country, how wine, women and money play the role in acquiring defence contracts.

Press is said to be the fourth pillar of democracy and there is no doubt in my mind in its role. It is playing its role honestly and like judiciary which plays the role of watch dog over other two organs legislature and executive is important, the free press is equally important to play its role as fourth pillar of democracy, an

¹⁴ The Times of India, 07.08.2004

institution outside the government as an additional check on the three official branches-executive, legislature and judiciary.

In USA, the First Amendment to its Constitution specifically protects a free press. It is the primary function of the Press to provide comprehensive and objective information on all aspects of the country's social, economic and political life. The press plays as a powerful antidote to any abuse of power by the government officials responsible to the people whom they were elected to serve.

In India, freedom of the Press is implied from the freedom of speech and expression guaranteed by Art 19(i) (a). There is no specific provision ensuring freedom of the press as such. The freedom of the press is regarded as a 'species of which freedom of expression is a genus' so it is a right flowing from freedom of speech of a citizen, so the press enjoy no privilege as such distinct from the freedom of the citizen.

In plethora of cases, the Apex court established the freedom of press and the concept has got the same status as the free press in USA. The Apex court evolved the fundamental principle i.e. people's right to know which culminated to final passing the Right to Information Act, 2005 by our parliament.

Role of print media is equally important and they are taking lot of efforts by printing through their newspapers lot of corruption cases among politicians, Bureaucrats and contractors and thereby make the awareness to the general public.

Importance of moral education in school:

Lack of morality is one of the causes of increasing socio-economic crimes in society. People who give importance to morality do not commit socio-economic crimes easily. Their morality prevents them in committing crimes. But, now a days despite the escalation in literacy rates, there is a visible depression in value education resulting in behavioral degradation, which again is fed by lack of sensibility. This value education or moral science should be taught in schools from the primary level in order to mould an individual into an acceptable human being.

The responsibility lies clearly on the shoulders of the educators; the latter are subjugated by political leaders. But there should be distinction between moral education and religious education. Moral education is separate from religious studies. Morals Science teaches values and ethics, it helps a child to build up strong ideals like honesty, courage, humility, kindness, generosity and patriotism. It teaches man about retrospection, to be his own watchdog and he is responsible only to himself.

Benjamin Franklin, one of the founding fathers of the United States of America believed that "Only virtuous people are capable of freedom. As nations become corrupt and vicious, they have more need of masters.....Nothing is of more

importance of the public weal than to form and train up youth in wisdom and virtue.”

Conclusion and suggestion:

Mahatma Gandhi said- God provides us sufficiently to fulfill our need but it is greed which cannot be satisfied or satiated. Socio-economic crimes are spreading in the society like cancer. To prevent and eradicate such kind of socio-economic offences a revolutionary change in peoples’ attitude is to be brought about. We should be more sensitive to others pain and agony. To achieve this aim we have to take help of Indian philosophy of spiritualism. Here are some suggestions to combat with this menace-

Leadership:

For proper house cleaning and repairs, it is a good idea to begin by fixing the roof. Hence, many authors, including Professor Syed Hussein Alatas of Malaysia, a noted authority on corruption, are of the view that the leadership in a country has a key role to play in combating corruption. It is Indian tradition to hold leaders and those in authority in high regard and esteem. Hence the top leadership must set a good example with respect to honesty, integrity and capacity for hard work.

Involving people:

A publicity campaign to create greater awareness on the adverse effects of corruption and a clear and unequivocal official pronouncement on the desirability to bring it under control would be helpful.

Responsible press:

A responsible press to gather, analyze, organize, present and disseminate information is considered vital to create greater public awareness and to provide the momentum for undertaking reforms to overcome corruption.

Improving institutions:

This is a very large area and only brief mention can be made of the relevant issues. It involves such things as improving the legal framework; smoother, less time-consuming and less burdensome ways to conduct business in the functioning of law courts and in the administration of justice; promoting efficiency of the police force; strengthening the auditor general’s office; and appointment of a responsible inspector general empowered to investigate and prosecute corruption.

Proper implementation of Legislative Measures:

Proper implementation of legislative measures such as the Prevention of Corruption Act, 1988, the Prevention of Food Adulteration Act, 1954, the Essential Commodities Act, 1955, the Dowry Prohibition Act, 1961, the Suppression of Immoral Traffic in Women and Girls Act, 1956, the Narcotic Drugs and Psychotropic Substance Act, 1985, National Security Act, 1980 etc.

Death penalty:

The penalty for socio-economic crimes, which are a potential risk to human lives, may even be extended to the imprisonment for life or even to death if the circumstances so demand. The former director of CBI said, "I will begin my campaign against corruption at our schools where I will explain to impressionable children what 'corruption' means and why they should not yield to illegal demands from public servants. If we can raise one generation of Indians who are resolved not to pay bribes we will have won half the battle. This is no mean task, because any such mass movement to 'brainwash' our children against corruption will be fought tooth and nail by every public servant (ministers included), who have a high stake in perpetuating the evil. But this is no reason why we should not at least try."¹⁵

To conclude I would like to refer some words of the famous rocket scientist and former Indian President A.P.J. Abdul Kalam, "If a country is to be corruption free and become a nation of beautiful minds, I strongly feel there are three key societal members who can make a difference. They are the father, the mother and the teacher."

¹⁵ [http://: www.outlookindia.com](http://www.outlookindia.com)