**SOCIO – ECONOMIC OFFENCES**

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 **Abstract**

The growth in socioeconomic crime is traced to the materialism and business competitiveness fostered by industrialization, coupled with a decline in the influence of religious ethics that demand material accomplishments while emphasizing honest and fair dealings with others. These factors influenced India after World War II, and India's criminal jurisprudence had limited opportunity to shape itself to counter the growing tide of socioeconomic crime. Currently, there are elements of a new criminal jurisprudence evidenced in legislation intended to regulate and control socioeconomic crime. This includes treating socioeconomic crimes as having strict liability, with curtailment or abandonment of the necessity to prove intent. Further, vicarious criminal liability, which involves the liability of a principal for the acts of its agents, is being increasingly recognized. Sentencing for socioeconomic crimes is also becoming more severe, including mandatory minimum imprisonment, large fines, and the confiscation of goods and property. In addition to providing stronger deterrent elements for socioeconomic crime through more effective law enforcement, prosecution, and sentencing, the stigma attached to socioeconomic crime should be increased by raising the social consciousness against such crime through increased publicity about the trials and convictions of those accused of such crimes.

 **Introduction**

Socio Economic Offences are considered to be recent in origin in India. This new form of Criminality is the outcome of the developments of Science and Technology, industrialization and urbanization. Socio Economic Offences are associated with the upper class of the Society and the crimes are committed during the course of their employment. Socio Economic Crimes affecting the public health, morality and well being of the entire Community in comparison with the traditional crimes. In that regard, they are more dangerous to the society than the traditional crimes since it is affecting the larger sections of the society. Socio Economic Crimes have started receiving attentions quite recently only.[[1]](#footnote-1)

A number of offences have been prevailing in the society for a long time. Offences are the illegal actions resulting from the breach of law. These offences can be classified into two main categories namely,

 **Conventional offences and**

 **Non- conventional offences**

Conventional Offences consist of Mens Rea. For e.g., murder, theft, rape etc. Non- Conventional Offences do not contain Mens Rea. White collar crimes, socio economic offences, organised crimes, etc. are a few examples of non-conventional crime. Traditional crimes like theft, robbery, rape, murder etc. were more common and were dealt with the general law of crimes. But Socio economic crimes as its name suggest are social crimes and affects the health and morals of the public and economic crimes consist of those offences that affect the economy of the country as a whole. These are punishable under the special laws of crimes.[[2]](#footnote-2)

Socio- economic crimes are many a time used as a synonym for white collar crimes. But extensive study states that the former is a broader term. White collar crimes are the crimes committed by people belonging to upper caste and rich backgrounds. Whereas a socio- economic offence can be committed by anybody. For e.g., a big wealthy entrepreneur or a multi-national company, guilty for tax evasion and a middle class pensioner depositing false return. Both are examples of socio-economic crimes, but only the former can be considered as a white collar crime.

In India, though a number of legislations have been enacted that can come under the label of Socio Economic Legislation; it seems that they are not sufficient enough to tackle the issues related to this new form of criminality. Socio economic crimes go against the national interest and can harm the national economic structure. To curb this menace the courts in India have brought up the provisions of stringent punishments against such crimes. Considering the gravity and the serious repercussions of the Socio Economic Offences, it renders strict enforcement of the laws. Death penalty is provided under the Narcotic and Psychotropic Substances Act, 1986 and capital punishment is suggested for various white collar crimes. This shows the concern of Indian judiciary and legislature to curb the socio economic offences through legislative and judicial measures. From an academic perspective, the subject of socio economic crimes has found a place in the curricula of several post graduate courses as it is an important part of criminal law. A literature review pertaining to the subject reveals that there is a dearth of literature concerning the socio economic offences in India.[[3]](#footnote-3)

 **Categories Of Socio- Economic Offences**

The offenses that can be categorize as socio-economic offences in the country are as follows:-

Actions calculated and executed in order to obstruct or prevent the economic development of the country and also its economic health.

Evasion of taxes.

All activities related to black marketing and hoarding.

The activities involving adulteration of foods and drugs.

Misappropriation and stealing of Public property and funds.

 **Features Of Socio-Economic Offences**

Motive- Not like other offences like Traditional offences here the motive of committing the offence is desire of wealth or excessive greed.

Emotion: Where most crimes are done due emotional reasons, on the contrary these types of offences contain no emotional background or relation between the victim and the criminal.

Target Victim: Mostly the victim in such offenses is the state or a sector of people most likely those who are consumer of certain goods or services, a shareholder or having any other securities etc.

Mode of operation: The main element for commencement of such crime is fraud and not force

Mental Element: such offences are usually done deliberately and willfully.[[4]](#footnote-4)

Though the main feature of such offences is they that are not done particularly against one person, it affects the country at large and hence special efforts are applied in such offences. For e.g., in case of theft or assault to a person, the only person benefited by the punishment given to the offender is the one who got assaulted because the act is physical and hence it creates individual and social vengeance. But in these type of offences the for eg., if some commodities are hoarded or adulterated then though there will be a ‘victim’ but also the act of the wrongdoer is capable of harming a large part of the society. Thus it is most likely and injury to the whole society.

 **Causes Of Socio-Economic Offences**

As in general, in India and in other countries, industrial revolution, transition from rural and traditional society to industralised society, extreme business competitiveness and post World War-II conditions had given birth to socio-economic criminality. It cannot be denied that the technological and scientific developments led to the dilution of people’s faith in the ultimate or absolute, with the result that the fear of the “world beyond” was eroded as a result there was a decline in ethical, moral and spiritual values. This in turn brought the love for material happiness and the greed for money irrespective of emphasis for moral and ethical values. Socio-economic Crimes stem from this lure for money, particularly in the upper and middle class people in industry, trade, business, occupation, profession and public offices. These crimes continued to multiply partly because of their nature and partly because of the State’s attitude of “laissez. fair” philosophy and further more because of lack of any concerted and organised public resentment. Though, the adverse, effects of the crimes are in evidence all around us, and their grave consequences are obvious, a little attention has been paid to the study of the genesis, prevention, control and eradication of these crimes in our country.

**Industrial Revolution-** The evolution from agricultural based country to industrialisation bought changes in the country which led to offences changing its paces from traditional to these new ones.

**World War II**: Post war conditions of the countries were pathetic which led to changes in the normal working of the society. Hence new practices gave birth to new offences as well.

**Business**: when new businesses started to emerged in the country it created to the sense of extreme competitiveness among them. Every one desired to one- up each other by any means necessary.

**Technology**: One of the aspects which changed our country for better is also responsible for causing such offences. The emergence of technology and scientific developments led to the decrease in belief of the almighty.

5. **Lack of Morals**: As the fear for the ultimate judgment or the world beyond all humanly things started to disappear, people’s morals and ethics started to decline. This resulted in the increase in frauds and also greed and lust for materialistic happiness.

6. **Laissez- Faire**: the state decided to leave things as they were and lack of public resentment resulted in grave consequences which is now noticeable in our country. But with proper study and attention these crimes can be controlled in the country.[[5]](#footnote-5)

**Difference Between Socio-Economic Offences And White Collar Crimes**

Socio-Economic offence is wider concept, While white collar crimes are the crimes committed by a person in course of his occupation and person belongs to upper class society. Examples of white collar crimes are: evasion of taxes by multinational companies, sale of sub-standard drugs by a renowned manufacturer etc. all of these crimes also come under the category of socio-economic crimes. Whereas false return by pensioner cannot be considered as a white collar crime unless it is committed by a member of the upper class society. Hence it is concluded that all white collar crimes can be socio-economic offences but not all socio-economic offences can be termed as white collar crimes. Both of these are intersecting circles.[[6]](#footnote-6) In short, social offences are offences which affect the health or material welfare of the community as a whole. and not merely of the individual victim. Similarly, economic offences are those which affect the country's economy, and not merely the wealth of an individual victim.[[7]](#footnote-7)

 **The Laws Dealing With Socio-Economic Offences**

 For punishing the criminals relating to socio-economic offences a number of Acts ere framed. Also these Acts are established for keeping the regular activities of trade, contracts etc., could take place without or with least number of malpractices. Some of these Acts are:

The Foreign Exchange Regulations Act, 1947

The Wealth Tax Act, 1957

The Income- Tax Act, 1961

The Essential Commodities Act, 1955

The Customs Act, 1962

The Prevention Of Corruption Act, 1988 etc

 **MODERN DAY SCENARIO**

The development from a rural country, mostly dependant on agriculture to adopting full- fledged industrial activities was quite a drastic change of pace for the country. With increasing technology and competitiveness resulted in an increase in a number of malpractices. It is not that malpractices didn’t existed in while the early ages but the changes in nature of work and living led to new and even more advanced malpractices to emerge. Malpractices which were monotonous and simple now turns out to complex and advanced as per the changing time. There examples can be unfair completion, breach in contracts, adulteration of food and drugs etc.

People of the country have this mind-set about offences that only the conventional offences are the one that need to be eradicated. Crimes like murder, robbery rape etc., are examples of grave dangers for the society but so are these non-conventional offences socio-economic offences that slowly feeds on the social and economic health of the whole country. In times of crisis or war the way all unite in order to protect the territory in the same way if the whole society unite against these offences and put of their massive effort to protect the health of economic and social structure such offences can easily be prevented.

 **Case Laws**

 **PUNJAB NATIONAL BANK FRAUD CASE**

The Punjab National Bank Fraud Case relates to fraudulent letter of undertaking worth 11,356.84 crore (US$ 1.4 billion) issued by the [Punjab National Bank](https://en.wikipedia.org/wiki/Punjab_National_Bank) at its Brady House branch in [Fort](https://en.wikipedia.org/wiki/Fort_%28Mumbai_precinct%29), [Mumbai](https://en.wikipedia.org/wiki/Mumbai); making Punjab National Bank liable for the amount. The fraud was allegedly organized by jeweller and designer [Nirav Modi](https://en.wikipedia.org/wiki/Nirav_Modi). Nirav, his wife Ami Modi, brother Nishal Modi and uncle [Mehul Choksi](https://en.wikipedia.org/wiki/Mehul_Choksi), all partners of the firms, M/s Diamond R US, M/s Solar Exports and M/s Stellar Diamonds; along with PNB officials and employees, and directors of Nirav Modi and Mehul Choksi's firms have all been named in a chargesheet by the [CBI](https://en.wikipedia.org/wiki/Central_Bureau_of_Investigation). [Nirav Modi](https://en.wikipedia.org/wiki/Nirav_Modi) and his family absconded in early 2018, days before the news of the scam broke in [India](https://en.wikipedia.org/wiki/India).

Nirav Modi is currently in the [United Kingdom](https://en.wikipedia.org/wiki/United_Kingdom) and is seeking political asylum in Britain though the Indian government has officially asked for his extradition. The [Enforcement Directorate](https://en.wikipedia.org/wiki/Enforcement_Directorate) has begun attaching assets of the accused and is seeking to immediate confiscation under the [Fugitive Economic Offenders Ordinance](https://en.wikipedia.org/wiki/Fugitive_Economic_Offenders_Bill). [[8]](#footnote-8)

Modi is on the Interpol's wanted list for [criminal conspiracy](https://en.wikipedia.org/wiki/Conspiracy_%28criminal%29), criminal breach of trust, cheating and dishonesty including delivery of property, [corruption](https://en.wikipedia.org/wiki/Corruption), [money laundering](https://en.wikipedia.org/wiki/Money_laundering) since February 2018.

The bank initially said that two of its employees at the branch were involved in the scam, as the bank's [core banking system](https://en.wikipedia.org/wiki/Core_Banking_System) was bypassed when the corrupt employees issued [LOUs](https://en.wikipedia.org/wiki/Letter_of_understanding) to overseas branches of other Indian banks, including [Allahabad Bank](https://en.wikipedia.org/wiki/Allahabad_Bank), [Axis Bank](https://en.wikipedia.org/wiki/Axis_Bank), and [Union Bank of India](https://en.wikipedia.org/wiki/Union_Bank_of_India), using the international financial communication system, [SWIFT](https://en.wikipedia.org/wiki/SWIFT). The transactions were noticed by a new employee of the bank. The bank then complained to the CBI, who is currently investigating the scam apart from [ED](https://en.wikipedia.org/wiki/Enforcement_Directorate) and Reserve bank of India. On a later date, CBI named key officials [Usha Ananthasubramanian](https://en.wikipedia.org/wiki/Usha_Ananthasubramanian), former [CEO](https://en.wikipedia.org/wiki/CEO) of PNB, executive directors KV Brahmaji Rao and Sanjiv Sharan in a chargesheet holding them responsible for failure to implement several circular and caution notices issued by the RBI regarding the reconciliation of SWIFT messages and core banking systems.

**2G SPECTRUM CASE**

Raja sold licenses/2G spectrum to a handful of arbitrarily selected (120 out of 575) companies in January 2008 at a bargain basement 2001 price. In doing so, he not only violated the law, committed several improprieties, but caused a loss to the exchequer of at least Rs 40,000 crore.

There are specific violations of the TRAI Act which are admitted through the evidence / press releases of the department itself as well as responses to Parliamentary questions. Apart from blatant violation of the TRAI Act and ignoring three written DOs of the independent statutory regulator – TRAI – in the matter, there is a high court decision (single and double bench) which has already held that the cutoff date used by Raja to select only 120 out of 575 applications was blatantly illegal.[[9]](#footnote-9)

 **SAHARA CASE**

The case all began when a Chartered Accountant in Indore sent a note to the National Housing Bank, requesting the Bank to look into the housing bonds issued by two Sahara Group Companies, Sahara India Real Estate Corp and Sahara Housing Investment Corp, having there head quarters in Lucknow. He found that the bonds that had been issued to a large number of investors had not been issued a per the rules. The National Housing Bank did not have the wherewithal to investigate the allegations, so it forwarded the letter to the securities and Exchange Board of India (SEBI), the capital markets regulator.

JUDGEMENT- Supreme Court directs Sahara India Real Estate Corporation Ltd. And the Sahara Housing Investment Corporation Ltd. To refund over Rs. 24,000 crore with interest to nearly 3 crore investors through market regulator. The firms were later allowed to pay up by February 2013. SEBI directed cancellation of Sahara Mutual Funds certificate of registration on expiry of a sex- month period.

 **Conclusion**

The corporations of today have travelled a long distance from being a clan owned entity to being recognized as a legal person, which has legal rights and owns half the world around them. The companies in the early times were taken to be fictitious entities those could not be held criminally liable for any guilty act. It was so because the corporation was considered to be a legally fictitious entity, incapable of forming the mens rea necessary to commit a criminal act. The major step in considering that a corporation can be held guilty were taken by the common law countries where the courts were much more braver to step out of the boundaries set by the written words that the company is not capable of having an intent and a physical presence, hence cannot be punished or imprisoned. It is high time that the never ending debate of can and should the corporate should be criminally liable and dealt under the criminal justice system should end. There is need to develop law and jurisprudence world over to deal with the corporate criminal liability.

1. <https://www.ibpbooks.com/socio-economic-crimes-in-india-a-nutshell/p/37144> [↑](#footnote-ref-1)
2. <http://lawtimesjournal.in/socio-economic-offences/> [↑](#footnote-ref-2)
3. <https://www.ibpbooks.com/socio-economic-crimes-in-india-a-nutshell/p/37144> [↑](#footnote-ref-3)
4. 47th report of the Law Commission (Socio-economic offences) p.g 3 [↑](#footnote-ref-4)
5. Shodhganga, Socio- economic offences, http://shodhganga.inflibnet.ac.in/bitstream/10603/126738/11/11\_chapter%202.pdf [↑](#footnote-ref-5)
6. 29th report of Law commission [↑](#footnote-ref-6)
7. <https://indiankanoon.org/doc/125248482/> [↑](#footnote-ref-7)
8. Sahgal, Ram (22 May 2018). ["Former MD of PNB was aware of Nirav Modi fraud, says CBI"](https://economictimes.indiatimes.com/industry/banking/finance/banking/former-md-of-pnb-was-aware-of-nirav-modi-fraud-says-cbi/articleshow/64260412.cms). The Economic Times. Retrieved 1 June 2018. [↑](#footnote-ref-8)
9. <https://www.firstpost.com/india/2g-verdict-today-2g-andimuthu-raja-kanimozhi-central-bureau-of-investigation-dravida-munnetra-kazhagam-m-karunanidhi-what-is-the-scam-a-detailed-account-of-the-modus-operandi-of-indias-biggest-corrupt-4268881.html> [↑](#footnote-ref-9)