

MAHESH CHANDRA

Socio-Economic CRIMES

Foreword by

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Chief Justice, Delhi High Court

TRIPATHI

Socio-Economic Crimes

by

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FOREWORD

It gives me great pleasure in writing the Foreword to 'SOCIO-ECONOMIC CRIMES' by Shri Mahesh Chandra, who already has a number of books to his credit including the one on 'Industrial Jurisprudence'. He is amply qualified by his education, experience, deep knowledge and right perspective to write such a book on a subject which is a burning question of the day, not only for our country but for the world as a whole. Socio-economic crimes have a tendency to erode the national health, character and economy in equal measure and sometimes have trans-national roots. They have a direct impact on the national progress of a country particularly one like India, which is engaged in a battle of development. It would not be wrong to say that the present book by Shri Mahesh Chandra is the first of its kind which has dealt with the subject of socio-economic crimes in proper social, economic and legal perspective, particularly in the context of India. There has not been any coordinated effort so far by sociologists, criminologists and legalists to study this subject although the Santhanam Committee, the Wanchoo Committee and the Law Commission of India have examined the question to a great extent. The effort of Shri Mahesh Chandra is commendable and is justified in itself.

'Socio-economic crimes', as the author has observed, is an all embracing term to denote and include all white collar crimes, public welfare offences, economic offences including regulatory offences. Shri Mahesh Chandra has categorised these crimes under 13 different heads in Chapter IV and has discussed the nature and scope of this newer form of criminality at length. The history of emergence of

socio-economic crimes in general, traced in Chapter II of this book is quite elaborate and the conclusion of the author that the Industrial Revolution, Renaissance and Reformation had given birth to socio-economic criminality is most near the truth. It cannot be denied that the technological and scientific advancements of the previous centuries backed by the so-called era awakening and the age of reason definitely led to a dilution of people's faith in the Ultimate or the Absolute, with the result that the fear of the 'world beyond' was eroded and in consequence there was a decline in ethical, moral and spiritual values, which in turn brought to the forefront the love of the material and the lure for money. Socio-economic crimes stem from this lure for money particularly in the upper and middle class people in industry, trade, business, profession and public offices. These crimes continued to multiply partly because of their nature and partly because of the state's attitude of *laissez faire* and furthermore because of lack of any concerted and organised opposition by the society.

Socio-economic crimes are of comparatively recent origin in India and the author's explanation for it is the codified criminal law in India, backed by the religious disposition of its people and its joint family system. Rural and agricultural background of the country as a whole is in no way less responsible for the late emergence of this newer form of criminality in India.

The battle against socio-economic crimes has to be fought on legal and extra-legal planes. In order to squarely meet the challenge of this new form of criminality, the author has pleaded for a new criminal jurisprudence (Chapter V) which deserves serious thought by all concerned. It has been correctly opined that courts in England, European countries and America had played a significant and major role in the recognition of change in juristic concepts in the context of socio-economic crimes but there may be a difference of opinion on the author's observation that due to codified criminal law there was not much scope for the courts in India to intervene beyond the letter of law, though it has to be conceded that courts could not play a major role in this country in re-shaping a new criminal jurisprudence. While there can be no doubt that every effort is required to be made to meet the challenge of socio-economic crimes, Shri Mahesh Chandra has not fallen in line with the protagonists of special courts for the trial and punishment of socio-economic crimes, and has rather suggested a trial by a

court of session in all principal socio-economic offences which has much in it to commend and achieve the desired results. The chapters on trial and punishment of socio-economic crimes (Chapter VI) and the prevention of socio-economic crimes (Chapter VII) incorporate many a good suggestions for those concerned with the enforcement of law and investigation and trial of cases concerning socio-economic crimes. The author's suggestion for an International Criminal Code needs serious thought at the International level.

The usefulness of the book to all those concerned with the control and prevention of this newer form of criminality, be it criminologists, sociologists or jurists, is beyond doubt. The book can be in equal measure useful to the students of criminal law and sociology, particularly at the Post-Graduate stages. The author has analysed and commented upon every aspect of this criminality. This is a careful and comprehensive analysis of all facets of socio-economic crimes and much research work has gone into the preparation of this book. I wish the book receives a befitting welcome.

V. S. DESHPANDE

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New Delhi

November, 8, 1978.

PREFACE

The Industrial Revolution ushered in the era of plenty, but proved to be a mixed blessing, for in its wake came a host of many new problems which engulfed one country after another. The extreme business competitiveness which resulted from industrialisation gave birth to a newer form of criminality and these new crimes have, in the course of time, come to assume vast and menacing proportions. These crimes are commonly known as socio-economic crimes.

Unlike the traditional crimes, this newer form of criminality is associated with the middle and upper classes of society. The crimes are committed by people in the normal course of their business and occupation, and are motivated by greed and avarice. By their very nature, these crimes affect the health, morality and material welfare of the entire community and at times threaten the economic fabric of the State itself.

The need to control this newer form of criminality is imperative. In a developing country like India, the necessity to contain socio-economic crimes is all the more pronounced. Although the adverse effects of these crimes are in evidence all around us, and their far-reaching consequences are obvious even to the common man, not much attention has been paid to a study of the genesis, control and prevention of socio-economic crimes in our country.

Unfortunately, our sociologists have not sought to study this social malady in earnest and in its proper perspective, while the jurists and legalists have been content to make casual and passing reference to it. Under the circumstances, it is futile to look for

any concerted and co-ordinated effort by sociologists, criminologists and jurists to study the problem. This apathy has hampered the growth of a new criminal jurisprudence so vitally needed to contain the growth of socio-economic crimes. Teachers and students of criminal law and criminology have been at a loss for want of a suitable book to make a proper study of the subject.

The need for such a study is self-evident and this book is an attempt to bridge the gap. Within a fairly small compass I have tried to give a complete and comprehensive analysis of all the facets of socio-economic crimes and to cover the whole spectrum of these crimes. An effort is made to keep the subject as commonplace as it admits of, so that the book is useful in equal measure to the sociologist, criminologist and the student of criminal law. With this object in view, the subject has been dealt with in an unorthodox manner, and the approach has been pragmatic rather than pedantic.

I am deeply grateful to the Hon'ble Chief Justice Mr. V. S. Deshpande for contributing a very illuminating Foreword to this study despite the many pressures of his high office. My sincere thanks are due to Mr. S. P. Kulshrestha, Librarian, Ministry of Labour and Employment for preparing the Index, and to Mr. D. N. Saini for typing the manuscript. I am thankful to the publishers for getting the book through the press most expeditiously.

I would be failing in my duty if I do not place on record my thanks to my wife Pratima and my children, Girish and Neerja, for the sacrifices made by them during the writing of the book and but for whose co-operation it would not have been completed.

I am offering this book in all humility, and will feel amply rewarded if it serves the purpose for which it is written. I would welcome suggestions for improvement, from any quarter.

MAHESH CHANDRA

New Delhi
June 6, 1979

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SOCIO-ECONOMIC CRIMES

CHAPTER I

INTRODUCTION

Some Reflections on Socio-Economic Crimes

Industrial Revolution ushered an era of plenty but simultaneously gave birth to many new problems. In the wake of industrialisation a newer form of criminality was born which has now assumed menacing proportions. Unlike the traditional crimes, this newer form of criminality is associated with the upper and middle class people and is committed by them in the course of their occupations. This is adversely affecting the health and material welfare of the community as a whole and is also threatening the entire economic fabric of the State. The criminality in these classes is deeprooted and extends to such varied forms that it is difficult to describe all of them. They extend from smuggling to adulteration and from tax evasion to frauds and misappropriation, exhibited in numerous permutations and combinations. The common feature of all this criminality is that the same is born of greed, avarice and rapacity and is committed in the course of trade, industry, commerce, business and profession of the upper and middle classes. These crimes have adversely affected the social and economic fabric of the State and the community alike and have made planned development for the future a very difficult job. Sutherland has called these crimes 'white collar crimes' while Sayre has described them 'public welfare offences'; there are others who call these crimes 'regulatory offences' and yet others 'crimes of strict liability'. I have described all these by an all embracing term—Socio-economic Crimes.

The genesis and historical development of socio-economic crimes in general has been traced in the second chapter which also deals

with the emergence of socio-economic crimes and other allied topics. The genesis of socio-economic crimes has been almost the same all throughout the world and it would be found that socio-economic criminality is in a way the product of Industrial Revolution, although Renaissance and Reformation also had contributed to the emergence of these crimes in no small measure. Renaissance had cast many a doubt on the very existence of the Absolute or the Ultimate and in consequence the people became irreligious, if not altogether atheists. The fear of Ultimate was increasingly abandoned in favour of lure of the material. The one emotion that seems to have unmistakably sobering effect on groups and individuals is this fear of Ultimate, the fear of world beyond, the fear of what might happen to oneself, to one's near and dear and the fear of consequences generally. The psychology which kept and maintained the stress on purity, resistance to temptation and the pursuit of goodness was increasingly abandoned in favour of money and material things. Money became the be end and be all of the entire human activity. In fact, money became an obsession with the individuals. The high ethical codes and moral values were abandoned and thrown to winds in pursuit of money and all sorts of frauds, misappropriations, misrepresentations, corruption and adulteration came to be committed by the people in the course of their trade, commerce, industry and professions. The theory of natural rights and *laissez faire* did not permit the State to interfere in the material pursuits of the individuals, associations or communities, with the result that socio-economic criminality multiplied beyond recognition and therefore initially it had fallen on the shoulders of courts and judges to re-shape the traditional criminal jurisprudence in the context of socio-economic crimes. It was only thereafter that the State intervened and took some measures to regulate this newer form of criminality but the crisis of moral values and ethical codes had already set in and even the State's belated intervention could not completely eradicate this malady.

I have traced the history and development of socio-economic crimes in India in the third chapter and a perusal thereof would show that socio-economic crimes in India are of a comparatively recent origin and the reasons for it are not difficult to discover. The rural and agricultural background and religious disposition of its people and its joint family system were primarily responsible for this situation. Even otherwise the country had been the victim of foreign

rule extending over centuries. The main concern of the British rulers for about two hundred years had been the plunder and loot of its natural resources rather than any industrial development thereof. There was only limited industrial development which did not disturb the main fabric of social polity. Strangely enough, it was in India that the Benthamite principle of codification of laws was first tried and it did prove its utility and serve the purpose well. Even otherwise the country was mainly engaged in its war of independence and the moral values and ethical codes had not yet been abandoned. It was primarily in the Second World War that socio-economic crimes took some shape in India. The country became free from foreign yoke in 1947 and was required to face the problems of refugee rehabilitation, maintenance of essential services and supplies, scarcity, inflation and a foreign attack in Kashmir. To meet the challenge, planned development was adopted as the basis of entire state activity and this gave a fillip to industrialisation. It was only thereafter that the harmful effects of industrialisation began to appear in India. Extreme business competitiveness and search for monopolistic advantages exhibited themselves in all walks of life. Socio-economic criminality is implicit in such circumstances and in a short while the demon of socio-economic crimes assumed monstrous growth in India as well. There ensued a marked decline in the moral and ethical code and conduct of men in public, professions and commerce. The imbalanced economy, unsettled population, deficient administrative machinery, inflation and scarcity backed by industrialisation are breeding grounds for the socio-economic crimes. Fortunately the entire criminal law in India has all along been codified and therefore unlike other countries like England etc. there was no difficulty in enacting legislation to control and check this criminality. The courts had had a limited opportunity to shape criminal jurisprudence in India particularly in the context of socio-economic crimes and rather it had fallen upon the legislature every now and then to lay down the law so as to curb the activities of these socio-economic criminals and this was made still easier for the legislature by the reports of various Committees and Commissions like the Santhanam Committee, the Wanchoo Committee and the Law Commission of India.

The nature and scope of socio-economic crimes has been dealt with in the fourth chapter. It was in the third decade of the 20th century that some attention was paid to the genesis, nature and

scope of socio-economic crimes by Sutherland, Sayre and other writers and all of them were of the view that the socio-economic crimes are peculiar in their nature and widespread in magnitude and varied in content and adversely affected the health and material welfare of the community and through it the individual and the State could not be a passive observer to such a criminality. It would not be wrong to say that corruption lies at the root of entire socio-economic criminality. This criminality is a class by itself and unlike the traditional criminality is associated and connected with the middle and upper class tradesmen, businessmen and men in professions. It includes promulgating false or mis-leading advertising, illegal exploitation of employees, mis-labelling of goods, violation of minimum standards, conspiring to fix prices, selling adulterated food stuffs, spurious drugs and sub-standard articles of human consumption, evading corporate taxes, bribery and corruption, black marketing, profiteering and hoarding, smuggling and violations of foreign exchange regulations, trading in narcotics, under-invoicing, over-invoicing, violation of standards, weights and measures, share pushing and corporate frauds. These crimes were committed in the course of people's trade, profession or business and were products of greed, avarice and rapaciousness rather than lust or hate. These were generally committed by means of fraud, misrepresentation, misappropriation and adulteration. Unfortunately these crimes thrived as much from the State's apathy and passiveness as they did because of lack of any stigma of the traditional crime with them. These highly placed criminals masqueraded in public as persons of respectability and high status and without any stigma. Varied as these crimes are, I have classified these crimes under following thirteen heads:

- (1) Evasion and avoidance of lawfully imposed taxes
- (2) Adulteration of food stuffs, drugs and cosmetics
- (3) Racketeering, profiteering, black marketing and hoarding
- (4) Boot-legging and violations of anti-narcotic legislations
- (5) Smuggling, under-invoicing, over-invoicing and other violations of foreign exchange regulations
- (6) Violations of standards, weights and measures
- (7) Violations of rationing and guest control orders
- (8) Trafficking in licences, permits and quotas
- (9) Embezzlement, misappropriation and frauds and other