

Socio-Economic Crimes: Analysis of Causation

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Crime problem is a major obstacle for peace, development and overall wellbeing of public at large. Crime is universal reality; crime co-exist with the human existence. For crime two contrasting truth exist at the same time that not only crime is universal but also crime is relative. In previous society enmity, jealousy, need and necessity were prime reasons of crime commission but now in modern society mainly crime is committed due to the greed, avarice and rapaciousness. Impacts of crimes committed due to greed are more serious. Crimes committed due to greed are termed as socio-economic crimes. Socio-economic crimes are completely different from traditional crime and criminality in every reference whether victim or impacts over him, availability of evidences or nature of evidences, criminal or mode of commission of crime by him, therefore, for tackling of socio-economic crime and criminality completely different and effective measures have to be envisaged and used. Special penal statutes are enacted, specialised investigating agencies are established and special courts are constituted and conferred with special jurisdiction but socio-economic crimes are day by day creating more and more serious challenges before the society at large. Law and legal instrumentalities may better function to tackle any crime problem when enactment and enforcement of law are focused on causation of crime and criminality. Causation of socio-economic crime will be analysed in this paper.

Keywords: *Causation; Corporate crime; Criminal Justice system; Greed; Socio-economic crimes; Strain; Urbanisation*

Introduction

Socio-economic crimes are serious problem for wellbeing of society and members of society, nation and ultimately for world at large. For proper development and continued existence of civilised society effective tackling of socio-economic crime is necessary requisite. Penal or reformative measures prescription on the basis of symptomatic characteristics may only give some short term relief but it cannot effectively deal with the problem. Further, symptomatic dealing with the problem increases complications ultimately giving rise to uncontrolled crime waves. In case of socio-economic crimes such crime waves may completely hamper the whole societal process, badly affect societal members and destroy the wellbeing of nation. Study of causation and considering it for tackling socio-economic crime problem in effective manner has to be emphasised, otherwise root cause of criminality may not be identified and it may not be

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effectively dealt with. To clear the controversy regarding importance of causation in criminal justice system operations analogy may be made with medical sciences; now in cure of ailments symptomatic treatment administration is not considered appropriate, cause targeted treatment is better. In medical science it is appropriate that in the first instance cause of ailment has to be identified; whether ailment is due to the infection or malfunction of a body organ. When infection is cause of ailment, it has to be identified that by which parasite infection is caused and which medicine may be effective. When reason of ailment is malfunction of body organ, it has to be identified that by which body organ and what may be cure. In medical science treatment includes diagnosis, prescription of treatment, and administration of treatment; similarly in criminal justice system in sentencing there are three components – identification of criminality and reasons of criminality, determination of effective dealing measure whether it will be sentence or reformation. When it is identified that sentence may be appropriate then such determination includes determination of nature of sentence and determination of extent of sentence, and infliction of sentence. In case of socio-economic criminals, Supreme Court has decided that reformatory measures are not effective and appropriate measure to deal with socio-economic criminals as they have no prospect of reformation and further special penal statutes prescribe minimum sentence, thereby, sentence application is mandatory¹. In criminal justice system symptomatic dealing with crime problem, thereby, mechanistic approach to deal with crime problem may not be effective; individualised causation based treatment method of dealing with crime problem has to be used. Socio-economic crimes hamper whole societal development, seriously affect wellbeing of public at large, graver impacts are caused over public exchequer, safety and security of nation, and ultimately whole world is badly affected.

Socio-economic Crimes: Meaning

Socio-economic crimes are considered as by-product of modern society. Edwin Sutherland was first academician to study the crimes committed by upper class persons in course of performance of occupation and he named such crimes as white collar crimes. Before him, William Bonger, a Dutch criminologist, gave opinion regarding impact of capitalism on crime commission and observed that capitalism increases selfishness in the individuals; poor and rich both may commit crime. Opinion of Bonger was providing that rich person may also commit crime but his study was not detailed and further, it was not talking about crime committed in performance of occupation. Sutherland provided sufficient theoretical and empirical substratum to white collar crime. Sutherland defined White Collar Crime That White Collar Crime may be defined approximately as a

¹*Pyarli K Tejani v Mahadeo Ramchandra Dange*, AIR 1974 SC 228; *State through S P New Delhi v. Rattan Lal Arora*, indiankanoon.org/doc/634266/; *Shyam Lal Verma v Central Bureau of Investigation*, indiankanoon.org/doc/93520640/

crime committed by person of respectability and high social status in the course of his occupation.²

Analysis of definition given by Sutherland clear that on identifying of three elements, crime may be taken as white collar crime – 1. who committed crime, 2. what law was violated, and 3. when was the crime committed. Society has conferred status and position, and further, society has provided respectability to white collar person, thereby, he is always taken as person to act for betterment of society but he is affecting the society by crime commission. The description that the white collar criminal is person of high socio-economic status and respectability clearly establishes that this category of crime is completely different from traditional crime and criminal. Further, another distinctive feature of white collar crime is 'violation of law enacted to regulate occupational activities'. Generally, crime is defined as violation of provisions of criminal law. Sutherland himself has defined that criminal behaviour is violation of criminal law. Sutherland defined crime that crime is behaviour in violation of criminal law. No matter how immoral, reprehensible, or indecent an act may be, it is not criminal act unless it is outlawed by the state. But usually allegations are made against Sutherland that he brought business activities and some violations of law in category of crime. 'When crime was committed' is third essential requisite for white collar crime. Sutherland clearly described that law regulating occupational activities is violated in reference to performance of occupational activities. Only white collar person is not sufficient for commission of white collar crime; if he is doing his professional act and in course of it he has committed criminal act, it may constitute white collar crime; suppose medical practitioner physically assaults the patient in the hospital, act is committed by medical practitioner who is respectable professional person but his act is no way related to his occupational activities, thereby, it will not be white collar crime. In another instance same medical practitioner in performance surgery of abdominal part of body without any consent illegally removes some internal organ, it may constitute white collar crime.

Sutherland studied larger and well established corporate bodies and on this basis he gave his conception regarding white collar crime. In modern reference to socio-economic crime white crime is taken as occupational crime which is one important aspect of socio-economic crimes. Socio-economic crime has another important aspect is corporate crime. When study of Sutherland is taken in proper perspective it is about corporate crime; he studied corporate bodies and gave opinions regarding white collar crime.³ Traditional crimes are usually committed by criminals individually or in loosely constituted group; contrast to aforesaid white collar criminals commit crime in organised manner after detailed planning. It makes availability of clues and evidences completely difficult, thereby, detection and prosecution of white collar criminal difficult ultimately tackling of white collar crime difficult. Prof. Marshall B Clinard highlighted that white collar crime is committed by organised gang and he in this reference observed that white collar crime is violation of law committed primarily by groups such as professional men, businessmen and politicians in course of their occupation. Marshall B Clinard

²Sutherland (1949) at 9.

³Clinard, Yeager & Blackburn Clinard (2006) at 13..

opined that white collar crime is committed by professional person and it may be put in two categories occupational crime and corporate crime. When professional person commits criminal act as employee of corporate body which is identifiable by fact that criminal act is committed for benefit of corporate body then his act has to be taken as corporate crime. But when act of professional person is committed for his own benefit, it is occupational crime.⁴ White collar crime in strict sense refers to occupational crimes only. Socio-economic criminals, particularly main perpetrators, do not physically participate and commit crime by concealment. Whenever need arises for physical participation or use of violence, it is by persons acting on lower rung or services of some professional criminals are hired. Group engaged in socio-economic crime form well organised gang as syndicate; in this syndicate main perpetrator forms upper rung and he determines for crime commission, prepare plan for execution of crime; crime commission is supervised and handled by person in syndicate at middle rung; crime plan is executed and crime is committed by person at lower rung in syndicate who works at ground level. Person in syndicate at upper rung act through concealment, to outside world he has personality of sober person but in practical reality and in the syndicate he is main culprit. H. Edelhertz observed that white collar crime is an illegal act or series of illegal acts committed by non-physical means and by concealment or guile, to obtain money or property, to avoid payment or loss of money or property, or to obtain business or personal advantages.⁵ Mode of commission of socio-economic crime is non-physical and objective is monetary.

White collar crime term denotes crime committed by person with high socio-economic position only. Now it is fact that person with lower position are also involved in committing such crimes. Still main criminal making planning and running crime syndicate for commission of such crimes is person with higher position, person with lower position execute the planning and mere stooge. Socio-economic crimes are committed due to economic objectives to become richer by getting quick money. Socio-economic crimes seriously affect the whole society. Socio-economic crime is better term to denote the crime committed due to the greed, avarice and rapaciousness and causing serious problem for society at large.

Criminological Theories about Causation of Socio-economic Crimes

Socio-economic criminality may be explained on the basis of Strain Theory given by Robert Merton, Differential Association Theory given by Edwin H. Sutherland, sub-culture theory and opportunity theory. Anomie Theory and Strain Theory developed by Robert Merton taken together with Differential Association Theory given by Edwin H Sutherland provide sufficient explanation for socio-economic crimes. A concrete opinion for the first time about crime committed by upper class was given by Edwin H Sutherland; he gave name white collar crime to differentiate crime committed by lower class, generally, referred as traditional

⁴Ibid, at 18.

⁵Edelhertz (1970) at 19-20.

crime. Traditional crime is taken as offences committed on streets and white collar crime is taken as offences of suites. Further, traditional crime is also taken as offences of force and white collar crime as offences of fraud. Before Sutherland Dutch criminologist William Bonger also gave opinion about crime committed by richer person. Bonger in his book 'Criminality and Economic Conditions' written in 1916 opined that capitalism give rise to egoism (selfishness increases) and altruism comes to an end; in capitalism egoism grows on cost of altruism. He opined that in capitalism class person becomes selfish and jealous. Due to misery working class commits crime and similarly bourgeoisie due to capitalism have avarice and commit crime.

Sutherland's view is that not only poor persons commit crime, but also persons with position and respect commit crimes and their crimes are very destructive for world at large.

In modern era every person is undergoing strains and stresses due to goal and legitimate means disparity. Legitimate means available are not sufficient to satisfy goals; means are provided to person because of his status and position. Further, goals are also provided by society and out of those a person selects his own goal on the basis of his socialisation. Goal attaining willingness becomes desires and ultimately desire may take shape of passion. Generally means available which is used for attaining the goal is position and resource determined and goal is provided and then selected by person is of class superior to person. Suppose a person belongs to lower-middle class, he has means available to his class and his resources but his goal may be of upper-middle class or upper class. Such means and goal disparity creates strain; Robert Merton gave anomie theory which is also called as strain theory according to which such disparity resultant strain creates anomie which compels for adaptations. Such adaptations undergone by person may be conducive for crime commission and to progress in criminal career. Merton emphasised that high rate of deviance is expected when social expectations are not in balance with realistic opportunities available to the person to attain his goal. Unrealistic hopes and expectations are not natural but socially constructed and also promoted. When society has created lofty expectations in the persons but society fails to provide opportunities and resources; such situations create strain and ultimately anomie situation. Anomie Theory was given by Emile Durkheim and Robert Merton, both, but concept underlying their anomie concept differs. Emile Durkheim emphasised on society structural cause for anomie while Robert Merton opined on the basis of society structure cause and society process cause, giving more emphasis on society process cause. Now in the modern era of globalisation cultural norms itself has element emphasizing and praising for goal attainment filling persons with desires but real means available are not changed; in such situation attempts to attain goal may fail and cause frustration, stresses and anomie.⁶

The realisation of financial success purportedly is open to all, but actually opportunities to attain this goal are not distributed equally within social structure. This disparity between goal and means creates strain.⁷ For richer person whose all

⁶Passas (2007) at 96-97.

⁷Merton (1964) at 218.

the needs are satisfied but also for him there is disparity between goals to have more and more money, more and more luxury and physical comforts available, and legitimate means available. When goal cannot be achieved by legitimate means then strain compel person to achieve it by adopting illegitimate means. For proper tackling of white collar crime problem, white collar crime has to be divided into organisational (corporate crime) and occupational crime.⁸ John Braithwait gave opinion to explain the corporate crime which is one important aspect of white collar crime. According to John Braithwaite white collar criminals are motivated by disparity between corporate goal and limited opportunity available through conventional business practices. When goal is emphasised and pressures are created to attain the goal which may be unattainable within existing framework of laws and regulations, innovative officers turn to crime to attain the goal and for it corporate official learn the rationalisation and technique for crime commission. White collar criminals are person with status and position; they use their respectability and resources and whenever their criminal acts become identifiable, they try to show that they are innocent and do not have any information about such crime commission but all such criminal acts are committed by subordinates.⁹

Only strain due to disparity between goal and means is not sufficient for socio-economic crime commission but it is necessary that the persons with reputation and position have mental preparedness for socio-economic crime commission and specialisation in illegitimate techniques in such regards. Sutherland initially gave Differential Association Theory as general causation theory which is especially applicable for traditional criminality. In 1939 Sutherland gave Differential Association Theory. He was much influenced by Chicago School particularly work of Thrasher, Shaw and Kay who studied geographical distribution of delinquency in Chicago city; work of Thorsten Sellin, Wirth and Sutherland himself regarding culture conflicts; and Sutherland's own work on thieves that to become professional thief, one has to become member of group of professional thieves and learn the technique. Sutherland gave Differential association Theory for the first time in third edition of his book 'Principles of Criminology' in 1939 and then revised the theory in fourth edition of the book in 1947. This theory is considered as a rational theory to explain every kind of criminality from juvenile delinquency to white collar criminality. In his Differential Association Theory Sutherland emphasised that criminal is not trait determined but criminal behaviour is learned behaviour; it is learned in direct communication with intimate personal group. Every person has various personal groups; some of them have definition favourable to respect the law and some have definition favourable to violation of law. Thereby, a person for behaviour has criminogenic force and anti-criminogenic force acting at the same time. Which definition will be accepted means which force will be more conducive for the person concerned depends on priority, frequency and intimacy? When a definition favourable to violation of law is accepted, person develops drive and rationalisation for doing the act but it is not sufficient but further, person learns

⁸Braithwaite (1985) at 19.

⁹Ibid., at 7.

technique of commission of act. Later on when Sutherland developed concept of white collar criminality need arose to give causation theory to explain white collar criminality. Edwin H Sutherland extended his Differential Association Theory to explain white collar crime also and according to which white collar crime is also a learnt behaviour which is learnt in communication with the persons who are already practicing it. Edwin H Sutherland opined that white collar has its genesis in the same general process as other criminal behaviour, namely differential association.¹⁰ Professional person having strain due to goal and means disparity with desire to achieve goal in communication with person already indulged in white collar crime learns drive, rationalisation and technique for commission of white collar crime. But white collar criminals do not consider themselves as criminal, merely they may consider that they may have violated the law. It happens because of differential enforcement of law, usually wrongful acts committed by white collar persons are not only covered by criminal law but also by civil, taxation and business law. Usually, law enforcement agencies enforce the law other than criminal law. White collar criminals have self-image and also public have such conception that such white collar persons are not a criminal but sober and civilised person with status. Sutherland observed that the white collar criminal does not conceive of himself as criminal because he is not dealt with under the same official procedure as other criminals and because, owing of his class status, he does not engage in intimate personal association with those who define himself as criminals.¹¹

Travis Hirschi gave Control Theory to explain the crime causation and he opined that delinquent acts result when an individual's bond to society is weak or broken.¹² Stronger bond to society and member of society create conducive situation for a person to behave in conformist behaviour. Bond of person with his fellow citizenry and society determines behaviour and ultimately nature of person. Bond of person with society contains four inter-related components – attachments, commitments, involvements and beliefs. Attachment is main component and all others are strengthening it. Attachments to conventional others, commitments to conventional lies of action, involvements in conventional activities and belief in common value system make the social bond stronger and determine that the behaviour of person will be sober.¹³ Stronger social bond determines that person shall not behave in manner affecting the society while weaker social bond make prone to become delinquent. Travis Hirschi and Michael Gottfredson extended the Control Theory to explain white collar crime.¹⁴ Hirschi and Gottfredson opined that white collar criminals are motivated by same forces that drive other criminals – self-interest, pursuit of pleasure and avoidance of pain.

Travis Hirschi reinforced classical theory with rectifications of loopholes; he opined that all human behaviours are purposive and determined on the basis of self-interest. Criminal and non-criminal behaviours are result of pursuit of self-

¹⁰Sutherland (1949) at 234.

¹¹Sutherland (1949) at 223.

¹²Hirschi (1969) at 16.

¹³Gottfredson & Hirschi (1990) at 16.

¹⁴Hirschi & Gottfredson (1989) at 371.

interest of pleasure or avoidance of pain. Persons think for themselves and never subordinate their own interest to interest of others.¹⁵ Only proper socialisation may put restraint on acting and affecting the society, thereby, a person can be restrained by socialisation. By socialisation social bond becomes stronger; it restrains deviance. Hirschi and Gottfredson did not agree with classical school over-emphasizing on legal sanction to restrain deviance. They were of opinion that legal sanctions are redundant to social sanctions rooted in moral and religious sanctions. Person likely to commit crime less cares for legal sanctions and more controlled by family socialisation. Criminals have low self-control and they do not want to delay their gratification of self-interest, they never think for long term gain but concerned with immediate gain, and they are not sensitive to needs and suffering of others. These factors are also applicable for white collar crime; a general theory for crime applicable for all kinds of criminal act was tried to be developed by Hirschi and Gottfredson. They did not give importance to motivation element; more emphasised that the crime commission is product of low self-control of self interest in situation of availability of opportunity. Besides these factors, there are some additional elements in attracting well to do and educated persons towards white collar crime are –

- (1) White Collar Crime commission is not so dangerous as other common criminality, traditional crime is committed by physical participation, thereby, always there is risk of reaction from victim and societal members, and further, witness and other evidences may be available, contrary to it white collar crime is committed by non-physical means, and further, it is not committed directly against individual, thereby, risk in commission of crime and availability of evidences may be lesser;
- (2) White Collar Crime provides relatively larger rewards; traditional crimes relating to property are usually committed due to compulsions of need and necessity, and further, such offences are committed against individual, in such situation extent and impact of crime may be much lesser, it is also for offences against body but in case of white collar crime extent and impacts are larger as it is committed against public at large, nation and even against whole world due to the greed, avarice and rapaciousness;
- (3) Rewards follow quickly to commission of crime;
- (4) Sanctions associated with white Collar Crimes are vague or only rarely imposed; and
- (5) Minimal effort is required who have skill of committing white Collar acts, white collar crimes are committed in course of occupation and acts committed in this reference are relating to occupational acts, thereby, doer has expertise and he need not have to put any extra efforts. When a person is attached with the society, a kind of deterrence is working over him, he is restrained from doing the offending act against the society.¹⁶

¹⁵Hirschi & Gottfredson (1989) at 5.

¹⁶Lasley (2007) at 360-361.

Reed and Yeager analysed opinion of Gottfredson and Hirschi regarding white collar crime commission particularly organisational offending and opined that some concepts given by them are not tenable as they observed that white collar offending is uncommon, simple in technique and condemned in business culture.¹⁷

Multiple Factors to Explain Causation behind Socio-Economic Crimes

Human behaviour has always been very complex behaviour; it is difficult to identify and precisely give one or other factor for a particular behaviour or behaviour pattern. A number of factors influence and exert impacts over person, thereby, a number of factors interact and determine behaviour of person; in such situation a person's behaviour is effectively determined and manifested by multiple factors.

Greed and Acquisitiveness

Social structure and social pressure determine social thinking which lays down nature of individual thinking, relationship and attachment with fellow citizenry and ultimately all culminates and determine nature and rate of criminal acts. External acts committed are manifestations of mentality and thought process taking place in the mind of person. Actually acts are committed in mind; external body only executes it. Agrarian and pastoralist societies have stronger kith and kinship relationship in which societal members have stronger social solidarity. In such societies generally productions are made for satisfaction of basic needs and in such case persons have no passion for money and richness. In this society all the persons whether owning the production means, working in such production means, operating the market and purchaser, all are connected with emotions of togetherness; no one can think to harm any other. In this kind of society there may be commission of some petty offence of lesser number satisfying characteristics of socio-economic crime but socio-economic crimes may not be problem. Society with stronger social solidarity may have problem traditional crime commission committed due to need, necessity, jealousy, enmity, and retribution. When social structure and social process change accordingly nature, rate and extent of crime problem also change.

In modern society market is main desiderata which constructs and determines everything in the society. In modern society market determines social structure, social process and social thinking. In such society social solidarity becomes weaker and relations are determined by egoism rather than altruism; productions are made for market; market determines what will be produced and in what quantity it will be produced. Such production means is used which may satisfy requirements of market; it gives rise to industrialisation. People migrate to and reside near industrial area and market which give rise to urbanisation. In industrialisation and urbanisation an individual has migrates from his own place

¹⁷Reed & Yeager (2007) at 96-97.

and settles at new place where persons have migrated from various places; such situation causes complete breakdown of social control mechanism at both the places, place from where person has migrated and the place where he settles after migration.

In present society everything is decided by market and because of it by money. The individual has left his permanent place and his nearly related persons only for working in industry and market for getting more and more money; in such situation for individual money is primary and in focus while all other considerations like value, norms, ethics and altruism are secondary. In the society everything like status, position, respect and behaviour is evaluated in money terms. In such society obsession for money becomes of insatiable; greed, avarice and rapaciousness are major causation for crime commission and economic crimes are committed without considering its harmful and serious impacts over fellow citizenry. Individuals want to enjoy physical commodities even at the cost of wellbeing of society and members of society. Greed and acquisitiveness for money and physical commodities are main causes of commission of socio-economic crimes.

Degradation in Ethical and Professional Values

In society a person's position, status and reputation have to be decided on the basis of character, behaviour, knowledge and nature of performed acts but in market oriented society person's pecuniary capacity and available physical commodities are used as criterion for aforesaid purposes. Previously in the society person was concerned with satisfaction of his bare needs of food, clothing and house but now in market oriented society a person's desire has become insatiable and his willingness is to possess all the luxuries. It creates a conducive environment for selfish behaviour focused for acquiring more and more money by indulging in any kind of act rather than emphasizing on taking care of fellow societal members. With industrialisation and urbanisation such behaviour pattern increases. Previously, persons in the society were related and even today in remote areas and in older part of urban area persons are related by stronger bond of affection and also socialisation pattern determine behaviour with stronger ethical and professional values. Because of stronger ethical values and professional values an individual cannot think to commit any act which may affect the public at large;¹⁸ no doubt crime may be committed but that may be targeting to individual to whom culprit has enmity, jealousy or it may have committed due to need and necessity. In market oriented society where money has become means and end all, ethical and professional values are at lowest ebb; in such situation an individual for money may commit socio-economic crime even knowingly that it may affect the public at large and affect wellbeing of whole nation ultimately of world at large.

Previously religion and religious values were playing a crucial role in regulation of human behaviour; when formal legal measures were not properly developed particularly it was not possible to administer formal legal system in

¹⁸Clinard & Yager (2017) at 300.

remote areas then by means of religious values and ethos human life and behaviours were regulated. Religion taught righteousness and thereby directed for right path of life to be treaded, sin have to be avoided, self-content behaviour was promoted and obsession for luxuries was discouraged. For enforcing religious values, thereby, to regulate human behaviour religion shows fear that one has to pay for his sinful acts in this life and then after in other life too. Religious regulation in such manner was restricting persons from committing harmful acts particularly socio-economic crimes. Educated persons with reasoning particularly obsessed with goal to earn more and more raise suspicion for religious directions. Due to decrease in religious regulation effect such person may commit any kind of act even socio-economic crime to become rich quick.

Absence of Public Reaction

For tackling problem for crime problem whether it is of traditional crime or socio-economic crime important and crucial element is public reaction against crime. Absence of public reaction against crime is a major causation for criminality. Public reaction against crime is important for formal and informal, both the actions against crime. Public considers only traditional crimes as real crime; for socio-economic crime a general consideration is that it is common professional activity performed in better way by the person. Further, socio-economic crime is committed by reputed person indulged in some professional act who does not satisfy criminal stereotype as he is properly educated, socialised and indulged in some occupation, and furthermore, on success criterion used by modern society he is successful person as having money and physical commodities. Socio-economic criminal generally acts in two pronged one which is projected in public and other which is main source of his income that is of indulgence in organised economic crime commission. Socio-economic criminal does not consider himself as criminal; he has some rationalisation for his criminality and considers himself as a better skilled professional.

For tackling of crime problem it is necessary that public have to consider that the act committed is criminal act and person is criminal. Further, criminal also should consider that he has committed criminal act. When public treat any act as criminal act and doer of act as criminal, it may react against commission of act and also against doer of act. When doer of act treat himself as criminal and act as criminal act, he will receive reaction against his act and undergo punishment or reformation inflicted against him. Social reaction and social pressure are effective informal crime tackling measures which are even more effective than the formal measures of crime tackling. Further, effectiveness and successful formal criminal justice system depends on public reaction against crime by which law enforcement agencies may receive prompt information about crime commission, statements of person acquainted with fact and circumstances, information about other evidences – what are evidences available and where are evidences available, and further, before the adjudicatory agencies testimonies may be given which may led for conviction and sentencing of criminal. Sentence imposition creates general and specific deterrence, thereby, criminal may have lesson for future behaviour that

crime should not be committed. In case of socio-economic crimes public do not consider it as criminal act and do not react, thereby, it is difficult for investigating, prosecution and adjudicatory authorities to enforce and apply the law and cope the problem.

Industrialisation and Urbanisation

Industrialisation and urbanisation are major causes of commission of socio-economic crimes. History reveals that problem of socio-economic crime was felt with advent of industrialisation and urbanisation, and further, in industrial concern, nearby area, similarly, in the urban areas problem of socio-economic crime is dominant crime problem. It is evident that such places cannot be causation in itself but circumstances prevailing there may be causation. For such consideration support is available from Chicago School of Criminology which studied spatial distribution of crime problem in Chicago city, no doubt study was relating to distribution of traditional delinquency but it clearly established that in different parts of city circumstances may differ and accordingly rate of delinquency differs; failing of social control mechanism was identifiable fact behind problem in area with more delinquency rate. To work in the industry from various distant places person moves and settles near the industrial concern by which urban centres come into existences. Here persons have migrated and work for money, thereby, whole socialisation, working and thought are primarily concern with earning money; the goal becomes primary and means used becomes secondary. Such situation prevailing at industrial and urban place makes conducive situation for making of socio-economic criminals and commission of socio-economic crimes.

Welfare State Concept

Previously, states were functioning on the laissez faire state concept (police state) and accordingly state was only concerned with maintenance of law and order within the state and protection state territory against external aggression. Laissez faire state functions for internal and external security. Laissez faire state does not interfere in private business activities; such situation creates a situation for performance of business activities in any way but that may not be taken as criminal act. In 1776 Adam Smith wrote the book 'Wealth of Nations' in which he advocated doctrine of natural rights. Doctrine of natural right advanced by Adam Smith actually advocating for inalienable and inviolable individual rights; he opined that individual has right to life, liberty, property and trade provided by nature itself. Such natural rights cannot be interfered by the state, and thereby, acts committed in exercise of such rights committed by individual, indulged in business activities for maximisation of profit even though doing such acts may be graver and harmful, cannot be dealt and stopped by the state. Further, due to concept of *nellum crimen sine lege* (nothing is crime unless prohibited by provisions of law) and *nellum poena sine lege* (no penalty without law), such harmful acts even after causing serious impacts over societal wellbeing were not

considered as criminal acts but considered as business acts committed in skilled manner. Desire for maximisation of profit is one of the major causes of socio-economic crime.

In first half of twentieth century particularly around 1925 to 1930 state policy changed from laissez faire state policy to welfare state policy. Under Welfare State Policy state has responsibility to take care of all the needs of citizens and to take actions for their protections. During era of industrialisation in 18th and 19th century harmful and offensive acts were committed which were taken as sober and civilised acts but when state became welfare state, in 20th and now in 21st century after prescription of punishment same act became criminal acts. Legislature has been enacting law to regulate activities of professional persons, corporate bodies and organised criminality and in this regard harmful acts are declared crime and punishments are prescribed. Usually dishonest person performing his occupational activities improperly contend that state has not to interfere in business activities and should not have concern with property of private individual and for this purpose usually it is contended that state has to limit itself only up to maintaining of law and order and external and internal security. Whenever social structure, social thought, state policy, state actions change, legal responsibility of natural and legal person also change and particularly such changes are manifested in criminal law. When state was laissez faire state, society was mechanical society with stronger social solidarity, society was dominated by lower middle class culture considerations in which bravery, courage, violence, emotions of affection and hatred dominates, crime definitions and responsibilities are completely of one sort. But in industrialised, urbanised, globalised, organic society with weaker social solidarity with more emphasis on upper and upper middle class cultural norms in which success particularly pecuniary success becomes more important and individual consideration shifts from means orientation to goal orientation, crime definitions and criminal responsibilities becomes completely different. State cannot be silent spectator to the wrongful act commission and causing serious impacts over the society; in about last 100 years period state to tackle such problem has enacted many laws to declare the activities as crimes.¹⁹ Now state is welfare state, it has responsibility to protect and take care of wellbeing of whole citizenry and also of oneself, therefore state has to make law and strictly regulate the harmful activities and enquire about property and trade illegally accumulated and conducted.

Penal Acts are enacted to penalise harmful economic activities but at the same time it is reality that such Acts rarely used; on the same subject matter besides criminal law civil, taxation, and administrative laws are also made and in such situation when harmful activities are identified, usually criminal law is not applied but some other law is used. Such situation creates situation of differential enforcement of law which affects efficacy of criminal justice system in dealing with serious problem of socio-economic crimes. Criminal law has important distinctive feature that it uniformly applies on whole citizenry without any differentiation on the basis of individual status and position. This fact may be proper for law enacted and contained in the bare provisions but when applied it

¹⁹Chandra (1979) at 24.

may be differentially applied and create differentiation in reference to persons against whom law is enforced. Uniformity of law is main characteristics of criminal law but in application of law a differential enforcement situation is created and practically law becomes completely different and treat persons differently on the basis of status.²⁰ In enforcement of criminal justice in reference to socio-economic crimes differential enforcement of law is conspicuous and practical fact. Activity is criminal but usually law other than criminal law is applied. In case criminal law is applied, applications of measures are completely different from same law applied against the person with lower status. Such application of criminal law or non-application of criminal law makes a complete the whole concept relating to crime and criminality. Further such differential enforcement of law also differs in respect of persons with status; when businessman has greater status, his treatment with law is different from businessman comparatively lower status. Sutherland observed that the differential treatment of the law as it applies to large corporations may be explained by three factors, namely, the status of businessman, the trend away from punishment, and relatively unorganised resentment of the public against white collar crimes (Sutherland, 1949, p. 46). Differential enforcement of law produces consequences that socio-economic criminal does not consider himself as criminal and further, public also does not treat him as criminal. When doer of criminal act considers himself as criminal, thereby, he has criminal self-image, then only he may not have any resentment for application of criminal measures and may subject himself to criminal justice measures applications. Public reaction against crime lowers the reputation and status of criminal, criminal becomes outcast; such situation acts as a social pressure against crime commission, and further, law enforcement agencies are also pressurised to take effective criminal justice action against criminal. Welfare state policy and public reaction against socio-economic crimes are mutually influencing each other; welfare state concept makes citizenry conscious and public reaction makes state a welfare state actively and effectively taking criminal justice actions against doer of criminal acts regardless of his status, means and position.

Welfare state policy is not cause of socio-economic crime commission but it is reason of declaration of harmful acts as criminal acts and prescription of punishment for such acts; previously the act which was not crime and doer was not criminal, is differently treated and the same act may be crime and doer may be criminal. In such situation, initially the act committed would be business act considered committed in skilled way to maximise profit, later on conducting it in wrongful manner would attract the civil actions but presently when state policy has shifted to welfare state policy the same act is declared as crime and committing such act may attract criminal liability, thereby, imposition of penal sanctions.

²⁰Sutherland, Cressey & Luckenbill (1992) at 9.

Concluding Remarks

Socio-economic criminal commits crime during performance of occupational activities, he is expert person in performance of such acts, he is properly educated and socialised person, he is respectable and person with status, all these together make socio-economic criminal completely different and also a serious challenge for criminal justice system to deal effectively with such kind of criminal element who is in all references different from stereotype criminal. Society does not consider act constituting socio-economic crime as criminal act, and further, society does not consider socio-economic criminal as person with criminality. Generally, acts committed by socio-economic criminal are taken as performance occupational acts performed in better way. Socio-economic criminal has various qualities which are admired in the society like he is affluent, educated, properly socialised, status, position, means and he is suitably employed or engaged in some occupation; he is respected but he is not hated, condemned and proscribed, thereby, society does not react against socio-economic crime and socio-economic criminal. Effective criminal justice enforcement depends on reaction of society against crime and criminality. Law enforcement agencies are in need of receiving prompt information about crime commission, cooperation of persons acquainted with fact and circumstances particularly to get information about fact and circumstances of case, disclosure of information about evidences. Adjudicatory body is need of cooperation of societal persons for giving testimony and adducing of material and documentary evidences. All the aforesaid may be possible only when society reacts against crime and criminals. Because of expertise of criminal, commission of act during performance of occupation, act is committed in planned and organised manner, and act is committed by non-physical means by use of modern know-how, generally evidences are not available or if available those are of very technical nature.

Socio-economic crimes are serious challenge before the modern society and it poses graver problem for wellbeing of nation and citizenry both. Crime is ever present universal phenomenon; it is present in every society regardless of time and place but at the same time one more fact is absolutely true that content, nature and rate of crime change with change of time and place. In India before independence when society was predominantly agrarian society, traditional crimes were committed and whole criminal justice system was focused on traditional crime and criminality. After independence with emergence of industrialisation and urbanisation, Indian criminal justice system is facing serious challenge caused by socio-economic crimes and criminality.

It does not mean that before independence, in India socio-economic crimes were not committed, even in ancient India such types of crimes were committed as it is evident from prescription of punishments for crime committed by businessmen, corrupt officials and crimes committed in business transaction; number, seriousness and impacts of such crimes were nugatory. It does not mean that presently only socio-economic crimes are committed; Indian society is stratified society, upper and upper middle class may have more socio-economic criminality while lower and lower middle class have more problem of traditional crime. Upper and upper

middle class may also commit traditional crime; similarly lower and lower middle class may also be involved in socio-economic crime. In case lower and lower middle class person is involved, he participates in its execution as petty executor of crime but it is designed, planned and controlled by person with status and position.

Socio-economic crimes and traditional crimes are different in all the references of crime, criminal, criminality, impact, motive, objectives, concepts and principles, criminal proceeding, instrumentalities owing responsibilities to take actions, penal actions, and public reactions. Socio-economic crimes are mainly committed for greed satisfaction which is always insatiable; for criminal who is victim and what is impact of crime, are immaterial considerations; criminal is only concerned with monetary benefits obtained by perpetration of crime. Socio-economic crime cannot be tackled by same criminal proceedings and instrumentalities envisaged for traditional crime. Furthermore, one socio-economic crime is different from other socio-economic crime; thereby, for every socio-economic crime according to requirements specified criminal proceedings and specialised instrumentalities are needed to be provided. Socio-economic crimes are needed to be effectively dealt with and for that necessary requisite is to use proper and specialised criminal proceedings and instrumentalities.

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