SOCIO-ECONOMIC OFFENCES IN INDIA IN LIGHT OF COVID 19 SCENARIO

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Abstract

Socio-economic crimes are often at its most virulent during downturns and crises- both of which is happening with the Covid 19 pandemic. When pressures on people, companies and the economy are greatest, there are pressures that have forced the downtrodden sections to land up in offences adhering to the survival theory. The cases of theft shot up in most countries and India is no exception to it. People from lower strata of the society took to the streets with the end to find food using any possible means. Covid 19 is a medical emergency and an economic contagion and the poor have been the worst affected with damage to all aspects of their socio-economic living. The threat of poverty, hunger and health deprivation has become far more imminent turning the most marginalized more prone to vulnerabilities making them victims of circumstances. It has triggered at the cycle of social and economic lives of the people. The devastating impact of the pandemic on the lives of the people can hardly be measured. The estimation of lockdown impacts on different sectors- ranging from purchasing fewer goods and services by people, reduction of investments, jobs lost, salaries cut down, house hold income reduces, non-accessibility of basic services lies education, reverse migration and so forth gives a crystal clear reflection of the collapsed economic scenario in the nation. The common man is perplexed and shattered and statisticians are working overtime to predict the flattening of the curve, which is yet not visible. However, it is pertinent to note that crime rates have multiplied in this pandemic stage. The pandemic has also severely impaired equity and civil liberties in our society. The paper is a humble attempt to focus on the rise in socio-economic crimes in India due to the compulsive and compelling situation created by this pandemic which is a severe threat to mankind. It depicts the situation where lowly crimes are committed by the impoverished solely for survival and purely out of necessity. Further, the paper also highlights that despite the relentless efforts and measures taken by the government to provide

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social security regimes to all classes of people and more particularly for the under privileged, the woes of millions remains unanswered and the gap between haves and have- not are widening far beyond imagination. The stake holders should come to the rescue of these classes struggling below poverty lines and develop a holistic approach to unlock solution in times to come. It is of utmost importance that the basic human rights of the deprived are respected and right to food which find its place in Article 21 of the Constitution should reach the doorsteps of the needy so that the doctrine of 'parens patriae' theory find its place in the state.

Key words- Socio-economic offences, Covid 19 pandemic, marginalized, survival theory, parens patriae theory

Introduction

'Every modern war had its roots in exploitation'- Helen Keller

On 25th March, 2020, India witnessed nation-wide lockdown. The people from lower strata were most affected as they came out in search of food. At the same time, domestic violence, murder, cyber crime, theft is seen at its peak and the inequalities in social status, wealth or opportunities between people or groups is quite visible. The Constitution of India provides the trinity of the Constitution- Preamble, Fundamental rights and Directive Principles of State Policy which was the intention of the national leaders that inspired our national struggle for freedom.

However, it is pertinent to note that even after 74th years of Independence equality remains a myth and the survival in terms of social security measures maintains a status quo. The paper highlights how the spread of coronavirus has led to a significant increase in crime rates paving a way for countless reports occupying the pages of local dailies and the channels in the nation. Further, the paper makes an analysis of the different legal provisions in India to combat the offences.

Operational Definitions of the Key Concepts

Socio-economic offences – The offences that affect the social and economic health of the society are termed as socio-economic offences. These are a type of non-conventional crimes i.e they do not consist of Mens Rea. These crimes affect the society at large.[3]

[3] https://lawtimesjournal.in >socio-economic offence (visited on 15.08.2020 at 10:00 a.m)

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Mens Rea- It signifies 'guilty mind' or 'evil intention'. It is based on 'Actus reum nisi men sit rea meaning 'an act does not become guilty unless done with guilty mind'.

Non-Conventional Crime- Non-conventional Crime includes white-collar crime, blue-collar crime, pink-collar crime, political crime, corporate crime, occupational crime, red collar crime and green collar crime.[4] But, of course there are thin line of differences between these as the socio-economic crimes directly hampers the society at large.

Problem Statement

The present situation of global pandemic has shown various facets of inequality within the society and most particularly among the lower strata of people. The Constitution of India provides with fundamental rights, directive principles of state policies and fundamental duties, yet, it becomes a matter of concern for a democratic country like India as to where to draw the line as there remains a big gap between the provisions and the implementation part. The paper explores various issues that need a reality check on the fact that despite the various legislations to curb the inequalities amongst the deprived members in the society, the disparities in every angle still maintains a status quo.

Objectives of the Study

The research is conducted with the three-fold objectives:

- To study the impact of the socio-economic crimes in the society.
- To study the root causes behind the socio-economic offences in the pandemic scenario.
- To suggest policy measures for reformation and rejuvenation in the society.

Methodology

The researcher has collected secondary data for the purpose of the study. The secondary data were collected from the books and journals including the newspaper clipping that have depicted a shabby picture of the common masses not only in the rural areas but also in the urban areas of India. Further, the information was collected from the available data and sources from the websites.

[4] Sociologyindex.com > conventional crime (visited on 15.08.2020 at 11 a.m)

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The Pandemic Scenario in India

Covid 19 is a pandemic and not an epidemic. Article 21 deals with clean environment and an indispensible fundamental right. The laws that were mainly invoked to deal with the epidemic was the 'Epidemic Diseases Act, 1897' and The Disaster Management Act, The former is one hundred and twenty three years old and by examining the legality of this Act, it could be seen that there were not enough mechanism for handling epidemics and the Act was not suitable in present scenario. At that point of time there was no medical advancements and even India was not independent. But this is the era of technology and the Act was growing for epidemic. The Act failed to address some crucial issues like availability of vaccines and medicines and hence in present scenario of pandemic there is dearth of sanitizers, medicines and so forth. The quantum of punishment was also too less and awareness was also required in this regard.

Again, Section 2(d) of the Disaster Management Act issued orders to the landowners not to take rent from the tenets but there were no valid rules. Executive has taken the role of legislature to formulate laws though there is separation of powers. Emergency provisions under Article 252 under the supervision of the President need to be ratified. The government cannot function by bypassing the constitutional mandate.

In Papaiah V State of Karanataka and Ors, the court held that "right to economic justice to the schedule casts, schedule tribes and other weaker sections is a fundamental right to secure equality of status, opportunity and liberty. Economic justice is a phase of liberty without equality of status and dignity is only illusions".[5]

'The ideal of economic justice is making equality of status meaningful and life worth living at its best removing inequality of opportunity and of status whether it is social, economic and political' as was held in the case of Dalmia Cement (Bharat) V Union of India.[6]

[5] M.tribuneindia.com

[6] https://wwwlaws.com >articles (last visited on 14.08.2020 at 12 p.m)

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Types of Socio- Economic Offences

- Offences calculated to prevent or obstruct the economic development of the country and endanger the economic health
- Evasion and avoidance of taxes lawfully imposed
- Misuse of their position by public servants in making of contracts and disposal of public property, issue of licenses and permits and similar other matters.
- Delivery by individuals and industrial and commercial undertakings of goods not in accordance with agreed specifications in fulfillment of contracts entered into with public authorities.
- Profiteering, black marketing and hoarding
- Adulteration of food stuff and drugs
- Theft and misappropriation of public property and funds
- Trafficking in licenses permits etc

Legal Provisions/Acts in India

India is a country of plethora of laws. There are no direct provisions pertaining to socio-economic offences in India under the Indian Penal Code. However, there are different types of Act which hints at these offences and a close perusal is the need of the hour to combat such offences. There are many enactments from the legislative's desk to provide security measures for the citizens of our country irrespective of the artificial barriers but there is an effective need of the monitoring agencies when it comes to the execution part.

- **Essential Commodities Act, 1955, Prevention of Black-marketting and Maintenance of supplies of essential commodities Act, 1980**

The main aim of this Act is to provide food supply to the consumers and to protect them from the exploitation of unethical traders. The poor sections are not getting sufficient means despite the Act existing since 1955 and what is perceived is the large scale wastage. It speaks about the public distribution schemes and that the largest food distribution network in the world sub-merged due to

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corruption. The Act provides a mechanism for the 'regulation' of foodstuffs, namely cereals, pulses, oil seeds, edible oils, potato and supplies under extraordinary circumstances, which include extra ordinary price rise, was famine and natural calamity.

In the case of **Peoples' Union for Civil Liberties V Union Of India & Others**[7], writ petitions were filed in the Supreme Court for public distribution schemes.

Through its landmark judgement in the public interest litigation, the Apex Court established human right to food and determined a basic nutritional floor for India's impoverished millions. The lat manifestation of government's right to food is proposed in National Security Food Act. Drawing a Constitutional precedent defining Article 21, right to life as 'the right to live with human dignity and all that goes with it, namely, the bare necessaries of life such as adequate nutrition and a history of activist.[8]

The PUCL claimed that starvation deaths had occurred despite excess grain stocks leading to gross violation of right to food. Court found right to life imperiled, orders for implementation of famine code, food schemes and midday meals. It is saddening to note that despite these drastic reformative steps on the part of the vital organs of the government, some tribals during the pandemic were caught for theft of essentials from the grocery shops in the district of Aurangabad in Maharashtra. However, upon realizing that theft was for supplies like edible oil and grains to feed their families, the police distributed ration kits to over a hundred tribal families. This brings to light that the needy are still beyond the reach of essentials thereby leading to infringement of human rights and the visual evidence of the plight of pitiable downtrodden Indians.[9] Almost after a month of staying indoors people took to street with the hope to relief their families from starvation.

- **Food Safety and Standards Act, 2006**

  This Act lays down science based standards and describes food law which is pure and nutritious. It becomes pivotal for the government to not only regulate the food being put out but also to check it for the safety of consumption. Even before this Act also, there were many

[7] Civil No. 196 of 2001

[8] Lauren Birchfield and Jessica Corsi, The Right to Life Is the Right to Food: Peoples' Union for Civil Liberties V Union Of India

[9] Sezal Mishra, Covid 19- Survival Crime in the Time of Coronavirus, The Criminal Law Blog

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rules and regulations to monitor safe food practices in the country. In a nutshell this Act relates to food and establishes the Food Safety and Standards Authority of India in regulating the manufacture, storage, distribution, sale and important ensure availability of safe and wholesome food for human consumption.[10]

In the case of Achyutananda V Union of India, the petitioners alleged the concerned state governments and the Union of India that they have failed to take effective measures for combating the adulteration of milk with hazardous substance like urea, detergent, refined oil, caustic soda etc. The Supreme Court showed concerns on the hazardous affect of public health.[11] The Apex Court of the country came down heavily upon the milk adulterers and ruled that they should be sentenced to life term imprisonment. The Apex Court based its judgement on Section 19 of the Prevention of Food Adulteration Act and Section 272 of the Indian Penal Code, which, taken together, criminalize the adulteration of any food substance.[12]

- **Prevention of Corruption Act, 1988**

  It is considered to be one of the worst socio-economic crime and is a greatest obstacle on the way towards a developing country like India. There is no silver bullet for fighting corruption. Many countries have made significant progress in curbing corruption. However practitioners are always on the lookout for solutions and evidence of impact. There is highest corruption in the educational sector. An irregularity in the recruitment of the staffs is clearly visible. In the name of welfare, the students are asked to clear the fees which is definitely much more than expectations. It is worth mentioning that despite effective law enforcement the disease of corruption is a never ending pace.

- **Conservation of foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA)**

  The aim of this Act is to provide for preventive detention in certain cases for the purpose of conservation and augmentation of foreign exchange and prevention of smuggling activities. The preamble of the Act also mentions that it is necessary to detain people for the effective prevention of such activity.

[10] Adulterate milk and spend your life in jail, rules SC, www.catchnews.com >pollute, visited on 15.08.2020.
[11] id
[12] Adulterate milk and spend your life in jail, rules SC, www.catchnews.com >pollute, visited on 15.08.2020.

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- **Dowry Prohibition Act, 1961**

  This Act prohibits the giving and taking of dowry by either parties to marriage. The law also punishes demanding and advertising dowry. The Act imposes a duty on the parties getting married to make a list of gifts and present in case of controversies.

- **Immoral Traffic Prevention Act, 1956**

  In the case of **CBI V Birendra Kumar Singh**, the respondents along with others were charged under Section 47 and 57 of the Act. They were granted bail. These are cases depicts that courts in India have taken serious note on socio-economic offences. The very object of the Act is to prevent prostitution and as per the existing law, Immoral Traffic (Prevention) Act 1956, prostitution becomes an offence when there is a commercial exploitation of a person.

- **Narcotic and Psychotropic Substance Act, 1985**

  The Act prohibits a person to produce, manufacture, cultivate, possess, sell, purchase, transport, store and consume narcotic drug or psychotropic substance.

  In the district of Golaghat, some people were arrested by the police for allegedly killing a leopard and trying to sell its skin and other parts of body. The arrested persons have been identified as twenty eight old Emin Dhanowar, thirty year old Subhit Tetey and twenty three year old Jiten Kerketa. During the search conducted in the house of those persons, flesh and other remains of a leopard which were being dumped in a pond were identified. It was also suspected that they consumed meat of the leopard.

  However, it is pertinent to note that drug is not prohibited for the benefit of medicinal purposes and the scientists and for the researchers to verify and discover something new.

- **Income Tax Act, 1961**

  Tax evasion is the most illegitimate activity that is practiced by suppressing the facts and manipulations of record by corporate houses, professionals and other tax payers. This Act provides for levy, collection and recovery of income tax. Every social welfare offence cannot be called public welfare offence and the Income Tax Act bears the testimony of

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this. This Act clearly specifies that tax invasion is a serious offence. It also provides for levy, administration, collection and recovery of income tax.

Law Commission Report and the IPC provisions

The **29th Law Commission** proposed to include certain socio-economic offences in the arena of Indian Penal Code. It further stated that some of the acts punishable under special laws may be regarded as public welfare offences, regulatory offences or civil offences while others can be regarded as a kin to traditional crime.

The **47th Law Commission** of India Report deals with the trial and punishment of social and economic offences. It clearly stated that the concept of anti-social acts and economic offences has become familiar to those acquainted with the progress of the criminal law and its relationship to the achievement of social objectives.

These pertinent provisions are used to enforce social distancing and lockdown measures.

Section 188-

It relates to disobedience of order relating to public servants for which the punishment is one month or fine up to two hundred rupees or both or if such disobedience causes or trends to cause a riot or affray, it shall be punished with imprisonment for six months and fine up to one thousand rupees.

Section 269-

It pertains to the negligent act to spread the infection of any disease dangerous to life shall be punished with imprisonment of either description for a term which may extend to six months or fine or both.

Section 270-

It deals with malignant act likely to spread infection of disease dangerous to life and the punishment shall be two years or fine or both. These laws are applicable by the executives of the sate to make our country ‘Swatch Bharat’. These can be enforced for various acts such as public spitting, dumping garbage on the road, urinating on the road, not wearing masks in public and so forth.

Section 271-

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It directly hints at the disobedience of quarantine rules for which the punishment shall be six months or fine or both.

In addition **Section 144 CrPc** (Criminal Procedure Code) of 1973 empowers an executive magistrate any state or territory to issue an order to prohibit the people to assemble at one place or organize any such event where five or more peoples' gathering can be expected.

Concluding Remarks

Socio-economic offences are those offences which are degrading the society socially and economically. Greed for money is the main reason behind this. But, in the pandemic stage in the present scenario it can also be related to the survival theory. Many measures have been taken by the government time to time to curb this problem. But still, a lot is needed to be done for a just and equitable society.

Social inequality and economic inequality is witnessed everywhere in the society not only in the pandemic era but also pre-covid times. The most affected ones are the downtrodden and marginalized sections.

The stakeholders should develop a holistic approach so that the welfare measures could be implemented and the true spirit of the legislations could reach the needy so that the mandate of welfare state is achieved. Need of the hour is also to develop a viable judicial system by amending the laws and taking necessary steps for proper implementation of laws. The most pertinent is reduction of poverty by making the needy equipped with the basic necessaries. The legislative, executive and the judiciary should work hand in hand to implement the basic ideas, behind which lies the struggle of our founding fathers and their noble attempts in establishing the concept of Constitutional morality in our welfare state.

In the words of Paul Ryan, ' Exploiting people's emotions of fear, envy and anxiety is not hope, it's not change, it's partisanship. We don't need demagoguery. We need solutions'.

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