

Scrutinizing Encapsulation of Rising Social Crime in India

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Abstract: Society and law goes hand in hand, as both are visa-visaffected by any kind of direct or indirect change in each other but having said this at the outset of this article a new and multidimensional change should be taken into consideration that is technology. As the technology is growing crime rate in society is also increasing, in last decade rapid growth of technology is cause of dominance increase in crime against society, these crimes are of various natures and categorise to special class of society, and some crimes done by nascent mind for which they should face punitive action of law. It is very much essential to defuse these torpedoed criminal minds from society. Technology is flamboyant, but sometimes it is mother of emphatic social crime for resurgence of society it is needful to eliminate social crime.

Key Words: Technology, Social Crimes, Increasing rate of Social Crime, encapsulation of social crime.

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I. Introduction:

Many a times the term crime is considered as a social aspect as it disrupts and challenges both the social ordering and the social values, defined as per the definition given in encyclopedia. In order to get a better understanding, firstly it is pre-requisite to understand what do we understand by the term crime? For answering this question and to pose a general view about social crime and its growth we need to understand about the present criminal law and its nature.

Statement of Problem:

At the development stage of Indian civilization the term social crime was not recognized only civil wrongs existed in those days. True is the fact that all crimes are against the society but still some would be there which will affect whole of the society disturbing social order and value and they will be called social crime. During the period of Islamic regime social crimes increased in India in the form of social customs, both Gentoos and Mussalman were governed by their personal laws at the level of local self-government. Then came the period of British India where with establishment of Mayors court in presidency towns, system of judicial precedents came to India. Other than matters pertaining to personal laws for "Gentoos" and "Mussalman" all other matters were governed by the system of common law, till date India follows the common law system. Due to outdated, melancholia of administration of justice society is facing number of challenges and because of its quick transformation. There is need to respond to social changes by looking into deficiencies in existing system. Thus, it is pertinent to understand the reason behind increase in social crime. Henceforth this research in 'Analytical Overview on increasing social crime in India

Research Objective:

1. To critically analyze the present criminal law system of the country.
2. To find out the effect of easy or unrestricted access to Internet on people.
3. To understand various social issues which inter alia maybe the reason of social crime.

Research Questions:

1. Whether the present criminal law system able to achieve its basic objective of controlling harmful conduct to the society.
2. Whether easy or unrestricted access to Internet has become tuition for criminals.
3. Whether social issues are the reason behind social crimes.

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II. PRESENT CRIMINAL LAW SYSTEM IN INDIA

Presently criminal law is based in two complementary parts one is substantive criminal Law which defines Definition of criminal actions, & Penalty while second is Criminal Procedure followed by court for providing justice, here we are focusing on substantive Laws which directly deals in society to restrain the wrongful conduct in the society.

Crime

Crime is an unlawful act or unlawful conduct by one person against another. It is considered socially harmful or dangerous and is punishable under specifically defined criminal acts and legislations. It is a crime that usually leads to community condemnation and punished through fines or imprisonment or both. Criminal conduct is usually prosecuted by the state because criminal action is considered an action against the state therefore the state initiates criminal proceedings against the offender. The state provides security among all members of society. If any criminal act is done by any member of the society against any other member or parts of the society, it will be considered an action against the state. Some actions at the same time can be considered criminal as well as a civil both, but generally it can be tested by statute where it is defined as all actions are well defined to be considered as crimes. An offense can be completed in four different stages with intention, preparation attempt and commission of crime. The person committing the crime crosses all these steps.

Various Stages of Crime:³

Stage-1: Intention

In this first stage the offender sets the motive and sets his course in the direction of the crime. The law cannot punish a person with the intention of doing any unlawful act only the mental element is too difficult to judge a person. Just having one intention will not constitute a crime.

Stage-2: Preparation

Preparation is the second stage of crime, which means deliberately arranging the necessary resources for the execution of criminal actions. Intention and preparation alone are not sufficient to constitute a crime. Preparation is not punishable in many instances because it alone does not harm to society. But there are certain exceptions also which makes preparation punishable like committing dacoity, or belongings to the gangs of dacoits or gangs of thieves etc.

Stage-3: Attempt

The plan is a direct action towards the execution of a crime after preparation. As per law a person is guilty of attempting commission of crime if performs an action that is beyond preparation for committing the crime. Also, in some cases a person is guilty of attempting to commit a crime even if the facts are such that it seems impossible to carry out the crime.

Brian Says. "When a person fails the attempt, he tries again and again until it succeeds", so the attempts are punishable in every situation.

Stage-4: Commission of Crime

Successful completion of a crime is the final stage where if at all the attempter succeeds his envisaged target then he shall be held guilty for the same. Also, if this trial attempt was unsuccessful then too, he would be held guilty of doing this attempt. In order to understand the law and its nature, jurists have given various definitions.

According to Salmond⁴

As per the infamous definition given by Salmond for law, he states that it is principle's structure and implemented through state bodies for the justice administration. Although he never defines the term justice, but his definition is said to be the most operative definition on the subject.

According to Gray

As per the infamous definition given by John Gray which got a lot of negative remarks for its interpretation that the law made by state or any organized body of group of men is a creation of courts rule for determining the lawful rights and duties.

Nowadays the system that is prevalent is the control-based system though another option is also available that is justice based. This principle of control maybe assumed to be the reason behind today's uncontrolled situation in various aspects of walk of life because the system of justice which is also universally applied and accepted is the guiding principle of right and wrong as it takes into the consideration cultural and societal aspects of offenders.

When we talk about cultural and societal aspect of offender's life, we are referring to social ordering that controls both behaviour of individuals as well as groups. According to the infamous Ross definition behaviour

³S N Mishra 17th edition, Central Law Publication, 2008

⁴Jurisprudence and Legal Theory by Dr. N.V. Paranjpe

of human is not controlled and guided by laws only but practically, it is the system of faith and ones believe that guides all individuals.

Purpose of the law

Discussing about the purpose that law serves is foremost maintenance of peace. Through proper ordering violence should be reduced so that harmony and peace is maintained in the society. Law not only is responsible for peace but also to establish benchmarks, protecting people's basic rights. Thereby one can understand that maintaining harmony by controlling harmful societal conduct is the fundamental to be achieved by criminal law. To achieve this basic objective law comes in play and punishes offenders and attempters for doing and trying to harm the society. Having said this researcher does not intend to say that the law punishes all who fall in above category but only those who cause danger or intent as such and not who only think of doing so because there would be many of us who out of anger would think wrongfully about others but would never actually perform or even try to perform the same understanding the serious effects of it on the society and individuals.

III. WEATHER EASY OR UNRESTRICTED ACCESS TO INTERNET CONTRIBUTING IN SOCIAL CRIME

In the Year 1983 is remarkable year in which various computer started a communication network which at later stage become Internet After the year 1995 a remarkable year access to computing device by a common man started and moving on and on , it was backed by cheaper Internet facilities by Internet service Providers due to technological advancement this Internet facilities easily availed by society , which became the reason of new kind of crime in society, we will analyze all such previous and new wrong action in society. Bracket year is 2004 to 2013 which is bracket of rapid growth of Internet we consider here for analysis. Weather increase accessible growth of Internet is enhancing the social crime?

Social crime

In fact, all crimes are against the society but some crimes which affect the whole society are called social crimes. Social crime creates fear in the whole society. Social crime can be against the society or sections of the whole society. Many a times people consider something or action as social crime when it represents threat to social ordering and social values. This crime includes various types of crime such as solicitation or inciting conspiracy crime, victimless crime, white-collar crime etc.

Soliciting or Abetting

A person when tries to pursue some other person for commission of crime or wishes and intends that other person for commission of crime, sometimes this type of criminal activity is defined as a specific basic offense from which it is criminalized for example to offer bribes etc.

Conspiracy Crimes

A conspiracy offense has traditionally been explained and interpreted as agreement amongst people or group of people for performing some undesired action. This act is also called as conspiracy and astonishingly this 20th century has seen a huge expansion of the act of conspiracy in the new organized crime, economic and trade business systems and subversive political activity.

Victimless Crime

Some crimes happen without victimization. Crimes that hamper the morality are also commonly called as victimless crimes as in such crimes generally there is no person to lodge the complaint or no victim. The following offenses are included in the victimless crime category like illegal gambling, drug abuse and public intoxication etc. Situation crime: Victims are never exposed in these crimes because their moral obligations are involved. All are the examples of victimless crimes. Now these are also being recorded. They are continuously increasing year after year.

White Collared Crimes

The use of this term White collar crime for the first time was done by American philosopher Edwin Sutherland. Hedefined it as the blatant violation of the criminal law by someone belonging to a respectable and a higher social stratum during his or her work. In the year 1949–1981, the United States Department of Justice opined a different definition for a crime that was nonviolent and for the benefit of monetary benefit using deception and possession of someone who has a sound and proficient technical or professional knowledge of government and trading business etc.

Apart from the above social crime some other crimes can also be included in this category. These other crimes would be like the Insider trading, evasion of the taxes, violation of the taxation laws and cyber space crimes etc. Generally, and commonly white-collar crimes are such types of crimes that are committed through people having good social status in the context of their social and working position. These crimes normally do not exaggerate tension in the minds of people as compared to the other classes of crime. Though the fact is that

white collar crimes are even more harmful to society. We have seen it in the period of Covid-19. These crimes are usually minimally investigated and minimally prosecuted as these are crimes of the urban world with good technology etc.

Social Crimes against Persons

There are some crimes that are against individuals, also known as personal crimes. These crimes include tragic injury, murder, aggravated assault, rape, wrongful restraint; all these acts are personal offenses and are unevenly distributed in every part of India. Mostly affected sections of societies which are young urban poor and minorities. these social crimes are against the society, but these are also against the state causing fear in state, but individual is victims of crime for instance increasing cases of mob lynching during this decade.

Social Crimes against Property

Social crimes against the property include theft, and extortion robbery criminal misuse of property, fraud against property, mischief, criminal atrocities etc. All above mentioned acts are social crimes against the property of the individual and are distributed unevenly in every part of India with people of all ages including, poor and minorities. These crimes affect the entire society against the state which creates fear in the society. All these crimes are increasing in India during last decade, especially illustration recorded when in last decade financial reform started in India where various loans credit card etc, started

Hate Crimes⁵

Hate crimes can be considered or defined as crimes that are against individuals or property and committed through applying prejudices on the ground of racism, sexism, identity, regionalism, disability, physical orientation and last but not the least is ethnicity. The percentile of this specific type of crime in India is increasing year after year.

Mob lynching⁶

Unlawfully killing any member of society by some group of other members of society, these incidents are also increased in society, due to lack of tolerance to others in society. Now a days number of incident started through preplanning by what's app communication which finally converted in physically harm to the person.

Organized Crimes

Organized crimes are normally committed by well-organized structured groups of people who would typically get involved into the business of distribution, sale and purchase of illegal goods and illegal services. Many hearing this term would assume of the mafia group, but it is referring to any group of people controlling big illegal groups. Some very commonly identified such groups are trading of drugs, gambling, prostitution, trafficking of arms and ammunition and money laundering to name a few.

Social Crime and Law in Ancient India

Ancient Indian society was at the developing stage of its civilization, so social crime was not even recognised at this stage, it was known as various civil wrongs like thugs, theft, bribery incidents, marriage related wrongs, prostitution were recorded by various travellers at this time. Dharam Shasta recognised and defined various obligations and some authors also defined punishments for these recognised wrongs. The king was only adjudicator who adjudicates the conflicts based on his kingship. After the scriptures written by Vishnugupt and the citizen charter declared by great Ashoka's legal principles defined for society therefore people can understand civic legal order. A well established court system also existed under the Maurya regime in 321–185 BCE.

Social Crime and Law under Islamic ruler in India

Social crime as a form of social customs increased in India under Islamic rule such as social crime related to women, social crime related to children etc. The Mughal court system was developed in the 16th-19th century period Qazi ul Kujat was the chief Judicial officer and proper hierarchy was developed among all the kings who were the utmost judges in the state. Both Muslims and Hindus were governed by their own private laws at the panchayat or village level.

Social Crime and British Indian Law

The present system of common law in India was based upon system of judicial precedent for maintaining and following recorded case laws by East India Company which got its charter through King Goerge in the year 1726 by establishment of mayor's court in three presidency towns (Madras, Bombay and Calcutta). When the company established its territory in India it enacted more laws to regulate the society of India. The company's judicial functions also expanded. The freedom movement took its shape through social movement as it united all

⁵www.hatecrime.osce.org

⁶www.thehindu.com,21july,2020

scholars to work. The English legal system replaced the then existing Indian laws except for matters pertaining to family/personal laws of Hindus and Muslims in matters relating to marriage, inheritance, and property or succession.

The Ministry governing the Home Affairs in India conducted a survey and collected data during the decade will be relevant to made analysis on rate of social crime. We had taken is data more promptly because it is from early 21st century, so that we can assess about crime and regulations in upcoming future.

Percentile of cognizable offenses mentioned in Indian Penal Code& Special and Local Laws between 2003 to 2013⁷

Serial No.	Year	Percentile of crimes mentioned in IPC and cognizable in nature
1	2003	31
2	2004	30
3	2005	36
4	2006	36
5	2007	34
6	2008	35
7	2009	31
8	2010	33
9	2011	37
10	2012	39
11	2013	39
12	Percent change compared to 2003 to 2013	27
13	Compound gross rate per year	2

Analysis of Social Crime

In the present scenario as we have already discussed the nature of social crime and its different types are increasing rapidly. The Criminal Procedure Code classifies all crimes into two categories cognizable offenses and non-cognizable offenses.

As a well-known fact it is quite clear that the offenses are extensively defined in Indian Penal Code and under Special and Local Laws. According to the data collected by National Crime Record Bureau for the year 2019 by calculating percentage of total cognizable offenses per one lakh of population 5156172, 5074635, 5007044 cognizable offenses were registered in 2017, 2018, and 2019 with a percentage of 61.2, 61.7 and 62.6 respectively in the country.

According to the report of the Ministry of Home Affairs we can cite the cognizable offenses in 2018, 51.9% of cyber-crime cases were reported under Computer related offences (14,141 out of 27,248 cases) followed by fraud with 12.3% (3,353 cases) and cheating with 7.5% (2,051 cases)⁸ which shows rapid negative growth in technology advancement. By the above data we can easily find that it contributed to increase the rate of social crime. As we have seen mostly the nature of social crime are cognizant and now it involves technology and knowledge too.

⁷Source: Home Ministry of India Report, Crime in India, 2013, p.194

⁸Source: Crime in India 2019. Retrieved 04/03/2021,

Percentile of cognizable offenses mentioned in Indian Penal Code & Special and Local Laws between 2017 to 2019⁹

S. No.	Year	Half Yearly Population Projection (in Lakhs)	Incidences of Crime +			Crime Rate ++			Percentile of crimes mentioned in IPC and cognizable in nature
			IPC	SLL	Total	IPC	SLL	Total	
1	2	3	4	5	6	7	8	9	10
1	2017	12885.3	3062579	1944465	5007044	237.7	150.9	388.6	61.2
2	2018	13233.8	3132955	1941680	5074635	236.7	146.7	383.5	61.7
3	2019	13376.1	3225701	1930471	5156172	241.2	144.3	385.5	62.6

‘++’ Crime Rate is calculated as Crime Incidence per one lakh of population

- Population Source: Report of Technical group on Population Projections(November 2019) National Commission on Population, MoHFW
- As per data provided by States/UTs
- Due to non-receipt of data from West Bengal in time for 2019, Data furnished for 2018 has been used

Constitutional Aspect¹⁰

It will be quite relevant to discuss here at this point of time the various provisions enshrined in Constitution of India for safeguarding people and their rights like Article 21 guarantees the protection of life and personal liberty, Article 20 provides protection from double jeopardy, Article 39-A mandates the state to ensure equal justice for all, Article 50 provides for the separation of judiciary from the executive in the public services of the state, Police and public order are state subjects under the Seventh Schedule of the Constitution of India and hence the state governments are mainly responsible for preventive identity registration and investigation of crime and prosecution of criminals.

IV. WHETHER SOCIAL ISSUES ARE THE REASON BEHIND SOCIAL CRIMES

In most of the case we have observed that reason behind social is any social issue, it very general observation especially in root cause of crime is social problem.

Reason behind Social Crime¹¹

After close observation of data from 2017 to 2019 i.e. post covid -19 we can assume that some of the reasons are responsible for the increase in social crimes which are as follows-

Lack of Education

The government's efforts are reasonable, but India's population is not stable yet, so the government's effort turns insufficient. A large number of the population is not educated. This lack of education gives people an opportunity to bend towards crime and hence becomes a reason for the increase in social crime.

Ineffective Legal System

The legal system is ineffective after a crime we have seen this in the Nirbhaya case. The police system and the court process do not work fast. Criminals are never afraid of the system because of slow response of legal system. We need to make the legal system more effective, we should also take the help of technology and internet Criminals should be afraid of the legal system

Poverty

Unemployment is the main cause of poverty in a country like India. With the increase in population, people are finding it harder to find jobs. Without jobs and no means to earn food, people move to alternative solutions which are not always legally correct, and this can increase social crime. Other reasons adding are alcohol/drugs, gambling etc. Though there are a lot of restrictions on sale, purchase, and consumption of drugs but unfortunate to write that these restrictions are not able to stop people neither from selling nor from purchase and further

⁹Source: Home Ministry of India Report, Crime in India, 2019. Retrieved 04/03/2021

¹⁰The Constitution of India, PM Bakshi, 17th Edition, 2020 Universal Publication

¹¹Times of India, Retrieved 05 March 2021

distribution. Drug addicted youth become illegally gets involved in the process of distribution, sale, and purchase of these products not even making them realize what is correct and what is incorrect and many of the crimes are under the influence of alcohol and drugs, and this is one of the increasing reasons for the increase in social crime.

Virtual World or Cyber World

Previously there were no laws against crime occurring in virtual worlds. But now laws regarding cybercrimes are equally punishable like any other crime. Now criminals are harming society with computers, most famous are finance related to cybercrime and against human dignity, cybercrimes related to pornography, cybercrimes against children and old people are increasing. Due to this cyber world organized crime has also increased rapidly.

V. Conclusion

In analysis of increasing of social crime we found that in last two-decade technology is increasing in all aspect of life specially in last decade it is growing rapidly due advancement in Internet, this technology is aiding to criminal intend and creating challenges to law and order, If we control all the following things then surely we can break the pace of social crime in India.

1. Education and awareness.
2. Youth Unemployment
3. High standard Social Security
4. Reasonable Restrictions on Internet
5. Promote Social harmony group in society.

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