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LEGISLATIVE DEVELOPMENT OF THE LAW RELATING TO SOCIO-ECONOMIC OFFENCES IN INDIA
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LEGISLATIVE DEVELOPMENT OF THE LAW RELATING TO SOCIO-ECONOMIC OFFENCES IN INDIA

With the rise of Industrial capitalism the world has come to witness a new type of crimes, which have been variously known as "socio-economic-crimes" the crimes of rich and powerful while in western countries a lot of research work is going on various facets, there has been no substantial work in our country.

Also it can be said about our country that without understanding the phenomenon the number of speeches given from the Ramparts of Red fort, the Parliament House or the meetings of Shastri Bhawan can make even a small dent in the problem, the present chapter tries to fill up the gap, also it looks into the genesis of the whole phenomenon and an attempt has been made to trace the ancient historical roots of the problem right from the Vedic period. If we travel back in history in a time machine we will find that for ages there has been struggle for money and political power, and hence the socio-economic-offences originated in the society. The smriti writers laid down set of principles to be followed by the people and king alike in the society. The progress from primitive times to modern days has been through stages.

In the early days of human Civilization person redressed his wrongs and avenged himself upon his enemies by his own hand, supported by the hands of his friends and kinsmen. At this stage, every man carried his life in his hands. He was liable, at any moment to be attacked, and could only resist by overpowering his opponent. In those days, every man was constituted a judge in his own cause, and might was the sole measure of right. There was no guarantee at this stage, that a criminal would certainly be punished and if met with punishment, that the punishment would be in proportion to the crime. At some stage, when blood-feud roved to be disastrous, the primitive society provided for payment of some money, or its equivalent, as a compensation to the victim of the crime, or to the relatives of the victim as the case may be. The advantage of this system of compensation was readily
seen and it developed until a regular sliding scale was fixed. Even in the case of murder, the vengeance of the relatives could be bought off by paying "blood money", which varied according to the importance of the victim.

The history of administration of justice begins with the rise of the political State. However, these infant States were not powerful enough to regulate crime and to inflict punishment on the criminal. The law of "private vengeance" and "violent self-help" continued to prevail. The function of the State was just to regulate private vengeance and violent self-help. At this stage, the State prescribed certain rules for regulation of private vengeance. All that the State could ensure was that the act of revenge or retaliation was not disproportionately severe. The State at this stage, enforced the concept of "a tooth for a tooth" "an eye for an eye" and "a life for a life." What the state made sure was that a life was not taken for a tooth, nor a life for an eye. This was definitely a stage in the advancement of criminal justice system. As royal justice grew in strength, the law began to speak for itself, and what followed was the modern theory of establishing an exclusive system to administer justice by the State.

In the first and second stages, there was hardly any difference between criminal justice and civil justice. With the growth of the State's power, the State began to act as a judge to assess liability and to impose penalty. It was no longer a regulator of private vengeance; it substituted public enquiry and punishment for private vengeance. The civil law and administration of civil justice helped the wronged and became a substitute for the violent self-help of the primitive days. Thus, the modern administration of justice is a natural corollary to the growth in power of the political State.

(i) **Law relating to socio-economic crimes in ancient India**

The study of any developed legal system requires a critical and analytical examination of its fundamental elements and conceptions as also the practical and concrete details which go to make the contents or body of that law. It also requires
consideration of the line of development it has pursued. The exposition of the principles necessarily involved and the consideration of the line of development which it have pursued can be said are the appropriate matters of jurisprudence. Law as understood by the Hindus is a branch of Dharma. Its ancient framework is the law of the Smritis. The Smritis are Institutes which enounce rules of Dharma and the traditional definition of Dharma is:

"What is followed by those learned in the Vedas and what is approved by the conscience of the virtuous who are exempt from hatred and inordinate affection.""'

In Manu Smriti the term Dharma has been explained and is an expression of wide import and means the aggregate of duties and obligations religious, moral, social and legal. The four Vedas: (i) Rigveda (ii) Yajur Veda (iii) Sama Veda and (iv) Athurva Veda and other books give us a clear view of the society.

The early Vedas know only monarchy. In the post Vedic era national life, both economic and political, expressed itself into various types of self governing institutions but the basic trait of communal institutions continued to exist. The monarchy gave place to republics and economic life gave rise to the guilds of merchants and traders.

Disgusted as we are with the top to bottom socio-economic crimes in our country, we are apt to look upon ancient times as a golden age when public servants were incorruptible and were noted for their integrity far from it there was corruption in ancient India too; but the extent of the evil seems to have been far less than what it is today. The Arthashastra advises that the honesty of judges should be periodically tested, while the Vishnu Smriti prescribes banishment and forfeiture of all property for a judge found guilty of corruption and injustice.

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1 Manusmriti II, 1. Medhatithi one of the earliest commentators on Manusmriti explains the term Dharma as duty: Dharma shabdah Kartavyata vachanah VII, 1.
2 Cf. Ulpian’s statement of the commandments of the law, containing a broad summary of a lawful man’s duties. Preserved in the introductory chapter of Justinian’s Institutes: ”Juris precepta sunt haec: Honeste vivere, alterum non laedere, suum cuique tribuere”.
In the chapter ascertaining by temptations, purity or impurity in the character of a minister, of his Arthasastra, Kautilya says "Assisted by his prime Minister and his high priest, the king shall, by offering temptations, examine the character of ministers appointed in government of ordinary nature."\(^3\) The various degrees of temptations to which a Minister is lured are explained by Kautilya. He concludes:

"Teachers have decided that in accordance with ascertained purity, the king shall employ in corresponding works those ministers whose character has been tested under the three pursuits of life, religion, wealth and love, and under fear."\(^4\)

Kautilya is more specific in another chapter entitled "Detection" of what is embezzled by Government servants out of State revenue which reads like a modern official report on modes of corruption and corresponding punishments.\(^5\) Ashoka's dharmic state, following closely on the heels of Kautilya's times, must have had the minimum of socio-economic crimes, for the Emperor declared in one of his edicts that.

"for the welfare of all folk is what I must work and the root of that, again, is in effort and dispatch of business". For ensuring speedy dispatch of business, he commanded his officials to report to him at all times and hours"whether I am dining, or in the ladies apartments, in my bedroom, or in my closet, in my carriage, or in the palace gardens".

Briefly, socio economic crimes and bribery during Ashoka's rule must have been the minimum. Law may be described to be the ancient law rooted in the Vedas and enounced in the Smritis as explained and enlarged in recognized commentaries and digests and as supplemented and varied by approved usage. It made remarkable progress during the Post-Smriti period (commencing with about the seventh century after Christ) when a number of explanatory and critical commentaries and digests (nibandhas) were written on it and which had the effect of enlarging and consolidating the law. A body of law so developed it bears upon it many marks of its origins.

\(^3\) R. Shamasastry, Arthasastra, Mysore, publishing house, 1967, pp. 15-17
\(^4\) J.B. Montielro, Corruption, P.C. Manaklala and Sons, Bombay, 1966, p. 19
\(^5\) Ibid, p. 19
The law was not to be found merely in the texts of the Smritis but also in the practices and usages which had prevailed under it. The traditional law was itself grounded on immemorial custom⁶ and provided for inclusion of approved custom that is practices and usages that from time to time might come to be followed and accepted by the people. The Veda, the Smriti, the approved usage, and what is agreeable to good conscience are according to Manu⁷ the highest authority on the law, the quadruple direct evidence (sources) of Dharma. Law did not derive its sanction from any temporal power; the sanction was contained in itself. The Smritikars and those who preceded them declared and emphasized the divine origin and sanction of the rules of Dharma.

It may also be observed that Yajnavalkya and some other Smritikars divide their treatment of subjects into three sections, Acharya, Vyavahara and Prayashchitta. The first and the last relate to rules of religious observances and expiation. The early writers laid greater stress on these rules than on rules of Vyavahara, that is of civil law. The later Smritikars mentioned above have treated of Vyavahara in separate sections and exhaustively considered rules of positive law and Narada and some Smritikars have compiled rules only of Vyavahara.⁸ The practical insight of the Rishis who were both sages and virtually lawmakers left very little that was undefined. At a very remote period they treated of law under eighteen heads and one hundred and thirty-two sub-divisions and laid down rules of law both substantive and adjectival. Founders of their own jurisprudence, these philosophical jurists enunciated and expounded a system of law which does not suffer in comparison with Roman law which inspired the continental codes and much of English case-law.

⁶ Manusmriti states: Here the sacred law has been fully stated... and also the traditional practices and usage of the four Varna's I. 107. A popular verse from the Mahabharata is "Dharma has its origin in good practices and Vedas are establish in Dharma": Achara Sambhavo Dharmo Dharme Vedah Pratishthitah: vana Parva 150.Ch. 27.Vashistha observes: "Manu has declared that the (peculiar) practices and usages of countries castes and families may be followed in the absence of rules of revealed texts" 1. 17 (S.B.E. Vol. XVI)
⁷ Manusmriti II. 12. The variant text of Yajnavalkya adds one more source "desire sprung from due deliberation".
⁸ Vyavahara embraces forensic law and practice as well as rules for private acts and disputes.
(ii) **Dharma in Sutra Period:**

After Vedic period we move to Sutra period. In this age Apastamba Sutra probably the best preserved of these Sutras. Apastamba treats certain aspect of criminal law. The Gautama Dharma sutra is probably the oldest works on law and as already pointed out belonged to the Samavedins. The injunction that it was the duty of the king to preserve intact the time honored institutions of each country and make authoritative the customs of the inhabitants of different parts of the country just as they are stated to be favoured by Manu, Brihaspati, Devala\(^9\) and other writers of the metrical smritis, does not appear to have been quite established at the time of Gautama. It would seem however, that by the time of Baudhayana the rule was firmly established.

Gautama Dharma sutra is in prose and treats extensively of matters legal and religious. Gautama attaches adequate importance to tradition and practices and usages of cultivators, traders, herdsman, moneylenders and artisans. Haradatta have written a commentary also on the work of Gautama. Baudhayana is rather elaborate in his treatment and mentions some customs which were peculiar to the people living in the North, two of them being trading in arms and going to sea. He also speaks of the levy of sea-customs *advalorem* and of imposition of excise duty on traders by the king. The eminent jurists and scholars both European and Indian suggest that the Dharma sutras of Gautama, Baudhayana, Apastamba and Vasishtha must have been recorded between about 800 B.C. and 300 B.C. The age of Chandragupta Maurya which is reliably fixed as 321 B.C. to 297 B.C. is the sheet-anchor of Indian chronology. Almost equally useful is the date of Panini who lived "probably soon after 500 B.C."

(iii) **Dharma in Smriti period:**

The term dharma has been well explained in Smriti period. *Manu, Atri, Vishnu, Harita, Yajnavalkya, Ushanas, Angiras, Yama, Apastamba, Samvarta, Katyayana, Brihaspati, Parashara, Vyasa, Shankha, Likhita, Daksha, Gautama, Shatatapa,* and

\(^9\) Yasmin deshe pure grame traividyey nagarepiva : yo yatra vihito dharmastam dharman na vichalayet.
Vasishtha are mentioned as founders of Dharmashastras. Narada, Baudhayana and other Smritikars mentioned here are among the recognized compilers of law. Of the numerous Smritis the first and foremost in rank of authority is Manusmriti or the Institutes of Manu. There is a striking resemblance and agreement among the Smritis on many questions and they purport to embody one traditional law. All the Smritis in course of time came to be regarded as of universal application. No greater authority was attached to one than to another Smriti, except in case of Manusmriti which was received as of the highest authority and was accepted as the first expositor of law and often reverently referred to by the Smritikars in the pluralis majestatis. The ancient law existed before writing was invented and human memory had to be its sole repository.

In his survey of the duties of the king, Manu stresses the importance of danda which connotes the sanction behind the power of the king to restrain transgressions of law and to inflict punishment on offenders. The danda "alone governs all protected beings, alone protects them watches over them while they sleep; the wise declare it (to be identical with) the law" Yajnavalkya smriti it would seem from relative criteria, must have been compiled in about the first century after Christ. Yajnavalkya states that the ordained foundations of Dharma are:

"The Shruti; the Smriti; the approved usage; what is agreeable to one's self (good conscience) and desire sprung from due deliberation"

The code of Yajnavalkya is in the main founded on Manusmriti but the treatment here is more logical and synthesized. On a number of matters and particularly on the question to hold property, and of criminal penalty, Yajnavalkya although a follower of convention conservatism is decidedly more liberal than Manu. The influence, though not direct, of Buddha "the enlightened" and Buddhism on the

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10 The Padmapurana lists thirty-six compilers of law. The name of Atri mentioned in Yajnavalkyasmitri is not mentioned. To the other nineteen are added Marichi, Pulastya, Prachetas, Bhrigu, Narada, Kashyapa, Vishvamitra, Devala, Rishyashringa, Gargya, Baudhayana, Paithinashi, Jvali, Samantu, Paraskara, Lokakshi and Kuthumi.
11 1. 7. Yajnavalkya enumerates in a well known verse fourteen sources of knowledge and Dharma. The four Vedas; their six Angas or subsidiary sciences; the Dharmaashastras: the Mimansa containing rules of exegesis; the Nyaya or dialectic philosophy; and the Puranas or records of antiquity (1. 3).
Vyavahara part of Dharma of this Smriti of Narada cannot be minimized. Buddha’s teachings and particularly his message of universal compassion naturally had effect on certain invidious and rigorous aspects of the law and this is reflected in the Smriti of Yajnavalkya. Punishments prescribed in this code are comparatively less severe in case of a number of offences.

Narada smriti affords great help in deriving reliable knowledge of the line of evolution which Hindu law and jurisprudence had pursued during the remarkable era of the Dharmashastras, it being in point of time the last of the three leading Codes. Bryce has observed:

"The law of every country is the outcome and result of the economic and social conditions of that country as well as expression of its intellectual capacity for dealing with these conditions".

There is intrinsic as well as other evidence to show that the work was compiled after there had been remarkable political, economic and social progress in the country, when the highest intellectual capacity of the people had already produced the philosophy of the Upanishads out of which had been developed the doctrine of Karma yoga, and when considerable advancement had been made in Hindu jurisprudence.

(iv) Kautilya Period:

Arthashastra is defined by the author as the ‘science which deals with the means of acquiring and ruling the earth. In the concluding verse, he says that this shastra establishes and maintains the triad, viz. virtue, wealth and pleasure and sets down unrighteous acts detrimental to wealth.

The above observation of Kautilya points to the misuse of power by the officials of administration. No wonder, he cautions, 'The King shall protect trade routes from harassment by courtiers, state officials, thieves and frontier guards.' According to some writer 'Arthashastra...deals with the responsibilities of the kings for whom rules are laid down in many treatises of dharma.' Most of the shastras enjoin the king to give protection to his people, ensure justice, maintain peace and, in short
provide or The arthashastra stands out from the rest, as it not only suggests punishments for offences of economic benefit it presents a detailed administrative code for its prevention. The common theme in all of them is corruption among the state officials and by the traders. In other words, economic-benefit has been seen broadly as linked to political, bureaucratic and economic power.

Kautilya(Chanakya) has said in his celebrated treatise, the Arthashastra (A treatise on statecraft)

"Just as fish moving under water cannot possibly be found out either as drinking or not drinking water, so government servants employed in the government work cannot be found out while taking move for themselves. Just as it is impossible not to taste honey or poison that one may find at the tip on one's tongue, so it is impossible for one dealing with government funds not to taste, at least a little bit, of the King's wealth."

Arthashastra is the most important work on politics and administration, although its name indicates that it is a treatise on economics the work is not a Dharma shastra but a masterly treatise on ancient Indian polity and rules inter alia relating to the duties of a king, his administration including administration of justice, laws, courts of law, legal procedure, taxation, numerous other matters which would form the subject matter of philosophy,\textsuperscript{12} sociology, economics, and hygiene. Removal of antisocial elements is the fourth book of Arthashastra. It deals with a number of miscellaneous topics relating to public protection against deceitful and fraudulent artisans and merchants, penalty for manufacturing counterfeit coins, fraud in weights and measures, remedies against providential calamities, seizure of criminal on suspicion etc. Secret measures against seditious ministers, replenishment of state coffers in a financial emergency, emoluments for the royal entourage, behaviors of the kings and consolidation of the kingdom after the sovereign's demise are the various components of the fifth book.

\textsuperscript{12} Kautilya speaks of philosophy as "the lamp of all the sciences the means of performing all works, and the support of all the duties".

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(v) Middle period:

Socio-economic crimes in public life in India remained a visible and nagging feature of the middle ages. The change in the nature and scale of corruption during this period can be gauged from the fact that the many of the rulers during this period were of foreign origin. The arrival of Muslim rule in India can be said from 712 A.D. In the Northern parts of India after series of wars Qutub-Uddin Aibek the Mugal King (1219-1239) established himself in India. Apart from this victory, the first attempt to this end was made by Mohammad bin –Quasim (in 712 A.D.) and thus from this time onwards began the Muslim Rule in the history of India, thereafter they ruled India till the year 1857, when the last Mugal King Bahadur Shah Zafar was dethroned by the British, and thus began the real British Rule in India. During the Muslim rule many changes were introduced in the legal system of our country.

"The Mohammedans have the law in their hands and distribute justice best to those who pay best for it. The judge’s fees are twenty-five per cent on all sums that he pronounces due to the party whose plea is best supported by bribes or interest, for the justice of the cause seldom prevails."\(^{13}\)

It can be said that during the Islamic period, the king was considered the representative of God and he exercised control over courts. The Qazi the most important person in the judicial administration was appointed by him, the Qazi was given both civil and criminal judicial powers, even the king was bound by the orders of Qazi, also he can declare kings orders invalid, and in case he said the basic principle was equality-before law and crime under Muslim jurisprudence was not considered as social evil but the entire conception of justice laid emphasis on prevention of the offence termed as crime. The reason was that in Islam the State belonged to God, therefore, the violation of public right was an offence against the

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\(^{13}\) J.R.B. Jeejeebhoy gives a vivid account of corruption under various rulers in the centuries that followed the downfall of the Maurian Empire in his book, Bribery and Corruption in Bombay (1952), Says Alexander Hamilton in his New Account of the East Indies (1774); Cited in Jeejeebhoy’s book p.3.
God while infringement of private right was an offence mainly against the individual
concerned. The crimes were divided into various types. The offences against the God:
such as adultery, fornication, apostasy, drinking wine, theft, high-way robbery and
false accusation of married women of adultery. Secondly offences against the ruler :
such as rebellion, misrule and moral turpitude on the part of chieftains. Thirdly
offences against the private citizens: such as counterfeiting of coins, arson, stealing,
gambling and selling of wine, etc.

After the Indianization of the ruling class since Mughal Emperor Akbar, the
institutionalization of the giving and taking of gifts also established extortion and
corruption as a way of life, for gifts were not only willingly exchanged, forcible
extortion too was gift-wrapped. This was despite the reputation of Akbar for his
emphasis on good governance and of Jehangir on justice. Noted historian J.N. Sarkar
observes :

The exaction of perquisites and presents by the officials and subedars
downward was one of the greatest evils of medieval administration....The pressure
passed from the top to the bottom, though it was unintentional and its real effects
were not fully realized by the head of the state. The emperor, without meaning it,
squeezed the subedar and the subedar did so to the zamindar; the provincial diwan
had to gratify the High Diwan and therefore he had to squeeze the subordinate
Collectors of the revenue; and these men at the bottom of the official ladder
squeezed the ryots.

The feudal elements backing the government, the subedars and governors, the
revenue collectors, the faujdars, all found ways of pilfering the royal treasury and
fleece the public. The evil custom of local governors and even faujdars opening the
packages of traders on the road and taking out whatever they liked at prices fixed at
their own caprice, was known as early as Jahangir’s reign and definitely forbidden by
the Emperor....Widespread corruption was also reported in the Mughal army.

Apart from this on the other side of the globe, history was taking new turn. The
East India Company formed by some merchants of London secured from Queen
Elizabeth a royal charter in December 1600. The Charter granted to the Company
monopoly rights for trade with India and some areas of South East Asia for an initial
period of 15 years. The powers and privileges of the company were enlarged by each subsequent Charter. By the year 1700, the company had established its trading centers and chief settlements at Bombay, Madras and Calcutta.

The Charter of 1726 provided for the establishment of a corporation in each of the presidency towns, i.e. Bombay, Calcutta and Madras, creation of Mayor’s court in each of the Presidency towns, with regard to administration of justice in criminal matters the Charter provided that in each presidency town the Governor and five senior members of the court will have criminal jurisdiction and would be known as the justices of peace. They were empowered to arrest and punish persons for petty criminal offences. The Charter also empowered Governor-in-Council in each of the presidency towns to frame rules and regulations according to the necessities of each of the presidency town, yet the charter required that such rules and regulations were to be confirmed by the Board of Directors of the Company before implementation. As all the members of the Board of Directors of the Company were Englishmen, ignorant about the native’s laws and customs, hence they too were guided in their judgments by the principles of English law.

The Charter Act of 1753 did not make any far-reaching changes in the judicial system which had been created under the Charter act of 1726, but only attempted to remove those difficulties which came on the surface after reviewing the working of the judicial structure which the earlier Charter Act had created. With regard to criminal matters the Charter of 1753 did not make any changes as it continued to be administered by the governor-in-Council acting as justices of peace following the British pattern of procedural criminal law which did not suit the Indian conditions of those days. The entire judicial structure in the three presidency towns was thus again reorganized by the Regulating Act of 1773. A Supreme Court replaced the Mayor’s Court in the presidency town of Calcutta in 1774, a Supreme Court was established in the presidency town of Madras in 1800 and in the presidency town of Bombay in 1823 replacing the Mayor’s Court.
It is thus said that with the passing of Regulating Act, 1773 there came into existence two distinct and independent judicial system in Bengal, namely, Company's courts and the Supreme Court for judicature established by the Crown of England, Company's adalats were established under the power given to the company by the then Nawab of Bengal, transferring the diwani rights to the Company and the Supreme Court of Judicature was established at Calcutta deriving its authority from the crown. The Act made the jurisdiction of the Supreme Court partly concurrent with that of adalats without unifying the sources of sovereignty from which each derived its authority.

The trial of Raja Nand Kumar also highlighted the atmosphere of confusion at that time. The offence for which Nand Kumar was convicted has been committed by him some years ago, much before the establishment of the Supreme Court itself. The statute under which Nand Kumar was sentenced to death for forgery was passed in England in 1728. Moreover, after the conviction of Nand Kumar, an application for granting leave to appeal to Privy Council was moved by his counsel but it was rejected. The Charter of 1774 had vested in the court a power to reprieve and suspend the execution of a capital sentence and recommend the case for mercy to His Majesty even this was not done. The initiation of the proceeding in the Supreme Court, the manner of trial, the application of English law of the statute of 1728, the execution of death sentence and disallowing the appeals to the Privy Council were some of the grounds which created doubts in the minds of the people regarding the validity and legality of the whole trial.

Infact in March 1775 Nand Kumar laid a letter before the Ministers of the Council of the Governor-General, charging Warren Hastings with having received bribes from the widow Munni Begum of the old Nawab, Mir Jaffar. Another letter was sent by Nand Kumar to the members of the Council in which he offered to produce vouchers in support of his charges of bribery against Hastings. On the receipt of this letter, a Council member, moved a resolution in the Council to summon Nand Kumar before the Council, which was opposed by Hastings who was occupying the
chair of the President. In spite of Hastings’s opposition, the resolution was passed with majority votes. Warren Hastings dissolved the meeting and left his seat, which was occupied by another member of the Council and he summoned Nand Kumar to produce his charges against Hasting. The Council by majority decided that Hastings received a sum of Rs. 3,45,105 as bribe and directed him to refund the money in the Company’s treasury. While the charges against Warren Hastings were still pending which were subsequently dropped, Nand Kumar was suddenly arrested on a charge of forgery. However on his return to England Warren Hastings was impeached for bribery before the House of Commons and House of Lords.

The judgment in Patna case (1777-79) highlighted the casual manner in which the company’s courts were functioning. Apart from it the judgment also widened the gulf between Supreme Court of Judicature and the civil courts of the company charged with the task to administer justice. The ultimate impact of the judgment was that all the judges including the law officers attached with the company’s courts were put to a great terror under vast jurisdiction of the Supreme Court which the court had assumed taking advantage of the defective drafting of the Regulating Act.

The decision in Cossjurah case (1779-80) was again to the dislike of the Governor-General-in-Council. It again brought on the surface the jurisdictional dispute between the Supreme Court and Governor-General-in Council due to defective and ambiguous language used in the Regulating Act. The decision given by the Court was the last blow given to the Government at Calcutta and the conflict between the Court and Council reached to its climax. An open show of force was exhibited by both the parties. The independent approach of Court came to be disliked both by the Government and the natives of India. The Britishers also did not like the attitude of the Court as it acted a check on their oppression and exploitation of the Indians. As a result of which the British Parliament passed an Act of Settlement in 1781 to remedy the defects of the Regulating Act. Taking advantage of the weakening central authority, disintegration of the Mughal Empire and disturbed conditions all over the country right from 1707 the company gradually emerged as the dominant
power. The victory of the Company at the Battle of Plassey in 1757 against Sirajuddaula, Nawab of Bengal, clinched the issue and the foundations of British rule in India.

(vi) Modern period:

The nineteenth century was the period when law reforms and codification were undertaken in England itself. Persons like Bentham and James Mill were strong advocates of law reforms. It was due to their efforts that many important reforms in the field of law and procedure were undertaken and their influence also projected into India when under the provisions of the Charter Act of 1833, a beginning was made in the direction of codification of laws in India.

The ascendance of the East India Company at the center stage of Indian politics since 1757, heralded a new era in political and administrative structure in India. The British colonial administration gave a new orientation to administration to suit its needs. Since maximization of profits was the main aim of the East India Company, it kept only a skeletal administration for its requirements. Further, the Company paid very meager salaries to its employees, but allowed them to augment their income by carrying on private trade. This provision was thoroughly abused and enabled petty clerks to amass big fortunes. The employees always had large amounts with them for the Company’s trading activities, and they frequently used them for private trade. The transformation of the Company’s fortunes from a foreign trading outfit operating at the mercy of the local rulers, to that of a king maker and stake holder in power, encouraged the Company to extract trading rights by arm-twisting the Indian rulers and mostly by unfair means. Indeed the Company benefited in developing firm roots in India from the rivalry among the Indian rulers and princes, but substantial economic benefits flowed to the senior members of the Company as well in the form of gifts and Nazarene. Gifts in the form of nazarana and/or shukrana (thanksgiving) were part of feudal culture coming from the ancient times, perpetuated during the Mughal rule and retained by the East India Company. It later developed into patron-
client networks in the countries of the entire South Asian region that comprised part of the British Indian empire.

Not surprisingly, it also gave rationale and opportunity to its employees, both British and Indian, to indulge in corrupt practices and illegal trade. The East India Company’s rule from day one was marked by rampant and unbridled corruption flowing right from the top. Though the celebrated trial and impeachment of Warren Hastings, the second Governor General of the East India Company after Robert Clive, remained unemulated, Robert Clive the first Governor General was not much behind him in amassing fortune during his two stints. Indeed when corruption was literally institutionalized at the top, it was difficult to expect better standards of morality amongst the petty officials at different levels. Moreover, the policy of the British to keep the lower levels of administrations low-paid in order to keep the overheads low, institutionalized corruption at various levels in the bureaucracy. So much so that by the time the administration of the East India Company gave way to the rule by the Queen-in-Parliament, rates for all kinds of work were already fixed and institutionalized in different departments of the government. The tradition passed on to independent India as well.

Many reforms were introduced in criminal law during the British Rule as it is clear and evident that all over there was socio-economic-crimes. The Mohammedan criminal law was the law of the land when the Britishers landed in India. The East India Company assumed the diwani administration of Bengal, Bihar and Orissa. As already stated the criminal law suffered from many glaring defects and many of the principles of the criminal law were not in accordance with the well developed notions of crime which have since been developed in England. Some of the principles were opposed to the British notions of natural justice. The reasons were obvious to trace. The Mohammedan criminal law had been designed to serve the needs of the society which was primarily orthodox in many respects and was mainly governed by injunctions laid down in Koran, the Book containing the sacred law governing all aspects of life of a person professing Muslim faith. It was only gradually under the
influence of British administrators that gradual change in outlook took place and the society could adopt the modification and changes introduced by the Britishers in the system. The Mohammedan criminal law formally remained in operation in the mofussil of Bengal, Bihar and Orissa over which the diwani was assumed by the Company for well over 100 years.

Some more steps were taken to reform the law of robbery accompanied by violence as the crime was on increase in Bengal. The Mohammedan criminal law made many distinctions between theft and larceny by stealth and robbery or open larceny by force and violence. The various types of punishments such as amputation of limbs were prescribed for such offenders. But in all these offences which were included under the category of Hadd for the purpose of punishment strict proof with the help of at least two witnesses was required before conviction. The proof of having committed the offences of robbery in such cases was difficult. The confessions as a matter of policy were discouraged. The culprits, therefore, could take advantage of such technical hurdles of the rules of evidence to their advantage and consequently could manage their escape from the reach of law.

The changes were introduced gradually and in stages so as not to upset the criminal administration of justice based on Mohammedan criminal law. In 1829 Lord William Bentinck also brought many reform to this end. In 1832 by the regulation of VI marked the end of Mohammedan criminal law, exemption was granted to Hindus from the Mohammedan criminal law.

The Charter Act 1833 provided for the establishment of All India Legislature having authority through out the territory of India. One of the important provisions of the Act was the establishment of Fist Law Commission. For codification of laws in India prior to the passing of the Charter Act of 1833 Lord Macaulay while speaking on the draft Bill in British Parliament on July 10 1833 argued the case of India for codification. In 1833, the attention of the Parliament was directed to three leading vices in the frame of Indian Government. The first was in the nature of laws and regulations, the second was the ill-defined authority and power from which these
various laws and regulations emanated and the third was the conflicting judicatures by which the laws were administered.

The Commission functioned from 1835 to 1848.\textsuperscript{14} A draft of the penal code was submitted to the Government on 2 May 1837. While submitting the draft they were quite conscious of the shortcomings of their work. In the absence of the codification of civil law and the law of procedure, the codification of penal law alone could not have solved all the problems for the simple reason that each branch of law had a relation with other branch of law and all laws are interconnected to a great extent. Unfortunately the draft could not be enacted into law due to unprecedented criticism.

The Second Law Commission was appointed in England on November 29, 1853 and consisted of persons who were well acquainted with the provisions of English and Indian laws and were actively associated with the work of the first Law Commission. The Commission was assigned the task to examine and consider the recommendations of the first Law Commission for suggesting reforms in the judicial administration, judicial procedure and the laws of India in general. The recommendations related broadly were:

a) Reforms in the judicial set up; and

b) Reforms in the substantive law,

As regards reforms in the judicial set up, the Commission recommended the amalgamation of the two sets of courts, namely, Supreme Courts and Sadar Courts as well as simple and uniform Codes of Civil and Criminal Procedure applicable in the new court to be created on the basis of this recommendation and to all the inferior courts with the control and supervision of such a new court. This part of the report was accepted and consequently Indian High Court Act was passed in 1861 under the provisions of which High Court of Judicature was created in each of the presidency.

\textsuperscript{14} The first law commission submitted a report known as Lex Loci Report to the Government on October 31, 1840 suggesting that substantive law of England should be declared as lex loci (law of the land) in India.
towns. As regards reforms in the substantive law, the Commission made the following recommendations:

a) That uniform substantive civil law for the whole of India is an imperative need;
b) That personal law of Hindu and Muslims should not be codified on the ground of religious sentiments;
c) That the English law should be made the basis for codifying the law in India;
d) That certain classes of persons are allowed to have their own special laws with respect to certain kinds of transactions among themselves.

In the light of above recommendations, the Indian Penal Code was passed in 1860, the Code of Criminal Procedure was passed in 1861 and later on in 1898. In the Sphere of civil law, the Civil Procedure Code was passed in 1908 and the Limitation Act (in 1859) was also passed in the same year.

(a) Pre-Constitutional era 1857-1947:

The creation of the Indian Civil Service (ICS) and systematization of the administrative structure after the revolt in 1857 did check corruption in high places in the colonial administration, but it did not do away with them. Corruption continued unabated at the lower levels, while the feudal tradition of gifts became the indirect way of getting favours from the senior ones. The extent of corruption during the colonial rule also depended on the fact that beyond revenue collection and maintenance of law and order, it did not touch the lives of the people. As the East-India Company was at the centre stage of Indian politics since 1757 and the eventual transfer of power to the Queen in Parliament by the Act of 1858 heralded a new era in administrative structure of India.

In the legal and Constitutional history of the country the year 1857 occupies a very prominent position as it was the first war of Independence by the countrymen, and also it was an end to company's rule in India and by the Act of 1858 power was transferred to the queen in Parliament. The Revolt which was eventually suppressed gave a death blow to the system of East India Company's rule in India. A new Act
was passed by the British Parliament after much discussion of the principles which should form the basis of a new policy. This Act finally became "The Act for the Good Government of India" of 1858. Under this Act all the Indian territories then "in possession of the Company" became vested in the Crown and were to be governed directly "by and in the name" of the Crown, acting through a Principal Secretary of State for India. The Act of 1858 was however, largely confined to the improvement of the administrative machinery by which the Indian Government was to be superintended and controlled in England. It did not alter in any substantial way the system of Government that prevailed in India.

The Third Law Commission was constituted on 2nd December, 1861 to carry on the process of codification of law initiated by the Second Law Commission. The Fourth Law Commission was appointed on February 11, 1879 along with eminent member like Dr. Whitley Stokes. As a result of the various recommendations made by the Commission Negotiable Instruments Act was passed in 1881. The Act provided for regulating the commercial transactions conducted by the business community. In 1882, the Transfer of Property Act was enacted. This Act made provision for regulating the transaction of sale, exchange, lease and mortgage or immovable property, similarly the Easement Act and the Trust Act were passed in the same year. Most of the civil law had been codified as a result of the stupendous work done by the Law Commission in India appointed by the British Government. The main objective of providing uniform civil law to the Indians was achieved to a great extent but still in certain fields, the necessity of codification was felt.

The English oppressive activities against Indians continued since the very day of dependent of India, under British Rule foundations of Indian National Congress took its birth in 1885 under the chairman ship of A.O. Hume. In its very first session held in Bombay in December 1885, thereafter the demand for reform and expansion of the legislative Councils was reiterated at every successive Congress session. The Congress considered the reform of the Councils at the root of all other reforms. The resolution adopted at the 1889 session went to the extent of suggesting a skeleton
scheme for the reform and reconstitution of the Governor-General’s Council and Provincial Legislative Council to be incorporated in a Bill to be introduced in the British Parliament.

On the other hand some important events were taking place in UK and other Asian countries which greatly inspired our leadership for many rights, new legislative activity and to frame its own Constitution. Also in the latter part of the 18th century propounders of the Natural Law School were of the view that “law is what it ought to be”. They were mainly relying upon reason, equality and good conscience. All the moral and ethical principles were given there due weight age. During 19th century Adam’s _laissez faire_ philosophy came into being. _‘Laissez faire’_ means principle of non-interference, meaning thereby, minimum of law, minimum of state interference (control) and maximum of individual liberty. In economic field also it says that there should not be any state control or state regulation on the activities of the individual or his economic activities. The main principle behind the _laissez faire_ doctrine was freedom of contract, that is the parties to any contract including contract for personal service, should be left free to decide its terms.

Thus the dominance in the nineteenth century was of the thought of individualism. During this period only legitimate functions of the government were defending the country from external aggression, maintaining law and order and collection of a few taxes to maintain these activities. Lock’s emphasis on the sanctity of private right and property, together with the development of _laissez faire_ gave it a political philosophy commonly known as individualism. This ‘individualism’ harmonized with the interests of the new class of manufacturers, which emerged as a result of Industrial Revolution.

The idea of State responsibility for the general human welfare did not exist. Big landlords were as much interested in making maximum profits out of sale of their produce. The capitalists joined hands with landlords and thus came to acquire much political influence and in course of time seized the control of legislatures and
consequently for a considerable period even the legislatures did not react to their anti-social activities.

In the embryonic stage these anti-social activities went unnoticed but in course of time these came to assume such a proportion and intensity that voices began to be raised against them, but relatively unorganized resentment of some people went unheard and could not raise the State out of its slumber. As the vastness and the variety of these anti-social activities multiplied, they were affecting all fields viz., public morals, public health and public convenience in the matter of supply and availability of things of necessity. Even though Bentham had already formulated his Theory of Utilitarianism of law the anarchy of \textit{laissez faire} continued to rule supreme. Initially it was some reformists who espoused the cause of the sufferers. They were later joined by humanists and thus marked the beginning of a new trend of the day away from the individualism and towards a new sense of the importance of collective interest and there came a shift of emphasis from the protection of individual interests and rights to the protection of public and social interests and there grew a demand for regulation of these new categories of anti-social activities. As the demand mounted the States were aroused out of their slumber. The States came out of the shell, though in a limited manner. The awareness was limited strangely enough to protection of female and child workers who were compelled to work as worse than slaves and for unduly long hours and under gravely unhygienic conditions. The Factory Act, 1802, was passed in England limiting the hours of work for children, followed by another Act in 1819 forbidding employment of children below nine years in factories. The workers began to join together for improvement in service conditions but their efforts were opposed by the ‘conspiracy doctrine’ and ‘unlawful combination laws’ but those laws were repealed by the year 1824\textsuperscript{15}.

Thus \textit{laissez faire} doctrine was attacked by some people with some success in England and gradually almost all the European countries came to accept the idea that

\footnotesize{\textsuperscript{15} Quoting Chandra, Mahesh “Socio-Economic Crimes” p-34, 1979}
the State had a legitimate right and duty to regulate the economy. Gradually State’s role in economic development, public health and public convenience in the matter of supply and availability of things of necessity caught the imagination of the many. The anti-social behavior of the industrial and business community came to be looked upon as a criminal behavior and a demand for its regulation by the State continued to grow. The greatest challenge to the Theory of Natural Rights and the laissez faire doctrine and to capitalism had come from the idea of socialism which originally grew as a reaction against the evils of capitalism. The early socialists propounded the idea that private property was ‘theft’ and advocated its abolition.

Karl Marx and Frederick Engel’s further developed the concept of socialism. It was increasingly demanded that it was necessary to preserve from exploitation and waste of the property, wealth and health of the individuals and the protection and augmentation of the wealth and general economic standards system and fabric of the nation as a whole. These anti-social acts may not have been crime in the strict sense but it was claimed that these were needed to be prohibited in the public interest on pain of penalty and the willingness, capacity and opportunity to earn money by any means deserved to be curbed by the arm of law. It began to be argued that economic prosperity of the few divorced from good morals and ethics and the good of the many was pregnant with consequences which were very dangerous and these malpractices did greater harm and damage of greater magnitude than the harm and damage done by traditional crimes. A need for social reconstruction also began to be felt and this time the pendulum swung against the individual and in favour of the community as a whole and favor exhibited by the law to the individual and his rights under the Theory of Individual Rights was increasingly attacked and came to be abandoned in favour of the good of the many. It came to be increasingly realized and recognized that these anti-social acts of the industry, trade and commerce did greater damage than the traditional crimes and that its victim was the entire community rather than the individual. Thus a beginning was made and some laws were enacted to check-mate these anti-social activities and malpractices.
Quite often it is stressed that the law should be an example in the creation of new norms in the society, but it is found that in practice law follows new norms better than it leads them. Bentham, however, was a firm believer in the efficacy of rational construction of laws and it was this philosophy of Bentham which was to a considerable extent responsible for a new approach to the tackling of the new tendencies and aberrations of the industrial and commercial community, and had influenced the State thinking upon enacting laws declaring these aberrations in human conduct as crimes. It has been recognized by W. Friedman in his “Law in a Changing Society” that the Bentham philosophy triumphed in the practice of States as the urbanization and industrialization of 19th century western society proceeded. The ingenuity of the human brain to devise means valid or invalid, moral or immoral, ethical or unethical, to multiply wealth in the course of their industry, trade, commerce or professions necessitated the State to intervene on the side of the common man and to increasingly codify the legal provisions in this behalf. Just as the highly industrialized, mechanized and urbanized and articulate society had multiplied, so did these aberrations increase and a stage reached where State could no longer remain a silent spectator. Public opinion also continued to multiply in favour of State intervention and there was persistent demand for bridging the gap between the legal theory and the social practices.

Kelson’s Pure Theory of Law is the most important positivist School of twentieth century. Sociological School on the other hand encourages the judges to play an activist role and do legislative activity. The basic principle of this school is the principle of harmonizing the conflicting interests in the society. Thus, once again the law courts are required to go into equitable rational and ethical consideration. In twentieth century, as a reaction to the theories of laissez faire, arose the concept of ‘Welfare State’. Welfare State means, that state should intervene in economic matters in the interest of social justice.

The judicial reinterpretation also came to be invoked to meet the situation arising out of these aberrations. In consequence the rights of the business, trade, and
industry to concentrate, multiply and monopolize money and materials eventually came in for increased regulation and thus were born a certain new set of offences which in course of time (or in our time) have come to be recognized as socio-economic offences. These are sometimes described as ‘public welfare offences’ or ‘white collar crimes’. The process of change in criminal law which was started in the late 19th century have culminated in the early 20th century and the laissez faire State was transformed into a Welfare State. Thus ensued an era of constant interaction between the articulation of public opinion and the legislative process began in U.K. and other European countries to enact laws to regulate, control and contain not only the industrial establishments and factories but also aberrations and anti-social activities in varying degree. In England apart from factories legislation, many Acts were enacted.16

The 19th Century saw some Cotton Textile and Jute Mills in India being established, and the Factories Act 1881 was passed. The inter-war experience, emphasized the truth that political institutions, not withstanding the fact that they conform to an abstract democratic ideal, could not hope to survive for any substantial period, unless they were built upon political, economic and social realities in the country concerned, including its tradition and national character. A view got currency that personal and political freedom would be impaired if not rendered purely nominal unless enjoyment was made practicable by a reasonable guarantee of social and economic freedom. It was felt that the precious rights of personal liberty and political freedom might become a sham if not a mockery for those whom the existing social and economic order leaves starving, insecure in their livelihood, illiterate and deprived of their just share in the progress and well-being of the society as a whole. As a result, in the new Constitutional arrangements made after World War I specific declaration of Constitutional principles regarding social and economic policy were

16See the Adulteration of Food Act, 1860, Sales of Food and Drugs Act, 1875, the Public Bodies Corrupt Practices Act, 1889, the Prevention of Corruption Act, 1906, the Perjury Act, 1911, the Forgery Act, 1913 and the Larceny Act, 1916 quoting Chandra, Mahesh “Socio-Economic Crimes” pp.36-37 1979
made. In Europe, Constitutional provisions relating to economic and social matters were adopted in 1919 in the Constitutions of England and of German Reich.

In 1891, the Congress reiterated its conviction that India could not be governed well until her people were allowed, through their elected representatives, a potential voice in the Legislatures. The passage of the Indian Councils Act, 1892, was mainly influenced by the resolutions of the Indian National Congress adopted in its sessions in 1889 to 1891. Minto-Morley Reforms came in the year 1906-1908 at the national level as the Congress declared its goal to be “Swaraj” which to the moderates meant Parliamentary self-government within the British empire and to the extremists independence. It also demanded the immediate expansion of the Legislative Councils to secure a larger and truly effective representation of the people and a large control over the financial and executive administration of the country. The campaign by Indian National Congress for greater and more effective representation of Indians in running the affairs of the country, the then secretary of State for India, Lord Morley, and the then Viceroy, Lord Minto, jointly worked out certain Constitutional reform proposals as already discussed above. Therefore, the Act of 1909, as supplemented by the regulations framed under it made provisions to further enlarge the Councils and make them more representative and effective by expanding their functions. The number of members were doubled or more than doubled. The act recognized the principle of indirect election. The regulations created non-official majorities in all the Provincial Legislative Councils, but maintained an official majority in the Central Legislative Council. The regulations also provided for separate electorates and separate representation for the Muslim community.

The Government of India Act, 1919 based on the Montagu-Chelmsford Report, sought to make it abundantly clear that the British were prepared to concede only the gradual development of self-governing institutions, with a view to progressive realization of responsible Government. The time, manner and pace of each advance of Constitutional progress was to be determined only by the British Parliament and not based on any self-determination by the people of India.
As supplemented by rules made under it, the 1919 Act introduced many important changes in the Indian Constitutional system as it was established under the Act of 1909. The novel system of diarchy was introduced by the 1919 Act in eight major Provinces which were known as “Governors’ Provinces”. As a preliminary to the introduction of partially responsible government in the provinces, it was necessary to demarcate the sphere of work of the Provincial governments. The Act, accordingly, provided for rules being made for classification of subjects of administration as ‘Central’ and ‘Provincial’ for the devolution of authority in respect of Provincial subjects to local governments; and for the allocation of revenues and other moneys to those governments. The detailed classification of subjects into Central and Provincial was carried out by what were known as the ‘Devolution Rules’.

Finally, the Government decided to hold a Round Table Conference in London in November 1930 to consider Constitutional reforms. It was followed by two more such Conferences. After three Round Table Conferences, the British Government published a White Paper in March 1933 containing an outline of a new Constitution. The scheme contained provisions for a federal set-up and provincial autonomy. It proposed diarchy at the Centre and responsible governments in the Provinces. The British Parliament constituted a Joint Committee of the two Houses to further consider the Government’s Scheme formulated in the White Paper. The Joint Committee with Lord Linlithgow as its Chairman had Conservative members in majority. Representatives of British India and of the Princely States were invited to give evidence before the Committee as witnesses. The joint Committee submitted its report in November 1934 which reiterated that Federation would be established only when at least 50 per cent of the Princely States were prepared to join it.

On the basis of the Report, a Bill was prepared which was introduced in the British Parliament on 19 December 1934. After its having been passed by the two Houses and Royal assent being given to it on 4 August 1935, it became the Government of India Act, 1935. The most remarkable feature of the Government of India Act, 1935 was that it envisaged a ‘federation of all-India’, consisting of the
British provinces and the Indian States willing to join it. Till the Round Table Conference of 1930 India was a completely unitary state and whatever powers the Provinces had were given to them by the Centre. That is, the Provinces were only agents of the Centre. The 1935 Act for the first time provided for a federal system which would consist of not only the Governors Provinces of British India but also the Chief Commissioners’ Provinces and the Princely States. It finally broke up the unitary system under which British India had hitherto been administered. The principle of the Constitution of 1919 had been decentralization rather than federation. Under the new Act the Provinces were for the first time recognized in law as separate entities, exercising executive and legislative powers in their own field, in their own right, free in normal circumstances from Central control, in that field.

The scheme of provincial autonomy envisaged by the Act provided for an Executive and a Legislature in every Province. The Provincial Legislatures were given many new powers. The Council of Ministers was to be responsible to the Legislature which could remove it by passing a vote of no-confidence. The Legislature could exercise some control over the administration through the Questions and Supplementaries. Nearly 80 percent of the demands for grants could not however be assented to or rejected by the Legislature.

In the legislative field, the Legislature could also pass laws on subjects included in the Concurrent list, though in case of divergence, the Federal law would prevail over the Provincial Law. The Federal part of the Constitutional scheme under the Government of India Act, 1935 was most impractical. The Princes did not accept the scheme of the Federation and since the condition of half of the States joining the Federation could not be fulfilled, the 'Federation of India' contemplated by the 1935 Act remained unborn and the Federal part of the Act could not be implemented. Elections for the Provincial Legislatures under the Government of India Act, 1935 were held in February, 1937.

The Government of India Act, 1935 occupies a very important and permanent position in the Constitutional history of India. The act had endeavored to give a
written Constitution to the country. Although the people of India or their representatives had no hand in the creation of this document, and it suffered from several serious drawbacks, it cannot be denied that it was on the whole and in some respects a progressive step.

Thus, prevalence and growth of socio-economic crimes in contemporary India needs to be understood in the context of a number of interrelated, at times paradoxical, factors and developments. First, tendencies for socio-economic crimes have always been there in all societies. Political power and administration and public offices have always been an important source of corruption. Obviously, India has not been an exception. Second, the feudal tradition of offering gifts to those in power, institutionalized by the Mughals as nazara, was allowed both in the administration of the East India Company and the British administration. Third, despite a high order of integrity amongst the higher echelons of bureaucracy led by the officers of the ICS and the Indian Police (IP) cadres, who were highly paid, the lower levels continued to remain poorly remunerated and corruption was the natural consequence. It is pertinent to remember that the remuneration for the ICS and IP was determined by the fact that to begin with these two cadres were exclusive preserves of the British.

Not surprisingly, the colonial administration seemed to have had a deliberate policy to pay low salary to the officials at the lower levels of administration. They also kept their eyes and ears shut despite complaints of corruption. Endemic corruption at the lower levels in the police administration in British India, restructured by the Indian Police Act, 1861, was pointed out by the Indian Police Commission appointed by the government in 1902. It said clearly that the police are regarded as corrupt and oppressive; and it has utterly failed to secure the confidence of the people. However, this observation as well as the part of recommendations suggesting changes and reforms to root out corruption in the police was ignored by the government. Finally, as the British colonial administration was forced to move from its least involvement laissez faire policy to imposing regulation, resorting to licenses
and permits in the face of shortages and awarding contracts during the Second World War, corruption became the norm.

The first Interim National Government was announced on 24 August 1946. It included Pundit Jawaharlal Nehru, Sardar Vallabhbhai Patel, Dr. Rajendra Prasad, Asaf Ali, Sarat Chandra Bose, Jagjivan Ram, Sardar Baldev Singh, and C. Rajagopalachari. Technically, they were all members of the Viceroy’s Executive Council and the Viceroy continued to be the head of the Council. However, Pundit Nehru was designated as the Vice-President of the Council and he and 11 of his colleagues took the oath of office on 2 September 1946.\footnote{17 Kashyap Subhash C. “Our Constitution – An Introduction to India’s Constitution and Constitutional Law”, p-26. 2000}

In March 1947, Lord Louis Mount batten was sent as the new Viceroy to arrange for a smooth transfer of power. He reached India on 22 March 1947. Very soon he came to the firm conclusion that it would not be possible for the Congress and the Muslim would not be possible for the Congress and the Muslim League to work together either in the Interim Government or in the Constituent Assembly and the only way, therefore, to prevent the orgy of communal violence from assuming still more fierce dimensions was to transfer power to Indian hands with the greatest expedition. It was already becoming quite obvious and the Congress had also come to realize that partition of the country was inevitable and was left as the only alternative to utter chaos, anarchy and civil war. Accordingly, he fixed the date of 15 August 1947 for this work. The Congress too was gradually veering round to the inevitability of partition of the country.

Mount batten prepared a plan for partition and after consultations with the leaders of the opposition parties in Britain, a fresh policy statement embodying the Mount batten Plan was issued on 3 June 1947. The scheme underlying this statement recognized the inevitability of the partition of the country. According to the statement, the Constitution framed by the existing Constituent Assembly could not be forced on
unwilling parts. As such, it laid down a procedure for ascertaining the wishes of such areas on whether they wanted a separate Constituent Assembly. The net result and effect of the whole scheme, it was obvious, was to be the partition of India into India and Pakistan.

Based on the Mount batten Plan, the British Parliament passed the Indian Independence Bill, 1947. The bill fixed the date of 15 August 1947 for setting up the two Dominions. The act also laid down temporary provision for the government of the Dominions by giving to the two Constituent Assemblies the status of Parliament with the full powers of Dominion Legislature. On the midnight of 14-15 August in terms of the Indian Independence Act, two Dominions of India and Pakistan were constituted.

(b) Post Constitutional era:

It has been a long momentous journey to nationhood for the country as an Independent democratic polity since midnight of 14-15 August 1947 socially, politically and economically. For the purpose of this thesis, in short an attempt has been made to explain the making of the Constitution in the Constituent Assembly and the events which unfolded before the nation. Along with other national leaders Dr. Gour also got elected to the Constituent Assembly and thus became one of the founding fathers of our Constitution (1946-1949). The Indian Independence Act, 1947, laid down temporary provision for the Government of the dominion by giving to the two Constituent Assemblies the status of Parliament with full powers of Dominion Legislature. The struggle for the Independence on the midnight of 14-15 August in terms of the Indian Independence Act, 1947 was over with the partition and independence of the country. As provided in the Cabinet Mission plan of 1946 the Constituent Assembly came into being in November 1946. The Provincial Assembly elected its members by indirect election held for the 296 seats assigned to the British-Indian Provinces and was completed by July-August 1946.
The Constituent Assembly duly opened on the appointed day Monday, the ninth day of December 1946. Nehru moved the historic Objective Resolution in the Constituent Assembly on 13\textsuperscript{th} December 1946, after it had been in session for some days. The Objective Resolution outlined the basic structure of the Sovereign, Democratic, Republic that India was to be. The resolution envisaged a federal polity with the residuary powers vesting in the autonomous unity and sovereignty belonging to the people. “Justice-social, economic and political; Equality of status, of opportunity and before the law; Freedom of thought, expression, belief, faith, worship, vocation, association and action” were to be guaranteed to all the people along with “adequate safeguards” to “minorities, backward and tribal areas and depressed and other backward classes”. Thus the resolution gave to the Assembly its guiding principles and the philosophy that was to permeate its tasks of Constitution making. The Assembly finally adopted it on 22\textsuperscript{nd} January 1947. It is interesting to note that the Objectives Resolution with some necessary modifications became the Preamble to the Constitution and was specifically voted to ‘stand part of the Constitution’ on 17\textsuperscript{th} October 1949.

While speaking in the Constituent Assembly Dr. Gour said:

“I wish respectfully to point out that the Constituent Assembly is the voice of the people of India and is not the creature of the British Cabinet Mission to this country, and as the voice of India became strong and inflexible the British Cabinet yielded to the pressure of India, what India had been demanding for several years- the right to frame its own Constitution. Let us not, therefore, dismiss from our minds that while we pay due respect to the wishes of the Cabinet Mission we are not bound by the conditions that they may have laid down and that our primary duty and our sole duty is to discharge our responsibility to our masters, the people of India. If this fact is kept in view, the other questions will recede into the background.”\textsuperscript{18} (This speech was loudly applauded by the whole Assembly)

As already explained that the new Constitution of India was adopted by the Constituent Assembly on 26\textsuperscript{th} November, 1949 and signed by the President, Dr. Rajendra Prasad, but Constitution-making and institution-building being a living,
growing, dynamic process, it did not come to a stop on 26 November 1949. The new vibrant India ended up creating a paradoxical political economy. Influenced by socialistic ideology and Mahatma Gandhi’s gram swaraj, the journey began with a high degree of idealism and optimism. The leaders strove to achieve socialistic pattern of society resting on the foundation of welfare state. The concept of welfare state has been expressly ingrained in the Preamble to the Constitution.

The state is put under an obligation to strive hard to secure a social order in which social, economic and political justice shall inform all the institutions of national life. Part IV of our Constitution enumerates Directive Principles of State Policy as we know the provisions contained in this part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. This concept of socio-economic justice is discussed in chapter III of this thesis.

Permanent Law Commission was appointment on 5 August 1955. The need was felt in view of the changed complexion of the Constitutional set up of India after Independence of the country. The necessity was felt to review all the laws enacted during the colonial rule in India and to revise and reenact them in order to bring them up to date so that new social goals and objectives may be achieved with least efforts. The Commission was assigned the task, firstly, to review the system of judicial administration in all its aspects and suggest ways and means for improving it and making it speedy and less expensive. Secondly, to examine the Central Acts of general application and importance and recommend the line on which they should be amended, revised, consolidated or otherwise brought up-to-date.

The Planning Commission, not provided for in the Constitution, was created under a Cabinet Resolution in 1951. The creation of socialistic pattern of society and planned development had become key words with the government under the leadership of Pt. Nehru. The two-pronged strategy of development worked out was

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19 See Article 36-51 Part IV, Directive Principles of State Policy of the Constitution.
creation of a sound industrial base for the country and rural development. Both the projects were to be handled by the state under the political leadership assisted by the bureaucracy. The Planning Commission was given a key role in it.

It can be summed up that while the creation of giant industrial units under the public sector began right away, it took nearly a decade to work out the strategy for rural development. Though it was clear from the outset that Gandhian gram swaraj would form the basis for designing the institutional structure to support rural development projects, socio economic crimes were rampant in the administration of welfare schemes, the public distribution system, the police, revenue and irrigation department and in several other sectors in which the people come into daily contact with the administration. However, till today whether it is the industrial sector, or agricultural, urban or rural, the close intermeshing of economic and political calculations in exchanges between patrons and clients at different levels have been identified as the distinguishing characteristic of socio economic offences in India by some analysts.

**vii) Necessity and object of socio-economic and socio welfare State:**

As discussed earlier the modern concept of a Welfare State was evolved and devised and it became all the more necessary for the State to regulate and control the production and distribution activities through restrictive legislation, incorporating penal sanctions with a view to preserve the vital assets for the community and to protect it from neglect of the individual and corporations. The postwar reconstruction programmes accentuated the growth of restrictive legislation, controlling and regulating the production and supply of commodities including transactions involving foreign exchange. Now the shift in values and change of outlook took place and the popular feeling was 'any person who commits an act which the law declares to be punishable or which is deserving of a penalty according to the fundamental conceptions of a penal law and sound popular feeling, shall be punished...'

Legislative activity of such an order resulting from the awakening and the organized
protest, backed by new juristic thinking had further infused a new approach by the judiciary as well, which till now was somewhat timid in accepting a change in the legal theory in the absence of a legislative mandate. In consequence the courts also started making more frequent use of their judicial power of interpretation to create and recognize new offences through the exposition of new principles for criminal justice.

In modern times concentration of large sections of population in overcrowded cities brought problems of housing, disease, water, sanitation, transportation, education etc. The administration had to intervene in the interest of public safety and health. This sort of intervention was inconsistent with the unlimited freedom of property and person. The secret of the success of ‘laissez faire’ was, it’s undoing which resulted in human misery and exploitation of the weaker by the stronger in the society. However, the latter part of the nineteenth century witnessed a growth of humanitarian approach which resulted in the social engineering of twentieth century. Now with a view to save the weaker section of the society, a political dogma, ‘collectivism’ came into being. In fact, the counterpart to the concept of the welfare state was the theory of sociological school.

Today, the State itself acts as an active instrument for achieving the desired aims. Almost every walk of our life is now regulated by the State. Administration intervenes in the public interest into the areas which were so far immune from intervention. The need to conserve and make the best use of natural resources, has made a number of legislation necessary. Such legislation have also authorized interferences with property owners such as land, forest, and mines in the larger interests of the society. These changes in the society and in the role of the administration, have resulted in the multiplication of governmental functions many-fold. New powers and methods have accrued to the administration. The change in the scope and ever-expanding character of the government from negative to positive, i.e. from laissez faire to the welfare state, have resulted in concentration of considerable power in the hands of the executive branch of the government. In the modern world the welfare schemes are planned and introduced in all progressive democratic states.
To device and carry out any welfare scheme, it is almost a certainty, to affect adversely some private rights of property and personal liberty. The trend is the same in all countries whether it is Britain, the United States, France or India and ‘law’ is the only means for all the schemes and changes.20

(iv) New legislative deal and thinking:

The legislative activity continued after the first world war, but it was primarily limited to enactment of the Workmen’s Compensation Act, 1923, the Payment of Wages Act, 1936, the Cotton Ginning and Pressing Factories Act, 1925, the Trade Union Act, 1926, the Dangerous Drugs Act, 1930, the Indian Dock Labourers Act, 1934, the Employer’s Liability Act, 1918, the Children (Pledging of Labour) Act, 1933, the Employment of Children Act, 1930, and the Motor Vehicle Act, 1939.

However the old enactments which contain the entire basic criminal law are the Indian Penal Code which was enacted in the year 1860. The Indian Companies Act, 1866 (Presently 1956 Act is in force); Contract Act, 1872; Negotiable Instruments Act, 1881; Transfer of property Act, 1882, the Indian Evidence Act 15 March 1872, the Criminal Procedure Code 1898 (Now replaced by new Code of 1973) Indian Partnership Act, 1932; Code of Civil Procedure 1859 (Presently 1908 Code) and all the Business transactions take place according to the above mentioned Acts. Among these the three Important codes are Indian Pena Code, Indian Evidence Act and Criminal Procedure Code.

These codes, conceived and enacted in the image of the common law of England have been considered to be monumental codes and provided for the regulation, trial and punishment of all the common law offences including fraud, misappropriation, cheating and embezzlement, fabrication of documents and forgery, conspiracy and mischief, bribery and corruption. Bribery and illegal gratification were provided for in section 161 to 165 of the Indian Penal Code (now covered by new anti corruption laws) and sections 168, 169, 217 to 222 and 225A provided for the misuse

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of positions by public servants. Sections 230 to 264 laid down the law regarding counterfeiting of coins and government stamps, and sections 264 to 267 provided for offences relating to weights and measures. Adulteration of food stuffs and drugs was looked after in sections 272 to 276. while section 379, 380, 381, 389, 405, 407, 408 and 409 laid down the law regarding theft and misappropriation of public property and funds. Cheating and dishonestly inducing delivery of property was made punishable under section 415 to 420 of the Indian Penal Code. Forgery and offences relating to documents had been made punishable under sections 463 to 489 and above all the Indian Penal Code sections 107 to 120 read with section 40 thereof declared abetments of any such offences as are made punishable by the Code to be as much offences as the principal offence.

The Indian Evidence Act 1872, contained the entire law relating to acceptance and rejection of evidence by the courts and the Criminal Procedure Code provided the procedure for trial, investigation and inquiry. The Indian Penal Code was reinforced from time to time with special and local laws, dealing with specific matters of importance. To enumerate a few special and local laws we may make mention of the several State Acts, which have been placed on the statute book during latter half of the 19th century in India. Thus at no stage of time India labored under a vacuum of legislative regulation and control of the socio-economic offences and above all, unlike England, the position of criminal law in India has been much more certain in as much as section 40 of the Indian Penal Code read with sections 107 to 120 of the Code denote ‘offence’ as a thing punishable under the Indian Penal Code or under any special law or local law and includes as abetment of any such thing and is punishable as such. In some respects not only the abetments but also the preparation of and to be in possession of implements of commission of such particular offences as are

21 See Bengal Gambling Act, 1867, the Bombay Prevention of Gambling Act, 1887, the Bombay Wagering Act 1865, the Opium Act, 1878, the Explosives Act, 1884, the Excise Act, 1876, the Gambling Act, 1867, the Public Gambling Act, 1867, the Sea Customs Act, 1878, the Arms Act, 1878, the Merchandise Mark Act, 1898, the Weights and Measures of Capacity Act, 1871, the Explosives Substance Act, 1908, quoting Chandra, Mahesh “Socio-Economic Crimes” pp.45-47 1979
mentioned in the Code have been made punishable. The Code further declared that in order to constitute the offence of abetment, it was not necessary that the act abetted should be committed. Section 511 Indian Penal Code makes even attempts as offences. Thus the conditions for the growth of socio-economic crimes were not even remotely present in India during the 19th century.

It is important to mention here the anti-corruption provisions in the Indian Penal Code, which are executed by the police, are the most basic instruments available to combat corruption in public service in India. In fact, if implemented, these provisions should be able to deal with cases of bribery and gratification amongst public servants, particularly at the lower and middle levels. Even though it is not possible to record the number of times these provisions of the Indian Penal Code have been used effectively to nab and prosecute a public servant demanding gratification since it was codified, or even since independence, it can be safely said that they have not succeeded in their objective of fighting corruption. In any case, though the anti-corruption provisions of the Indian Penal Code can be used effectively, so far it has not been done.

The incidence of socio-economic offences was not given due consideration and not much effort was made to contain these crimes and the apathy exhibited by the government to this aspect of the matter had its effects which were made known during the Second World War. The entire country and its resources for production and supply were geared in furtherance of the war effort and it was in this context that some measures to control and regulate the essential supplies were needed to be enacted in the form of Defense of India Act, 1939. The rules promulgated there under made extensive provisions in this behalf. Apart from the Drugs Act, 1940 the Drugs and Cosmetics Act, 1940, the Central Excise Act, 1944 and the Central Excise and Salt Act, 1944, were enacted accordingly as the need was felt for these special laws to combat the new situation.

It was found that the Second World War has witnessed some disruption of essential supplies and a new menace of black money, scarcity and inflation had
developed and therefore after the close of world War II it was found necessary to promulgate the Emergency Provisions (Continuation) Ordinance, 1946 and later on Essential Supplies (Temporary Powers) Act, 1946 also was enacted to tide over the scarcity conditions of the post-war period. The Delhi Special Police Establishment Act, 1946, was also enacted there by creating a special agency for the investigation and prosecution of certain specified offences. It was also thought necessary to have special laws to deal with these problems and the Prevention of Corruption Act, 1947, the Foreign Exchange Regulation Act, 1947, and the Imports and Exports (Control) Act, 1947, were placed on the statute book. These measures were thought very necessary to combat the new situation created by the increasing menace of socio-economic crimes.

In fact it can be said that the ice had already been broken when the Delhi Special Police Establishment Act, 1946, and the Prevention of Corruption Act, 1947 were enacted. During 1948 a Committee chaired by Bakshi Tek Chand was set up to review the operation of the Prevention of Corruption Act, 1947 and to evaluate the Delhi Special Police Establishment Act, 1946 success in tackling corruption. The Committee, in its report submitted in 1952 recommended the continuance of the Delhi Special Police Establishment. The Act of 1946 was amended in the light of our Constitution of India and in 1956, it was extended to state of Jammu and Kashmir. In 1953 an enforcement wing was also added to it.

However the Central Bureau of Investigation, the premier investigating agency under the Central Government, Ministry of Home Affairs, grew out of Delhi Special Police Establishment (DSPE) created in 1941. By passing of Delhi Special Police Establishment Act, 1946 (Act XXV of 1946) the control of the Delhi Special Police Establishment was transferred to the Home Department (Ministry of Home Affairs). The Delhi Special Police Establishment was reconstituted into the Central Bureau of Investigation (CBI) in 1963 under Resolution No. 4/31/61-T of April 1, 1963. The CBI’s designated function was to investigate crimes handled by the Delhi Special Police Establishment. It was launched with six division, of which the Delhi Special
Police Establishment was one, now named ‘Investigation and Anti-Corruption Division’. The Delhi Special Police Establishment remained the legal sanction behind the Central Bureau of Investigation. In 1970, on the advice of the Administrative Reforms Commission, the Central Bureau of Investigation was transferred from the Ministry of Home Affairs to the new Department of Personnel at the Cabinet Secretariat.

The Central Bureau of Investigation is divided into several wings. The Investigation and anti-corruption wing to the Delhi Special Police Establishment is now divided into two wings, one dealing with general and the other with economic offences. Though there is no statutory demarcation of functions between the State Police and the Central Bureau of Investigation, there is a working arrangement regarding the types of cases taken up by the two establishments. The Central Bureau of Investigation takes up cases in the event of civil servants employed by the Union Government, even if employees of a State government are involved. The State Police take up a matter where the case is reversed. The Central Bureau of Investigation has remained a premium investigating agency of the Government of India. However, in recent years the organization has come under controversy and now there is a need to create conditions for greater efficiency and impartiality of this premium body.

All these legislative measures were the recognition of the fact that it was necessary to have special laws to effectively deal with the new criminality; secondly, that a departure was needed in the matter of mens rea in the context of socio-economic offences; thirdly, that a minimum punishment-specially imprisonment—was needed to be imposed upon the defaulters to have a salutary and deterrent effect; fourthly, that an inspectorate and special investigating and prosecuting agency were needed to keep proper check upon these crimes; and finally that the burden of proof would not always lie upon the prosecution to prove the guilt of the accused.

Later on the Industries (Development and Regulation) Act, 1951, the Arms Act, 1959, the Foreign Exchange Regulation Act, 1973, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 the Wealth

The process of liberalization is going on in our country, and now there is a sea-change in our economic policies, which resulted in a number of economic legislation in our country. Some of the recent important socio-economic legislations in this sphere are Standards of Weights and Measure Act, 1976, Intellectual Property Rights are covered by Patents Act, 1970, Copy Right Act, 1957, Trade and Merchandise Marks Act, 1956. Statutes relating to Industrial Activities are Foreign Contribution (Regulation) Act, 1976, Environmental Control Legislation such as Water (Prevention and control of Pollution) Act, 1974, Air (Prevention and control of Pollution) Act, 1981, Environment (Protection) Act, 1986, Public Liability Insurance Act, 1991, Foreign Trade (Development and Regulation) Act, 1992, and next in the line is consumer interest legislation such as Monopolies and Restrictive Trade Practices Act 1969 with Amendments in 1991, it was the first Act of its kind which exercised control over trade practices & Monopolies. Some other Acts are Consumer Protection Act, 1986, Motor Vehicles Act, 1988, Narcotic Drugs and Psychotropic Substances Act, 1985, To control the foreign transactions Foreign Exchange Management Act 1999 has been passed.

In regard to national security there is a serious concern and to combat this evil the first Preventive Detention Act, was passed in 1950. Later on the Maintenance of Internal Security Act, 1971, the Smugglers and Foreign Exchange Manipulator (Forfeiture of Property) Act, 1976, Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, Terrorist and Disruptive Activities (Prevention) Act, 1985, Prevention of Terrorism Ordinance, 2001 (now new Prevention of Terrorism Act 2002) were enacted to deal with such kind of anti national acts. It is very important to mention here that in the Constitution of our country, the basic scheme is of distribution of powers which is highly beneficial to the economic legislation in our country.
As regards the subject of legislation, the Constitution adopts from the
Government of India Act, 1935, a three fold distribution of legislative powers between
the Union and the States (Article 246.) While in the United States and Australia, there
is only a single enumeration of powers, only the powers of the Federal Legislature
being enumerated, in Canada there is a double enumeration, and the Government of
India Act, 1935, introduced a scheme of threefold enumeration, namely, Federal,
Provincial and Concurrent. The Constitution adopts this scheme from the Act of 1935
by enumerating possible subjects of legislation under three Legislative lists in Sch.
VII of the Constitution.

List I or the Union List includes subjects over which the Union shall have
exclusive power of legislation. These include defense, foreign affairs, banking,
currency and coinage, Union duties and taxes.22 List II or the State List includes
which the State Legislature shall have exclusive power of legislation, such as public
order and police, local government, public health and sanitation, agriculture, forests,
fisheries, State taxes and duties.23 List III gives concurrent powers to the Union and
the State Legislatures such as criminal law and procedure, civil procedure, marriage,
contracts, torts, trusts, welfare of labour, insurance, economic social planning and

22 See Article 246 Seventh Schedule of Constitution where List I enumerates different items, for the purpose of
the present study the items are given in the original text. 7. Industries declared by Parliament by law to be
necessary for the purpose of defence or for the prosecution of war. 13. Participation in international conferences,
associations and other bodies and implementing of decisions made thereat. 36. Currency, coinage and legal tender;
foreign exchange. 38. Reserve Bank of India. 41 Trade and commerce with foreign countries; import and export
across customs frontiers; definition of customs frontiers. 43. Incorporation, regulation and winding up of trading
corporations, including banking, insurance and financial corporations but not including co-operative societies. 44.
Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one
State, but not including universities. 45. Banking. 48. Stock exchanges and futures markets. 49. Patents,
inventions and designs; copyright; trade-marks and merchandise marks. 50. Establishment of standards of weight
and measure. 52. Industries, the control of which by the Union is declared by Parliament by law to be expedient
in the public interest. 91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of
lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts. 97. Any other
matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

23 See Article 246 Seventh Schedule of Constitution enumerates (State List II) Items which are relevant to our
present study are given in the original text. 6. Public health and sanitation; hospitals and dispensaries. 8.
Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of
intoxicating liquors. 24. Industries subject to the provisions of [entries 7 and 52] of list 1. 63. Rates of stamp duty
in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.
64. Offences against laws with respect to any of the matters in this list.
education\textsuperscript{24} this distribution does not apply to the Union Territories, in regard to which Parliament is competent to legislate with respect to any subject, including those which are enumerated in the ‘State List’

In case of overlapping of a matter as between the three Lists, predominance has been given to the Union Legislature, as under the Government of India Act, 1935. Thus, the power of the State Legislature to legislate with respect to matters enumerated in the State List has been made subject to the power of the Union Parliament to legislate in respect of matters enumerated in the Union and Concurrent Lists, and the entries in the State List have to be interpreted accordingly.

In the concurrent sphere, in case of repugnancy between a Union and a State law relating to the same subject, the former prevails. If, however, the State law was reserved for the assent of the President and has received such assent, the State law may prevail notwithstanding such repugnancy, but it would still be competent for Parliament to override such State law by subsequent legislation, (Article 254 (2)).

Process of new thinking started in our country when Mrs. Gandhi came back to power on 14\textsuperscript{th} January, 1980. The process of liberalization accelerated after Mr. Rajiv Gandhi became Prime Minister of our country on 31 October 1984. Unfortunately the process of liberalization could not get momentum as per the expectations. In the meanwhile, it was observed that Russia was sinking both economically and politically after the collapse of communism in Germany and USSR, it became evident that Government controls become counter-productive beyond certain limits.

\textsuperscript{24} See Article 246 Seventh Schedule of the Constitution enumerates list III (concurrent List) the relevant items are given in the original text 3. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplied and services essential to the community; persons subjected to such detention. 4. Removal from one State to another State of Prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 3 of this list. 19. Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium. 21. Commercial and industrial monopolies, combines and trusts. 33. Trade and commerce in, and the production, supply and distribution of – (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products; (b) foodstuffs, including edible oils seeds and oils; (c) cattle fodder, including oilcakes and other concentrates; (d) raw cotton, whether ginned or unengined, and cotton seed; and (e) raw jute. 33-A Weights and measures except establishment of standards. 34. Price control.
Indian economy was facing serious crisis when Mr. Rao became Prime Minister on 21st June, 1991. World Bank also insisted on reforms in economic policies as condition for extending help to India to come out of crisis. The then Finance Minister, Dr. Man Mohan Singh radically changed the economic policies of India. Subsequent events like General Agreement on Tariffs and Trade agreement and formation of World Trade Organisation also influenced our policies. The earlier policy of controlled economy and commanding role to Public Sector was reversed in July 1991 and process of liberalization and open economy started. India decided to open investment avenues to foreign investors. Industrial Licensing was scrapped except for few items. Controls over foreign exchange were slowly reduced and economy was made comparatively free. The subsequent Central Governments are continuing the Liberal policies of previous Government.

The main aim of economic legislation in our country is to support economic policies of Government and to exercise control over economic activities so that the consumers are protected. It is ironical that though the policies have changed, the old Acts still continue. Though some amendments were made, the basic philosophy of these Act i.e. controls and licensing continues. The Acts provided so much flexibility in framing policies that these old Acts designed for different purposes and with entirely different concepts can be and in fact are being used to implement new policies.

If we see the present situation, some major items where India is facing shortage are: Telecommunication facilities, good roads, kerosene, railway accommodation, cooking gas, power etc. Items where there is no shortage are : food grains textiles, electronic goods, cement, automobiles, steel etc. It may be interesting to note that all items that are in short supply are controlled by public sector, while all items available in plenty are controlled by private sector.
CONCLUSIONS:

The legislative development of socio-economic crimes in the country is not of a day or two. The law relating to prevention and control of socio-economic crimes has been covered in number of centuries. As we go through the vast amount of literature on the subject, we find the seeds of socio-economic crimes in Ancient India. During Medieval period in those days the concept of dharma was regarded as law. In Manu Smriti the form Dharma have been well explained as the aggregate of one’s duties and many liabilities religious, moral, social and legal. The Four Vedas and other books give us a clear view of the social conditions.

After the Vedic period when we move to Sutra period we find that in Gautama Dharma sutra much importance have been given to old traditions and usages of cultivators, traders, herdmens, moneylenders and artisans. Dharma is very well explained in Smriti period, and the founders of Dharmashastras of law at that time were Manu, Atri, Vishnu, Harita, Yajnavalkya, Ushanas, Angiras, Yama, Apastamba, Samvarta, Katyayana, Brihaspati, Parashara, Vyasa, Shankha, Likhita, Daksha, Gautama, Shatatapa, and Vasishtha. Narada, Baudhayana and other Smritikars mentioned here are among the recognized compilers of law. In the duties of King Manu lays the foundation of danda, according to him is the sanction behind the power, to restrain violations of law and to punish the offenders. The code of Yajnavalkya is founded on Manu Smriti and it deals with subjects like to hold property, criminal penalty. Narada Smriti gives detailed information regarding the line of evolution, which Hindu law had pursued during its progress during the Dharma Shastras period.

The Kautilya’s Arthaashastra is a masterly treatise on ancient India polity, and we find rules relating to administration of Justice, Law, Court of Laws, Legal Procedure and Taxation. The work is divided into 15 Books and 150 Chapters. In the fourth Book of Arthaashastra we find mention of removal of anti social elements. Kautilya’s time we find misuse of power by officials of administration.
The socio-economic crimes in public life remained a visible feature in middle ages in this period for most of the time the country was ruled by Foreign rulers. During the Islamic period the king was considered the representative of God and he exercised control over courts. In the Modern period the gifts and Nazarene were a common feature. Many reforms were introduced in the criminal law during the British Rule due to the growing socio-economic crimes in the country.

The legislative developments continued after the first freedom struggle of 1857, but primarily limited to enactments of some social security legislation. During the first world war the legislative activities were limited to social security legislation such as Workmen Compensation Act 1923, the Payment of Wages Act 1936, the Cotton Ginning and Pressing Factories Act 1925, the Trade Union Act 1926, the Employers Liability Act 1918, the Employment of children Act 1930.

During second world war the entire country and its resources for production and supply were geared in furtherance of the war effort and it was in this context that some measures to control and regulate the essential supplies were needed to be enacted in the form of Defence of India Act, 1939. The rules promulgated there under made extensive provisions in this behalf. The Drugs Act, 1940, the Drugs and Cosmetics Act, 1940, the Central Excise Act, 1944 and the Central Excise and Salt Act, 1944, were enacted accordingly. The need was also felt for some special laws to combat the new situation. It was thought necessary to have special laws to deal with these problems.

After a long freedom struggle our country-attained freedom from Britishers on the midnight of 14-15 August 1947. Thus, the country, in addition to discharging traditional police functions was also mandated to embark on projects, social and economical for the welfare of the people. In order to achieve the objective of its just social and economic order the state started coming out with a series of laws such as the Prevention of Corruption Act, 1947, the Foreign Exchange Regulation Act, 1947, the Imports and Exports (Control) Act, 1947, the Industries (Development and Regulation) Act, 1951, the Arms Act, 1959, the Foreign Exchange Regulation Act,
1973, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 the Wealth Tax Act, 1957, the Income Tax Act, 1961, the Customs Act, 1962, the Essential Commodities Act, 1955, Prevention of Food Adulteration Act, 1954, were placed on the statute book. Thus we find a large amount of legislative activity in our modern welfare state to control socio economic crimes.