

The background of the journal cover features a top-down view of a desk. On the left, there is a pair of black leather brogue shoes. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag is partially visible, and a black leather watch with a silver dial is placed on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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# **MEN'S REA AND STRICT LIABILITY IN SOCIO-ECONOMIC OFFENCES IN INDIA**

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## **Abstract: -**

Mens rea, or the state of mind required in committing a crime, has always been regarded as an integral requirement for establishing criminal responsibility under criminal law. However, considering that socio-economic crimes like corruption, money laundering, corporate frauds, food adulteration, pollution, and cyber financial crimes are technically and professionally committed, it has now become difficult to prove criminal intentions behind such acts. In order to make the enforcement of the laws more effective and to safeguard public interest, Indian legislations have resorted to adopting the theory of strict liability.

This research paper will analyze the significance of legislative provisions, judicial precedents, constitutional issues, and a comparative study of laws related to this topic. This paper will also highlight the pros and cons of strict liability and argue that while strict liability is essential for the control of economic crimes in the modern age, the undue watering down of mens rea may lead to issues related to justice and constitutional protection.

**Keywords:** Mens Rea, Strict Liability, Socio-Economic Offences, Criminal Liability, Economic Crimes, Public Welfare, White-Collar Crime, Constitutional Concerns, Reverse Burden of Proof.

## **INTRODUCTION**

The traditional approach to criminal liability under criminal jurisprudence is based on the *Latin maxim* "*Actus non facit reum nisi mens sit rea*".<sup>3</sup> This Latin maxim denotes that an action, in itself, does not make a person guilty unless he also has a guilty state of mind along with the act. It has always been considered the foundation of criminal law since the time it was adopted and is based on the basic philosophy of punishment. Under the classical criminal law approach,

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<sup>3</sup> Glanville Williams, *Criminal Law: The General Part* (2nd edn., Stevens & Sons 1961).

the existence of both acts and intentions at one instance gives rise to liability. The doctrine of mens rea ensures that a person is not liable for the wrongful act committed by him unless he commits that act with a guilty state of mind.

However, due to the speedy development of industrialization, globalization, technology, and commercial practices, crime itself has changed significantly. In recent times, there have been many socio-economic crimes that not only victimize individuals but also create instability in terms of economic and social prosperity of the country. Socio-economic crimes basically comprise crimes like corruption, black market dealings, hoarding of goods, money laundering, tax evasion, insider dealing, food contamination, pollution, cyber-financial crimes, banking fraud, and corporate crimes<sup>4</sup>. Such crimes are mainly committed by well-known and influential individuals, firms, public officials, and even groups of people with the intention of committing an offense for monetary gain. Unlike traditional crimes, which involve physical violence, socio-economic crimes are quite complex and sophisticated and are therefore difficult to detect and prosecute.

It becomes difficult to prove the presence of the element of mens rea while prosecuting socio-economic offenses. Criminal intent becomes difficult to demonstrate because such offenses involve complicated corporate structure, financial dealings, documentation and procedure of regulatory law. The need for proving the guilt beyond a reasonable doubt is often seen to hamper the effectiveness of the regulatory law as it becomes very difficult to provide such evidence. This problem is now being increasingly addressed through the introduction of the doctrine of strict liability into socio-economic legislation by the legislatures in the entire world including India. The principle of strict liability does not require the prosecution to prove the guilt in the form of criminal intention as the offense can be committed just through the occurrence of the forbidden act.

In India, some socio-economic laws like the Prevention of Corruption Act, Prevention of Money Laundering Act, Essential Commodities Act, Food Safety and Standards Act, and other environmental laws include clauses which tend to either reduce or ignore altogether the necessity for mens rea. Though this approach makes way for an enhanced ability on the part of the State to deal with socio-economic crimes and protect public interest, these laws are subject

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<sup>4</sup> Edwin H. Sutherland, *White Collar Crime* (Dryden Press 1949)

to criticism on several constitutional and moral grounds. As a result, the issue of whether strict liability should be incorporated into criminal law has been extensively discussed in academic circles and in court. The present research paper attempts to explore the place of mens rea and strict liability in socio-economic offences in India<sup>5</sup>. More specifically, it will try to address the question as to whether the reduced need for mens rea may be justified on public policy grounds and whether strict liability is at variance with the tenets of natural justice and criminal jurisprudence.

## MEANING AND NATURE OF MENS REA

The concept of mens rea plays an important role in the theory of criminal liability and is considered to be one of the crucial foundations of criminal liability. Mens rea is a Latin term which means "guilty mind" or "evil intention"<sup>6</sup>. In the legal context, mens rea is defined as the mental element or the guilty mind accompanying the act of crime. This rule is founded on the principle that criminal liability would normally only attach to an offender if the criminal act is committed together with the guilty mind of the offender. Hence, there must be a convergence of two elements in order for the offense to occur; these include actus reus, or the physical element, and mens rea, or the guilty mind.

### (a) Intention

Intention is regarded as the most significant element of mens rea in criminal law and represents the state of mind that results from acting with an intentional desire to achieve a particular effect. A person shall be said to have committed an action with intention if it leads to an outcome that was intended to occur or was pursued consciously, rather than accidentally. According to the doctrine of intention, the element plays a crucial role in establishing criminal responsibility due to the presence of various offenses such as murder, theft, fraud, and criminal conspiracy<sup>7</sup>, which require the prosecution to prove guilty intent. As intention is purely a subjective element, the courts cannot establish the fact of guilt directly and can infer it based on circumstantial evidence like the defendant's motive, actions, preparations, nature of crime, and consequences. Intention is defined under Sections 299 and 300 of the IPC, where it is stated that the crime of culpable homicide requires the intention to kill, while the crime of murder requires the intention to commit culpable homicide.

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<sup>5</sup> K.D. Gaur, *Textbook on Indian Penal Code* (6th edn., Universal Law Publishing 2016)

<sup>6</sup> Kenny, *Outlines of Criminal Law* (19th edn., Cambridge University Press 1966)

<sup>7</sup> Indian Penal Code, 1860, ss. 299 & 300

**(b) Knowledge**

Knowledge constitutes one of the crucial elements of mens rea which means awareness or consciousness of the probable results or consequence arising out of certain acts. When a person knows that a particular act will constitute an offense or lead to prohibited consequence even when such consequence is not the intended consequence of that act; then the person shall be said to have knowledge of it. As opposed to intention where there is an actual desire by the accused to cause certain consequence; the presence of mere knowledge in relation to a crime is sufficient in establishing liability for the crime. It can be stated that knowledge is quite important in criminal cases since it determines the liability of the accused based on the knowledge of committing a particular crime knowingly. Given the fact that knowledge exists in the mind of the accused person; courts rely heavily on circumstantial evidence to prove knowledge. The Indian Penal Code of 1860 includes knowledge as a requisite for establishing liability for several crimes including the culpable homicide which involves the cause of death resulting out of a voluntary act performed with knowledge of causing death.

**(c) Recklessness**

The other crucial element of mens rea that must be discussed is recklessness. The idea of recklessness occurs when a person disregards the existence of unreasonable risks associated with their conduct. That is, people perform an action recklessly if they know that the action may lead to negative or unlawful consequences but choose to carry out the action disregarding the consequence. Contrary to the intention which entails the desire for the consequences of committing a crime, recklessness does not involve such a wish. Where the intention entails being aware of the existence of risks, recklessness entails negligence where people disregard the risks involved in an action. Furthermore, recklessness is a culpable mental state under the criminal law, which presupposes that recklessness is socially undesirable because of the benefit society accrues. As such, it is important to assess the dangers involved in committing an offense while assessing recklessness. Recklessness is a requirement in many offenses including careless driving, negligent handling of dangerous things, and endangers public welfare.

**(d) Negligence**

Negligence is one of the forms of mens rea characterized by a failure by a particular individual to show due care, diligence, or prudence expected of an ordinary person in similar situations. Contrary to intention, knowledge, and recklessness, negligence does not involve any desire by an offender to cause harm. Actus reus results from the negligence, carelessness, or lack of

responsibility of the individual in question, leading to harm done to third parties in terms of injury or damage, as well as commission of certain unlawful acts. It is right to note that criminal negligence is caused when an individual violates his/her duty or acts negligently without considering the welfare of other people to an extent where such an individual deserves punishment. The determination of negligence is considered to be objective as it tries to establish what a reasonable person would have done in similar situations. Criminal negligence can thus be inferred from criminal offenses that arise due to negligent actions and behavior, such as road accidents, medical negligence, among others. The Indian Penal Code, 1860 has recognized negligence particularly under Section 304A<sup>8</sup> which involves death resulting from rash or negligent acts.

Thus, the principle of mens rea remains an important aspect of criminal law because it acts as a balance between the demands of society and that of an individual's right to fair treatment. Although the emergence of socio-economic crimes has brought about some changes in the need for the guilty mind, the concept still holds great importance.

## **CONCEPT OF STRICT LIABILITY**

Strict Liability Doctrine is an exception to the age-old principle of criminal law whereby criminal culpability cannot be established without the element of guilty state of mind or mens rea. With regard to strict liability doctrine, it means that the prosecution is not obligated to prove the presence of any guilty state of mind on the part of the accused in committing a crime before holding the offender criminally liable for his actions. Thus, under the doctrine, criminal culpability can be established in relation to certain acts without showing any criminal intent, knowledge, negligence, or recklessness by the offender in committing those acts. The basic purpose behind the adoption of this doctrine is to facilitate proper enforcement of laws for promoting the welfare, economic interests, safety, and good health of society.

### **3.1 The doctrine of strict liability**

There are some unique attributes associated with the doctrine of strict liability that set it apart from ordinary criminal liability. Firstly, the doctrine eliminates the need for establishing mens rea, thus making it easier for the prosecution to prove their case. Secondly, strict liability crimes are mostly established for the benefit of public interest, especially in issues of food safety, environmental protection, economic regulation, public health, and consumer protection.

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<sup>8</sup> Indian Penal Code, 1860, s. 304A

Thirdly, the doctrine is more efficient in the regulation of activities due to the fact that the authorities do not have to conduct extensive investigations concerning the accused's psychological disposition. Moreover, strict liability plays a preventative and deterrent role in ensuring that people and organizations adhere to the laws and regulations.

### **3.2 The historical origin of the doctrine of strict liability**

The history of the development of the principle of strict liability goes back to English law and the landmark decision of *Rylands v. Fletcher*<sup>9</sup>. In the latter, the defendant constructed a reservoir on his premises, which subsequently broke and damaged the premises of the plaintiff. The judge declared that if a person keeps a certain thing on his premises, which poses dangers to those who live nearby, then he will be strictly liable for all damage resulting from its leakage irrespective of fault and mens rea. Though the principle of strict liability originated in tort law, it later found its relevance to crimes against the society.

### **3.3 The doctrine of strict liability in India**

The theory of strict liability has become increasingly relevant in India owing to the socio-economic and regulatory offences that occur nowadays. The different acts pertaining to food adulteration, pollution, corruption, tax, and economic offences make exceptions to the rule of mens rea because their enforcement needs to be strict so that there is no infringement on the interest of the public<sup>10</sup>. There are also cases from Indian courts regarding the need for strict liability in some cases where the public interest takes precedence over guilt in terms of an intention.

## **4. SOCIO-ECONOMI OFFENCES: MEANING AND CHARACTERISTICS**

Socioeconomic offenses are those crimes which have adverse impacts on the economy, the welfare of the citizens, the maintenance of societal stability, and the overall wellbeing of society, usually motivated by the aim of earning illegitimate monetary gains. They differ from other crimes such as murder, robbery, or assault because they are aimed at the economic framework of the State instead of inflicting any form of physical harm to an individual. Offenses that are socio-economic in nature have come into existence mainly because of factors like industrialization, globalization, technology, and business complexities.

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<sup>9</sup> *Rylands v Fletcher* (1868) LR 3 HL 330

<sup>10</sup> P.S.A. Pillai, *Criminal Law* (14th edn., LexisNexis 2019)

The notion of socio-economic offences has strong connections with white-collar crimes or regulation breaches carried out by an individual or any organization or even by the government officials, who are positioned high in society. Such offences can be committed either by exploiting powers, manipulating finances, engaging in corrupt practices, committing frauds, or breaking statutes. In contrast to regular offences, socio-economic offences remain well hidden behind various business processes, corporate dealings, administrative practices, and technology. This makes the discovery and prosecution of such offenses quite complicated.

## **Characteristics**

### **(a) Economic Motive**

The most common trait of socio-economic crimes includes the presence of economic motive, which implies that the main aim of the criminal is to derive illicit economic benefits from the act. While regular crimes can be motivated by factors such as grudge, anger, and revenge, socio-economic crimes are motivated by profit motives and are conducted through various unlawful activities like corruption, tax avoidance, black marketing, insider trading, money laundering, corporate crime, and economic manipulation. These crimes are systematically committed in order to achieve maximum economic benefits without being detected by law enforcement agencies. Both individuals and organizations may abuse their power, authority, or professional status to derive illicit economic gains, thus harming public welfare and economic stability<sup>11</sup>. An economic motive in such crimes is not only damaging for the economy of the state but also jeopardizes public trust in the economic system.

### **(b) Organized Nature**

A major attribute of socio-economic offenses is their organized nature since such offenses can be conducted using a well-planned approach. Organized nature of socio-economic offenses refers to a scenario where there is a network of people involved in criminal activities for the sole purpose of gaining unlawful profit through such offenses without being detected. This includes money laundering, white-collar crime, corruption, tax evasion, among others. In addition, such offenses tend to be organized since they are conducted using well thought-out schemes, which are meant to manipulate and conceal the illegal activities from being detected by the authorities. This means that evidence of such offenses is usually covered up using complex means, thus making detection of such offenses very hard. Therefore, such organized crimes tend to have adverse effects on economic, administrative, and social sectors due to their

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<sup>11</sup> Prevention of Corruption Act, 1988, s. 20

serious nature.

### **(c) Features of White-Collar Crime**

Socio-economic crime is known as white-collar crime because of the common trend whereby offenders of this kind of crime have a high level of education, hold powerful positions in society, and possess significant wealth. These kinds of crimes are executed by businessmen, corporate individuals, professionals, politicians, civil servants, bankers, among other powerful people in society. Unlike traditional crimes involving violence, sociological crimes are committed while conducting business through an abuse of powers, abuse of trusts, manipulations, fraudulent behavior, bribery, and exploiting loopholes in legislation. These features of white-collar crime pose significant risks to law enforcement agencies since offenders can easily cover up their crimes using their knowledge, finances, and relationships. Apart from causing economic losses, sociological crimes cause distrust in governmental and societal institutions, making them difficult to manage by the criminal justice process.

### **(d) Public Injuries**

An important feature of socio-economic crimes is that they result in public injuries because of the effect they have on society as opposed to harming a specific person as is common with other crimes. While other crimes may cause injury to individuals, socio-economic crimes will cause injury to public welfare, economy, social security, and public confidence in various systems. Such crimes may include corrupt practices, food adulteration, environmental pollution, tax fraud, corporate deception, and money laundering, among others. Such crimes are capable of causing loss of money to the state, posing a threat to public well-being and health, creating unfair competition, and generally undermining the working of governmental and economic institutions. As a result of these injuries, these crimes are considered serious threats to the public interest and require proper legal regulation and strict enforcement measures.

### **(e) Technical Complexity**

Technical complexity is yet another important feature of socio-economic offenses, as these offenses usually make use of complex techniques, expert knowledge, and elaborate financial and regulatory mechanisms. Ordinary offenses do not employ complex techniques, knowledge, and financial mechanisms like socio-economic offenses. For instance, a person can easily be apprehended for robbing another person on the road. However, in the case of a socio-economic offense, such as tax evasion, a person must possess an extensive knowledge of tax laws, tax payment processes, and tax collection authorities to commit such an offense. Hence, the process involved in committing such an offense is usually very complex and requires elaborate

knowledge and planning. In addition, the evidence of socio-economic offenses can be hidden in electronic records, financial accounts, transactions, and regulatory processes, making it extremely hard for law enforcers to detect such an offense. Due to its technical and complex nature, socio-economic offenses are hard to prove in court, compelling legislators to formulate stricter regulations for such offenses.

In the case of India, socio-economic offences have emerged as one of the biggest issues because of growing incidents of corruption, financial frauds, cybercrimes, and corporate malpractices. Some of the typical examples of socio-economic offences can be mentioned as corruption, money laundering, tax evasion, adulteration of food, corporate offences, environmental offences, black market, hoarding, banking offences, and cyber financial crimes. Apart from causing economic damage to both state and general population, socio-economic offences also violate values of justice, equality, and social welfare. Thus, socio-economic offences form an important part of today's criminal jurisprudence.

### **EVOLUTION OF SOCIO-ECONOMIC OFFENCES IN INDIA**

The evolution of socio-economic offences in India has much to do with the economic, political, and industrial progress made by the country since its independence. Post-its independence in 1947, India adopted the concept of a welfare state that promised social justice, economic equality, and balanced development. The state started to control activities like trade, commerce, industry, banking, and distribution of necessities in the interests of the citizens to prevent any kind of exploitation in terms of the economy. Economic strategies like central planning, industrial licensing, import limitations, and the public sector became means through which the Indian economy could be improved. However, excessive interference of the state in matters economic gave birth to criminal practices like corruption, black marketing, tax evasion, hoarding, and smuggling, among others.

In the earlier years following the nation's independence, socio-economic offences would involve black marketeering, adulteration of food products, profiteering, corruption, and license violations. To curb these offences, various Acts have been passed by Parliament. The primary aim of these Acts is to promote economic discipline, equitable distribution of economic resources, and consumer protection. With increasing industrialization, privatization, globalization, and advancements in technology, however, the scope of socio-economic offences has become more complicated. Economic offences began to involve corporations,

financial organizations, and international dealings.

Liberalization of the Indian economy in 1991 is considered to be another important landmark that influenced socio-economic crimes. As far as liberalization brought about many changes and introduced more opportunities, including business, investing, banking, and stock trading, as well as allowed people to set up their own private enterprises, it could also bring about many types of crimes, such as financial, corporate, and banking scams, money laundering, cyber-finance frauds, and large-scale corruption. It can be said that economic liberalization brought about many scandals which revealed the lack of regulation and control mechanisms in India. Among such scandals should be mentioned, for example, Harshad Mehta Securities Scam in which the manipulation of banking and securities markets led to the huge amount of money being lost by individuals who invested in the stock market. Another scandalous event was the case of allocating mobile telecom licenses (2G spectrum scandal), during which a huge sum of money was lost to public exchequer.

Yet another instance that had a significant impact on the laws concerning socio-economic crimes is the Satyam scandal case that uncovered corporate fraud, accounting misrepresentations, and poor corporate governance systems. Apart from the above scandals, India has also experienced various cases of banking and financial frauds such as loan scams, non-performing assets, money laundering operations, and other forms of white-collar crime. It became evident that the current set of criminal laws was not adequate enough to combat socio-economic crimes since there was a growing trend of highly organized crimes and hence the necessity to have regulatory measures was felt.

### **MENS REA IN CRIMINAL JURISPRUDENCE**

The concept of mens rea has an important place in criminal law and has been seen as a vital component of criminal responsibility in India. This doctrine rests on the premise that no one should normally face punishment for any wrong-doing unless there is the presence of mens rea in connection with the wrongdoing. The doctrine finds its place in the Indian criminal law especially in the Indian Penal Code, 1860, through the inclusion of terms such as "intentionally," "knowingly," "fraudulently," "dishonestly," and "voluntarily" while laying down criminal offenses. The need for mens rea becomes evident because of its moral basis wherein only those people can be subjected to punishment whose minds have blameworthy

intent or knowledge in relation to the forbidden act.

Nevertheless, with the advent of socio-economic and welfare crimes, the traditional doctrine of mens rea has been substantially altered. Modern socio-economic crimes are generally very technical and hard to establish under the normal rules of criminal law. In such cases, the judiciary has acknowledged that too rigid an application of the doctrine of mens rea could hinder the proper implementation of laws passed for the welfare of society and economy. For this reason, the Indian courts have taken a moderate stance by safeguarding the significance of mens rea while also allowing its exemption under special conditions.

### **State of Maharashtra v Mayer Hans George.**

In this case, the accused had been charged under the provisions of the Foreign Exchange Regulation Act for bringing gold into India without declaring the same, despite his claim of ignorance of such an import being prohibited. The Supreme Court ruled that, in some offences which have been enacted to serve the purpose of public good, there can be exclusion of the requirement of mens rea either expressly or necessarily implied. It stated that, if the aim of the law is to compel the observance of economic rules and to safeguard national interest, then lack of guilty mind cannot be considered as a defense.

### **Nathulal v State of Madhya Pradesh**

Conversely, the Supreme Court in Nathulal v State of Madhya Pradesh reiterated the principle that it can be assumed that mens rea is an essential element of a crime unless otherwise explicitly provided in statute. In the instant case, the accused had grain in his possession pursuant to a valid license which had expired because the renewal process took place later than planned. It was determined that the accused did not possess criminal intent since he genuinely believed he had committed no wrong. As noted by the Supreme Court, unless a statute provides for the exclusion of mens rea either implicitly or explicitly, it can be assumed that mens rea is a prerequisite to imposing criminal liability.

Together, all these judicial pronouncements show how the Indian judiciary has been approaching the concept of mens rea. Although the judiciary still recognizes the importance of mens rea in criminal jurisprudence, it has also recognized the need for exclusion or modification of the same in cases related to socio-economic offenses. This has led to an attempt on the part of the judiciary to maintain a balance between the protection of individual freedom and the interests of society in such a way that criminal law is made effective against

contemporary threats to economic life and industry without forgetting the essence of justice.

## **STRICT LIABILITY IN SOCIO-ECONOMIC LEGISLATIONS**

Strict liability has grown in importance within socio-economic laws owing to the increasing complications associated with offenses involving economic regulations. Criminal law traditionally applies the principle of mens rea in determining whether liability can be attached to any offense. However, when it comes to socio-economic offenses, proving mens rea can be very difficult because such offenses are complicated and entail intricate financial dealings, organizational structure, procedures, and machinery. Strict liability has been embraced by legislators so as to enforce laws that protect the welfare of the people through economic regulation.

The basic reason for enforcing strict liability under socio-economic laws is to protect the public interest, regulate the economy, and facilitate regulation. Bribery, money laundering, food adulteration, pollution, tax avoidance, and other white-collar crimes have a huge impact on society and the national economy. Under these circumstances, strict liability makes prosecution easy, prevents the accused from being acquitted on the grounds that there is no evidence of his/her mental condition, and discourages people from committing any legal offense.

### **(a) Prevention of Corruption Act, 1988**

The purpose of this act is to prevent corruption within the ranks of the public officials. According to Section 20 of the Prevention of Corruption Act, a presumption against the public official arises after proof of the acceptance of any illegal gratification. The burden falls on the accused to prove that he did not accept the gratification corruptly. This makes the process of prosecuting corruption offenses much easier.

### **(b) Prevention of Money Laundering Act, 2002 (PMLA)**

This Act is related to hiding or laundering of the proceeds derived from crimes. There can also be instances of reverse burden of proof in which the onus is on the accused to prove that there is no money laundering in the property in question. The objectives of the Act include prevention of white-collar crimes, financing of terrorism, and unlawful economic activities.

**(c) The Essential Commodities Act, 1955**

The Act was passed in order to stop hoarding, black marketing, profiteering, and creating artificial scarcity of essential products.

The liability can exist irrespective of proving that there was an intention of committing any crime.

The purpose behind the Act is to provide for the equitable distribution of essential commodities.

**(d) The Food Safety and Standards Act, 2006**

The purpose of this legislation is to guarantee that there is no risk of harm to the general public from the manufacture, storage, transportation, and selling of food.

Those who manufacture and distribute food will be held responsible for any inferior quality of food supplied, regardless of whether it was intentional or not.

**(e) Environmental legislation**

Some of the important environmental acts include are: -

The first is the Environment Protection Act, 1986

The Second is the Water (Prevention and Control of Pollution) Act, 1974

The Third is the Air (Prevention and Control of Pollution) Act, 1981.

Actually, this is essential for industries to adhere to these acts very strictly so that there is no risk of pollution to the environment. otherwise without any negligence on their part, industries involved in dangerous operations are liable to pay compensation for the harm caused.

**(f) The Companies Act, 2013**

Under the Act, companies and managerial individuals are liable for violations of their statutory duties.

Directors and managers can be made responsible for any acts of corporate fraud, false representation, or accounting malpractice.

The law encourages corporate governance and accountability in business transactions.

**(g) Information Technology Act, 2000**

This Act deals with cybercrime, theft of data, hacking, identity theft, and electronic offenses.

Some sections make one liable for failing to ensure the safety of confidential electronic data and systems.

Hence, the use of strict liability in socio-economic laws is based on the contemporary outlook

of criminal law jurisprudence, in which the aspect of securing public interest is more emphasized than ever before in certain forms of crimes. Despite its positive impacts in terms of enhancing the efficacy of enforcement and deterring economic crimes, the concept poses several issues related to fairness and natural justice, among others, due to the weakening of mens rea doctrine.

### **Judicial Approach**

In India, the judicial system has shown a very reasonable and modern attitude concerning the application of mens rea in socio-economic crimes. Generally speaking, mens rea or guilty intention is regarded as an indispensable element in criminal liability. The courts have time and again stated that one should not be punished for his/her wrongful act if it is not attended by mens rea. Consequently, Indian courts presume that mens rea exists in a case unless the statute specifically makes an exception to it.

The principle of presumption of mens rea was established in an English judgment, namely, in the case of **Sherras v De Rutzen**. In this judgment, it was held by the Court that the law presumes a crime to have been committed with mens rea, except when expressly stated otherwise by the legislature. The Indian judiciary has followed this principle while interpreting penal statutes. It is held that mens rea should not be excluded easily because there could be a miscarriage of justice otherwise.

But with the increase in socio-economic and regulatory offences, Indian courts have accepted the application of strict liability in some cases of public welfare and economic regulation. The Judiciary has also agreed that offences like corruption, adulteration of food, pollution of environment, black marketing and economic fraud can have serious impact on society and national economy. The offences concern technical procedures, corporate structures and complex financial transactions, which makes it difficult to establish criminal intent. Courts allow strict liability in cases involving public welfare, necessary economic regulation, widespread social harm and otherwise impossible effective enforcement.

**M.C. Mehta v UOI** was an important development in Indian judicial approach, where the Supreme Court introduced the doctrine of absolute liability. The Court also held that the industries undertaking hazardous activities are absolutely liable for causing any injury,

irrespective of intention or negligence. The judgment has given a boost to environmental protection and public welfare in India.

Indian Courts hence, strike a balance by acknowledging mens rea as an important principle of criminal law and accepting strict and absolute liability in socio-economic offences where public welfare and social interest necessitates stricter enforcement.

## **CONSTITUTIONAL CONCERNS AND HUMAN RIGHTS PERSPECTIVE**

It has been noted that there is a rising trend towards strict liability for socio-economic offenses. Criminal liability has always been based on the principle that criminal liability cannot arise without an illegal act or guilty mind or mens rea. This means that there are two main elements of every offense: first, the act itself or omission and second, mens rea. Strict liability laws are against this basic principle because punishment can be given without proving any guilt or mens rea behind the act. These laws have been enacted for the welfare of society and socio-economic control.

Another constitutional issue associated with strict liability has to do with its effect on Article 21 of the Constitution, where the right to life and personal liberty is provided for under the Constitution. It has been interpreted several times by the Supreme Court that the right to fair process and natural justice constitutes an essential part of Article 21. Criminal sanctions without any proof of culpability or mens rea might amount to procedural unfairness at certain points of time. The traditional concept of punishment in criminal law holds that punishment must always be morally deserved.

One more problem that needs attention comes about because of reverse burden clauses in various socio-economic legislations. For instance, the Prevention of Corruption Act, Prevention of Money Laundering Act, and many other acts dealing with narcotic and economic regulation may include reverse burden clauses where the onus of proof lies on the defendant rather than on the prosecutor. It means that in such cases, after establishing some primary facts, it is incumbent on the defendant to prove their innocence or offer an explanation concerning the crime committed. Reverse burden clauses can therefore constitute an exception to the general principle of criminal proceedings, according to which the guilt should be proved

beyond any doubt by the prosecution.

Strict liability provisions also provide room for misuse and arbitrary use of power by enforcement agencies. In situations where the element of proof of criminal intent is lowered or entirely removed, there can be harassment and conviction or punishment of individuals who had committed no crime at all. Enforcement agencies can also take undue advantage of the provisions available to them in terms of wide discretionary powers, thus leading to abuse, unnecessary interference in the affairs of private citizens and businesses. This aspect becomes more critical where the violation is procedural in nature and the accused has not been motivated by dishonest intent or knowledge.

Nonetheless, while there are many constitutional problems involved in such provisions, Indian courts have accepted their legitimacy where the law has been framed in order to advance some significant socio-economic interest such as economic stability, environmental conservation, public health, or prevention of corruption. In recognition of the wide implications that most socio-economic offenses bear on society and the economy of the nation as a whole, the courts have allowed for stricter measures to be taken against offenders. On the other hand, they have attempted to balance the need for public good and individual liberties.

In conclusion, the issue of strict liability with respect to constitutional and human rights considerations can be viewed in terms of the continuing tension between the fundamentals of the criminal justice system and the requirements of regulating socio-economic crimes in modern society. Although the imposition of strict liability may enhance enforcement and safeguard public interests, any radical departure from the concept of mens rea may jeopardize the fundamental concepts of equity, freedom, and natural justice.

### **COMPARATIVE ANALYSIS**

The strict liability doctrine has taken varied forms among different countries based on factors such as the nature of the legal system in each country, the constitution of that particular country, as well as the socio-economic factors of that country. While conventional criminal law stresses the need for guilty mind or mens rea, modern welfare states have been able to accept the concept of strict liability in regulatory and socio-economic offenses in a bid to guarantee efficient implementation of laws.

### **United Kingdom**

The United Kingdom can be regarded as the originator of the strict liability doctrine under the contemporary legal system. The English courts held that some public welfare and regulatory offences should be strictly dealt with regardless of the absence of any guilty mind. Strict liability offences include those related to matters concerning food, environment, traffic, and public health. The idea is to protect public interest and compliance with statutory responsibilities. One such case that holds great significance in this context is *Sherras v De Rutzen*, in which it was held that there is a presumption of mens rea in the absence of statutory exclusion.

The other well-known case involving the principle of strict liability is *Rylands v Fletcher*, wherein this principle was propounded with respect to escape of any hazardous substance from a person's property. In the United Kingdom, the focus of the approach is efficiency in regulatory compliance coupled with protection of individual freedom rights.

### **United States**

Strict liability is recognized only in the United States in public welfare offenses such as those relating to food and drug laws, environmental protection, consumer protection, and narcotic offenses. The United States has recognized some crimes that relate to public welfare which require higher standards of enforcement. Nonetheless, the United States has more constitutionally protected rights compared to many other nations.

An example is seen in *United States v. Dotterweich* where strict liability was recognized for public welfare purposes to promote public health. In another case *United States v. Balint*, the court determined that mens rea was not needed for some narcotic offenses because of public welfare concerns. Even so, the US courts tend to be very careful when it comes to strict liability for grave offenses which carry serious penalties.

### **India**

However, in India, there is a wider acceptance of strict liability, considering the increase in socio-economic crimes including corruption, money laundering, adulteration of food, pollution, white-collar crimes, and tax evasion. Considering the problems in administration, economic disparity, inefficient enforcement systems, and technical intricacies related to economic crimes, the legislation has tended to relax the rule of mens rea, if at all, not altogether abolishing it.

Indian courts have also upheld the doctrine of strict and absolute liability where issues of public

welfare are concerned. The decision in *State of Maharashtra v Mayer Hans George* made it clear that "mens rea can be dispensed with where an economic crime affects public interests". Moreover, in the case of *M.C. Mehta v Union of India*, the Court has evolved the doctrine of absolute liability for hazardous industries, imposing liability without any exception.

### COMPARATIVE TABLE

<b>Comparative Aspect</b>	<b>United Kingdom</b>	<b>United States</b>	<b>India</b>
<b>Application of the Doctrine of Strict Liability</b>	It is used mainly in regulatory crimes.	The strict liability is limited to matters of public interest	The extensively used in socio-economic and public welfare offences.
<b>Major Areas of Application</b>	Food laws, environmental laws, road traffic laws, & health regulations.	Food and drug laws, environmental laws, and narcotic laws.	Corruption, money laundering, environmental pollution, food adulteration, & socio-economic crimes.
<b>Landmark Judgments</b>	<i>Sherras v. De Rutzen</i> ; <i>Rylands v. Fletcher</i> .	<i>United States v. Dotterweich</i> ; <i>United States v. Balint</i> .	<i>State of Maharashtra v. Mayer Hans George</i> ; <i>M.C. Mehta v. Union of India</i>
<b>Mens Rea in Offences</b>	Mens rea is significantly presumed unless excluded by statute.	Mens rea mainly exists except where excluded by law.	Mens rea is Generally excluded in socio-economic offences.
<b>Constitutional Protections</b>	Constitutional protections are moderate.	Strong constitutional safeguards ensure fair trial and due process of law.	Courts balance public interest at the same time constitutional rights.
<b>Main Objective</b>	Public regulation and public welfare.	Consumer protection & public interest.	Control of socio-economic crimes & protection of public welfare.

## CRITICAL EVALUATION

### **Advantages of Strict Liability**

Strict liability has gained prominence in socio-economic legislation owing to its role in enabling the State to effectively control economic and public welfare offenses. The first and foremost benefit of strict liability is effective law enforcement. Many socio-economic offenses like corruption, food adulteration, environmental pollution, money laundering, and corporate fraud require significant evidence to prove the criminal intent of the offender due to their technical nature, financial dealings, and corporate complications. Hence, strict liability enables law enforcement agencies to prosecute offenders effectively without establishing mens rea.

Another critical benefit of strict liability is the safeguarding of public interest and welfare. Socio-economic offenses are committed against both the individuals who suffer from the offense and society, which faces adverse effects on public health and the nation's economy. Strict liability legislation ensures that industries, companies, manufacturers, and public institutions maintain standards of diligence and responsibility.

Another mechanism that may help prevent illegal actions is strict liability. The fear of punishment encourages people, organizations, and even states to act appropriately and comply with all laws. Since there is no need to prove intentionality, the awareness during some actions, which can potentially have a negative impact on socio-economic wellbeing, is enhanced. This type of prevention will contribute to minimizing the number of socio-economic crimes.

Additionally, strict liability makes administration more efficient by reducing the burden on investigating and court authorities. Criminal trials require a lot of efforts and time to prove the intentionality of the criminal actions, including collecting relevant data about the psychological condition of the perpetrator. However, in cases of strict liability, one just needs to prove that a forbidden action has been performed.

### **Disadvantages of Strict Liability**

However, despite its significance in socio-economic legislations, strict liability has faced many criticisms on various grounds such as the law itself being against certain constitutional and legal principles. One main disadvantage of strict liability is its contradiction of the principle of natural justice since the traditional criminal law requires that an offender should have an element of criminal intention before being sentenced. Conversely, in strict liability offenses, a person can be charged simply due to the happening of the forbidden act whether intentionally or otherwise.

Another major criticism of strict liability is that the principle itself can violate civil liberties and constitutionality of various laws. In essence, strict liability may go against the concept of fair trial, due process, and innocent until proven guilty. Furthermore, reverse burden of proof in some legislations, which require the accused to disprove the charge, may make it difficult for him/her to defend himself/herself.

Another drawback associated with strict liability is that it may lead to unfair imposition of punishment. There are instances when people who have committed no crime or lacked the criminal intent or awareness of the crime committed are subjected to criminal punishment. Such an imposition of strict liability may be harmful because in many cases, the people are punished although they do not have any moral blameworthiness.

Moreover, it could also lead to over-criminalization and excessiveness in regulations. Over-use of penal laws in economic and corporate matters might bring about undue fear among the concerned organizations and even hinder their legitimate business activities. Strict liability should therefore only be used under necessary circumstances where there is a need for protecting the interests of the general population.

## **CONCLUSION**

The advent of socio-economic offences has brought a significant change in Indian criminal jurisprudence. Under traditional criminal laws, mens rea was the basis of liability, as the concept ensured moral blame and fairness. But the nature of modern-day economic crimes is such that their prosecution according to traditional criteria becomes challenging. Strict liability and reverse burden of proof provisions are commonly used by Indian statutes nowadays. They have proved to be effective for strengthening the regulatory process as well as for the protection of public interest in matters such as corruption, environmental pollution, adulteration, and economic regulation. But too much weakening of the mens rea principle may lead to an infringement of constitutional principles and the principle of fairness in criminal proceedings. Therefore, the strict liability doctrine must be used only as an exceptional tool of law enforcement.