



White Collar Crimes In India

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Received- 08.08.2020, Revised- 13.08.2020, Accepted - 17.08.2020 Email : aryavart2013@gmail.com

Abstract: *In India's socioeconomic landscape, white collar crimes, which are non-violent, financially motivated offenses committed by people in positions of trust, have emerged as a significant concern. White collar crimes, such as fraud, embezzlement, money laundering, corporate fraud, bribery, tax evasion, insider trading, and cybercrimes, are the focus of this abstract. Professionals, business leaders, and public officials frequently commit these crimes, which take advantage of regulatory loopholes and undermine public trust in institutions. The rapid economic growth, globalization, and technological advancements that have opened up new opportunities for illegal activities are all examined in this paper as factors contributing to the rise in white collar crime in India. It also analyzes existing legal provisions, such as the "Prevention of Corruption Act, 1988", "The Companies Act, 2013", and "The Prevention of Money Laundering Act, 2002", designed to combat these offenses. Despite the existence of legal mechanisms, challenges such as regulatory inefficiencies, corruption, and the complexity of financial crimes often hinder effective prosecution and deterrence. This study emphasizes the need for stronger enforcement of laws, enhanced corporate governance, and the role of technology in detecting and preventing white collar crimes. With far-reaching economic and social consequences, addressing white collar crimes is crucial for maintaining the integrity of India's financial systems and promoting a transparent, accountable society.*

Key Words: White collar crimes, prevention of corruptin Act, technological advancements.

White-collar crimes are those committed by high-level professionals in their fields who abuse social, economic, and technological authority for the benefit of their own businesses and individuals. White-collar crime includes a wide range of non-violent offenses like money laundering and fraud. White-collar crimes are those that are committed by people with high social status in the course of their professional lives. For better comprehension, white-collar crimes include fraud, counterfeiting, embezzlement, and tax evasion.

White-collar crime is a significant problem, but it is difficult to ascertain their actual prevalence because they are not included in the FBI's crime statistics. White collar crime in one the rise in India, endangering the nation's ability to prosper economically.

History- Edwin Hardin Sutherland, "the most influential sociologist and criminologist of the 20th century, first defined white-collar crimes in 1939 as crimes committed by people who enjoy the high social standard, great repute, and respectability in

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their occupation". The following are the definition's five characteristics:

- * It is illegal/a crime.
- * That is committed by a high-ranking member of the organization;
- * That is carried out in the course of one's profession or occupation;
- * That may be a breach of trust".

Marshal Clinar defined - White collar crime as "a violation of the law committed primarily by groups such as businessmen, professional men and politicians in connection with their occupation".

White collar crime refers to financially motivated nonviolent crime committed by business and government professionals.

White Collar Crimes in Indian Scenarios:

In India and around the world, "white-collar offenses like bribery, fraud, and corruption are among the most prevalent. The Central Bureau of Investigation (CBI) has discovered a total of 6533 cases of corruption over the course of the past ten years, of which only 517 cases have been reported within the past two



years, according to a report that was published on November 22, 2016, with the title "The changing dynamics of white collar crime in India." The report was titled "The changing dynamics of white collar crime in India."

In 2014, "India ranked 85th, but a number of measures to combat white-collar crime helped it rise to 76th in 2015. India improved three places from 2017 to 2018 to rank 78th out of 180 countries, according to a report by The Economic Times".

The main factors contributing to the rise in white-collar crime in India are greed, competition, and the absence of appropriate laws to prevent these crimes.

* Greed: "Machiavelli, the founder of modern philosophy, was of the firm opinion that greed comes naturally to humans. It is said that more people forget about their father's death than about losing their inheritance. The same is true for crimes committed by white-collar workers".

* The rivalry: "Herbert Spencer came up with the phrase "Survival of the Fittest" after reading Darwin's "On the Origin of Species." It implies that species will compete and that the only person who survives will be the one who adapts".

* Inadequate awareness: "White-collar crimes are distinct from other types of criminal activity. The majority of people are unaware of this and fail to comprehend that they are the most frequent criminals".

* The Importance: "White-collar crimes are also committed by individuals to satisfy their own and their families' needs. However, the most significant factor is the desire of high-status individuals to bolster their egos".

What differentiates white-collar crime from blue-collar crime- The term "blue-collar crime" came into the picture in 1920. The term was used to refer to Americans who prefer manual labour. These people work on low incomes or on an hourly basis".

"The difference between 'blue collar crimes', which are crimes of a general nature, and 'white collar crimes' was laid down by the Supreme Court of India in the case of State of Gujarat v. Mohanlal Jitmalji Porwal and Anr. Justice Thakker elucidated that one

person can murder another person in the heat of the moment, but causing financial loss or say committing economic offences requires planning. It involves calculations and strategy-making to derive personal profits".

"Meaning: The term 'blue-collar crime' refers to individuals who engage in manual labour.

The term 'white-collar crime' refers to experts who use their expertise to commit crimes.

New v/s Traditional- Traditional idea that has been around for ages. Blue crimes refers to traditional crimes and white collar crime was just developed recently. It is a brand-new type of crime.

Mens rea- Mens Rea is essential in blue-collar crimes
Mens Rea is not an essential item in white-collar crimes.

Direct access to the target- The people don't have easy, direct and valid access to its targets.

The people have complete access to the targets.

Veiled offenders- In blue collar crime - the offender has to come face-to-face with the victim eg. murder, theft, extortion.

In white collar crime - the offender doesn't have to come face-to-face with the victim eg. cybercrime, counterfeiting, fraud etc."

Types of white-collar crime in India- White-collar crime covers a wide range of activities. In India, the most common white-collar crimes include:

Blackmail- Blackmail is defined "in Section 503 of the Indian Penal Code of 1860 as making a demand for money and any other consideration by threatening physical harm or property damage. For instance, if the offender were to tell the victim a secret about a person they know, the victim would be greatly embarrassed. Take, for instance, the scenario in which A, who is the managing director of the business XYZ, is aware that B, a female employee of the same business, was having a child with someone other than her husband. A asked B to forge the account documents so that he could steal 20 lakhs of rupees from the company without anyone knowing about it. If he didn't, he would tell her secret, which would make her and her family very embarrassed".



When is blackmail considered a white-collar offense?

For it to be considered a white-collar crime, blackmailing must be committed by or involve a person of higher social status in a job.

Credit Card Frauds- A person is said to have committed credit card fraud against the other person if he or she uses the credit card of another person fraudulently to purchase valuable goods. Amit Tiwari, a 21-year-old engineering student, was arrested in Mumbai in 2003 for fraudulently defrauding CC Avenue, a Mumbai-based credit card company, of approximately 9 lakh rupees by using too many different names, having too many bank accounts, and having too many customers.

This incident brought to the attention of authorities the fact that the Information Technology Act of 2000 does not recognize credit card fraud. The company has suffered a significant loss as a result of the legal loophole.

The Act of Embezzlement: When someone who has been given money or property to use for their own purposes uses it in a way that is not considered to be illegal, they are committing the crime of embezzlement. The crime of embezzlement is referred to as a criminal breach of trust in section 405 of the Indian Penal Code of 1860 "an act where a person who has been entrusted with a property misappropriated it or falsely converted it to his use or dispose of it without any law allowing him to do so is the definition of a criminal breach of trust. Theft is a misappropriation of somebody's property where an individual has a purpose to make misfortune the other individual and criminal misappropriation is an offense under Sec.-403 of the Indian Correctional Code, 1860".

The essential components of the crime of embezzlement are as follows:

1. A relationship of trust, or fiduciary duty, must exist between the parties.
2. By improperly using this relationship, the defendant must ensure that they receive a certain sum of money or assets.
3. When the defendant steals money or an asset, he or she should behave as if the item or money belonged to someone else. The perpetrator

ought to have the intention to deceive.

4. White-collar offenses that involve embezzlement include the following:

Senior employees frequently receive a company car to use for official work. Nevertheless, it would appear that these automobiles were utilized for activities other than official duties, which amounts to embezzlement.

For employment in the banking sector, bank tellers provide customers with access to the bank's funds.

Racketeering- A "criminal act" is a wrongdoing in which a person engages in illegal business for profit.

The number of racketeering cases has increased in recent years. India Today reported in February 2019 that Raju alias Hakla had been arrested for his role in 113 robberies, dacoities, and murders. Brijkishore Jaiswal, a Gujarati businessman, was about to undergo an illegal kidney transplant in a kidney racket case that was made public in 2019. This took place at the Hiranandani hospital in Powai. Sujit Chatterjee, the hospital's chief executive officer, and five other individuals were taken into custody when the illegal practice was exposed.

Fraud Over Calls- These scams, which are also known as telemarketing scams, are carried out over the phone. A person is approached to make an investment in the construction of a charitable organization and asked about the specifics of their bank accounts in order to obtain a specific amount of money.

Buying and selling securities fraudulently- "Securities fraud" occurs when a company's broker misrepresents stock prices in an effort to persuade customers to invest in his stock.

According to a "News18 report from 2019, Jeremy Shor, a former trader at PPI, and Anilesh Ahija, better known to the general public as Neil, the CEO and Chief Investment Officer of Premium Point Investments LP (PPI), an investment firm that managed hedge funds, were arrested on the charge of securities fraud".

Using the wrong amounts- On consumer forums, there are a lot of stories about shopkeepers



who use false weight to sell their goods. People who are illiterate are the ones who fall for this kind of fraud.

In "Emperor v. Kanayalal Mohanlal Gujar, Sawkar, the accused bought a certain quantity of hirda from the vendor, Savleram. 'Adholis' which are primitive methods of measuring weights was used to measure the hirda. Despite warning from the patil of the village to not use these weights as they didn't give accurate measures, Sawkar agreed to use them and later on seized the adholis and filed the suit. Sawkar said that false weight had been used to measure hirda but the court said that since he had agreed to the same and also Savleram didn't have bad intent, Savleram would not be held liable for fraud".

Bribery- Bribery is a white-collar crime in which a person demands payment, favour, or something of value in exchange for the performance of another person's work. It would be considered bribery, for instance, if an electoral officer asked a person to give him wine before allowing him to cast a vote. In accordance with Section 171E of the Indian Penal Code of 1860, bribery is punishable by up to one year in prison, a fine, or both, depending on the severity of the offense. Additionally, public officials who engage in activities that fall under this heading have been subject to sanctions under Section 13 of the Prevention of Corruption Act of 1988".

Cybercrime- The criminal activity associated with computers and the internet is also growing. Cybercrime refers to crimes that are committed while making use of the internet and computers. This is the scenario in which the computer is either used as a weapon or the target of the crime.

The only piece of legislation that addresses offenses connected to cybercrime is the I.T. Act of 2000. Because it is impossible to define a crime of this nature when computers and the internet are involved, no statutes or laws have provided an exact definition of cybercrime.

Tax evasion- "Tax evasion is the deliberate forgery of one's circumstances in order for the government to impose a lower tax burden. A person, a company, or a trust can carry out this. It is a

deceptive strategy for avoiding paying the government's taxes. In layman's terms, tax evasion and avoidance are both crimes committed to reduce one's tax liability. The crime of tax evasion is punishable by substantial fines or even time in prison under Chapter XXII of the Income-tax Act of 1961". "Tax evasion= (amount of income that has to be reported) - (the actual amount reported)"

Counterfeiting- "Section 28 of the Indian Penal Code of 1860 defines counterfeiting as the imitation of something genuine in order to steal, destroy, or replace another person's original work". This makes it easier to make money from illegal deals and deceive someone who thinks the story you tell them is true and that the copied work is better.

"Counterfeiting" currencies and coins is a crime under section 489B of the Indian Penal Code of 1860. In some cases, it also involves goods like clothing, shoes, watches, art, toys, and so on. Products that are counterfeit have fake brand names and logos, and some of them contain harmful chemicals that can kill users.

Coin "counterfeiting" cases have increased significantly in India. On July 4, 2019, three individuals brought fake Indian rupees with a total face value of rupees 6,50,000 with them. The Special Task Force of Kolkata apprehended them. Two people were recently arrested in Rajkot with 1,080 counterfeit currency notes with a face value of 21.60 lakh, according to a report in the Times of India.

White collar crime in other professions-
In Medical Profession: "The problem of the relationship between the doctor and the patient has been recognized long back by penologists. Manu said that the ones indulging in false practices, for example, where a doctor makes a false diagnosis report, a heavy fine would be levied on him. Removing of immature fetus was considered to be a heinous crime and such a person was called to be subject to severe punishment. There have been many cases where medical practitioners have had no license to practice medical profession. The doctor treating the patient had turned out to be a fake doctor who had only deceived the patients by not treating them properly and running away with their money.



Examples of white-collar crime in medical profession could be issuing fake medical certificates, facilitating illegal abortions, and selling sample drugs and medicines directly to patients or chemists in India. Sometimes, professionals in the medical field are seen giving advice to criminals on how to escape the allegations using medical grounds. In Karnataka, two doctors, K.H. Jnanendrapa and K.M. Channakeshava, were charged with making fake medical certifications for Abdul Karim Telgi, who was involved in a multicore stamp paper racket in order to help him get bail on the grounds of health issues. Therefore, under the Prevention of Corruption Act, 1988 they both were held liable with 7 years imprisonment and with a fine of 14 lakh rupees each".

In Legal Profession: "Use of fake evidence, and fake witnesses in the court and thus extracting a huge sum of money from their clients, the lawyers too commit white collar crime. Legal practitioners with the help of ministerial support involved in wrongful practices and violate all the ethical standards for some amount of money".

So in the case of "D.K. Gandhi v. M. Mathias when referring to what the Supreme Court had said in Jacob Mathew v. State of Punjab, held the appeal and left the matter to be decided by the State Commission based upon the law".

In the case of "Jacob Mathews, the Supreme Court had said that: in law of negligence, the professionals from different professions like, legal, medical, or architecture, or any other would be held liable for negligence in practicing their profession if that either of the two given conditions are satisfied: a. He did not have the required skill that was needed to be professed and, b. Even if he has the required skills to be professed, he did not exercise the same".

In Engineering Profession: "Engineers are often found to be involved in providing substandard works and materials. In April 2019, India Today reported that an assistant engineer by the name of S.F. Kakulte was arrested for negligence because of which a bridge had collapsed. Along with Kakulte four other engineers and the chief engineers of Bombay Municipal Corporation were involved in the project. The Structural Auditor, Neeraj Desai, was

also arrested for negligence in the report. He claimed that beams, pillars, and metal fixtures were audited but the concrete slabs were not mentioned in the inventory given to him for the audit as a result 6 people died and 35 were seriously injured".

In education: "Many private educational institutions involve themselves in fake practices like using fictitious documents and fake details to obtain grants from the government to run their institution. It was in 2019 when the New India Express reported that a senior railway ticket-checking staff was arrested by the Central Crime Branch for leaking out the question papers of the exams for the post of constables in return for money".

A number of Indian statutes suggest that the term "white-collar crime" does exist, despite the fact that it has not been defined in any law. We are well aware that the Indian judiciary is hearing more than 3 crore cases at any given time. In this circumstance, it would be extremely challenging to resolve white-collar crime cases as soon as possible. Indian legislation to combat white collar crime

In India, a number of ways to identify white-collar crimes. The various laws were enacted by the government to ensure that white collar criminals would be punished. -

1. The Companies Act, 1960
2. The Income Tax Act, 1961
3. Indian Penal Code, 1860
4. The Commodities Act, 1955
5. The Prevention of Corruption Act, 1988
6. The Negotiable Instrument Act, 1881
7. The Prevention of Money Laundering Act, 2002
8. The Information Technology Act, 2005
9. The Imports and Exports (Control) Act, 1950
10. The Special Court (Trial of Offences Relation to Transactions in Securities) Act, 1992
11. The Central Vigilance Commission Act, 2003."

Penalties for White-Collar Crimes in India:

Strafes for fraud:

* The penalties for fraud are outlined in Section 447 of the Companies Act of 2013. It states that a fraud conviction could result in a sentence of up to ten years in prison or less than six months.

* Penalties for lying to someone: Section 448



of the Companies Act of 2013 states: If a person intentionally made a false statement despite knowing it was false, they could be held accountable for their actions.

* Punishment for providing false information: "The Companies Act of 2013's Section 449 stipulates a penalty for providing false evidence. It says that if someone gives false testimony in court".

* Upon solemn affirmation or an examination under oath; or

* He will be punished with a prison term and a fine, with a minimum sentence of three years in prison, a maximum sentence of seven years, and a maximum fine of ten lakh rupees, in any affidavit, deposition, or solemn affirmation regarding any matter arising under this Act.

White-collar crime & Indian Judiciary- In "Harshad S. Mehta v. Central Bureau of Investigation", White-collar crime in India first surfaced in 1988, and since then, it has been continuously rising. A great example of the "pump-and-dump" strategy used in white-collar crime is the Harshad Mehta case. He was referred to as the "Sultan of Dalai Street" and made money by deceiving and manipulating the stock prices of various businesses. Due to the artificial infusion of funds into the stock markets, the price of these shares or other assets rose sharply and quickly. The day the fake was exposed, the stock market fell by 0.1 million. Nothing like this has ever occurred in the history of the stock market".

In "SEBI v. Burman Plantation and Others Before the High Court of Allahabad, the learned counsel on behalf of SEBI claimed that the company was being wrongly accused as the company was not in a position to pay its debts, including payments to its investors. When the advertisement by the company was put into question, the council said that the advertisement was given in 2003 while the order was passed in 2004, when the company was not in a position to pay back its debts. Moreover, the sum of money that the investors were claiming was nowhere cited. The main claim of the counsel made the legislatures raise the punishment from 1 year to 10 years and also increased the fine which may now extend to 25 crores by amending the laws

under section 24(1) of the SEBI Act. At last, Ravi Arora, the accused, was held liable".

In "Abhay Singh Chautala v. C.B.I. There were two appellants in the present case against whom a charge sheet was filed for committing an offence under Section 13(1) (e) and 13(2) of the Prevention of Corruption Act, 1988 read with Section 109 of the Indian Penal Code, 1860 in separate trials. It was alleged that both the accused had accumulated disproportionate wealth as per their income when they were members of the Legislative Assembly. When the Central Bureau of Investigation (CBI) initiated its investigation it was found that the father of the appellant had acquired huge properties and same is the case with the appellants. The High Court held that the appellant had provided a different office(s) of the accused than they were holding at that time. Thus, the sanction under Section 19 of the Prevention of Corruption Act, 1988 was held to be without any merit".

In "Binod Kumar v. State of Jharkhand & Others This case was filed against several ministers of the State of Jharkhand along with the Chief Minister for having the possession of unaccountable money. The High Court had requested the Central Government to transfer the case from the Enforcement Directorate to the CBI by way of power given to it under Section 45 (1A). It was alleged that the ministers were in possession of hefty amounts of money and though no evidence was found to charge them with a money laundering case, a strict investigation was proposed. The ministers were said to be the owners of property not only in India but abroad as well. Therefore, the court asked for an investigation to determine whether this wealth was acquired by making use of the official position. It was to be clarified if a white crime had been committed under the Prevention of Corruption Act, 1988 and under the Indian Penal Code, 1860. The CBI started its investigation under the Prevention of Corruption Act, 1988 and the Indian Penal Code, 1860 as the power to carry on investigation under the Prevention of Money Laundering Act was only with the Enforcement Directorate, which is of course subject to the power given to the Central Government under



Section 45 (1-A) of the Prevention of Money-laundering act".

Conclusion: It is impossible to understate the dangers posed by white-collar crime to India's well-being and the country's ability to grow its economy. The majority of developing nations worldwide detest white collar crime. There are two surprising characteristics of white-collar crime: They are non-violent for two reasons: first, the perpetrators tend to gain control or feel entitled, and second, higher-ups commit them.

The rate of rising white-collar crime can be significantly slowed down by the media. As previously mentioned, the majority of white-collar crimes are not reported. As a result, the rate of white-collar crimes would go down if the media became more active in publishing higher-level frauds and scams, exposing the arbitrariness with which higher-ups in a company use their authority, and educating the public about white-collar crimes and how to avoid corrupt practices.

Suggestions:

* The goal of punishment is to make the criminal behave better and prevent them from doing the same thing again. Therefore, the law must impose severe penalties and not be permissive.

* For criminals to be reformed, both the punishment and the sentence must be increased.

* It is necessary to establish special tribunals with the authority to impose sentences of up to ten years in prison, similar to Fast Tract courts.

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