
JUSTICE DELIVERY OF ECONOMIC OFFENCES / WHITE COLLAR CRIMES: CASE OF INDIA

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ABSTRACT

This research focuses on the modern justice system which is prevailing in the country and how the redressal mechanism related to the economic offences and white-collar crime works. This paper deals with the various aspect of these crimes such as emergence, growing challenges, ongoing trends, effects on company and various levels globally. The major focus of this research is on the justice delivery system and the existing frameworks and what is the need to change the framework for better redressal of such cases related to these crimes. The research emphasizes on the law commission reports and other measures which the government introduced to curb it. We can further conclude that as the technology and development is increasing these crimes will also increase as the direct relation prevails between them and for this the reasons are laid down in this project report. The study talks about the misconceptions related to these crimes. The most prominent reasons that why is there is a very high increase in these cases nowadays such reasons include the competitiveness and greediness among the country. The famous case laws such as Harshad Mehta scam, Nirav Modi case, Ketan Parekh case which shattered the Indian Economy in pieces are discussed in this project. This report gives suggestions which methods and ways are beneficial to curb such crimes and India has an emergent need for the say because according to the research reports of many experts says India is a 'Living Dead Nation' because of the growth of such crimes at a very high pace. The project gives the implications, reasons, penalties, legislations, provisions, effects and implementation of the legal framework related to White Collars and Economic Offences. After all the research gives a vast analysis on the same. For the more authentic results the questionnaire was also circulated and the results are analyzed upon.

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RESEARCH PROBLEM

The research issue is based on a critical study on white collar crime in India and justice delivery in India. The main issue of this research is that the reader must get well acquainted with the justice mechanism of Economic Offences and White-Collar crimes and what are the reasons behind that.

AIMS & OBJECTIVES

The aim of this research project is to discover and analyses a critical study on white collar crime in India. Also, to understand the concept of white-collar crime in India, as well as to explain what is economic offence.

The main goal of this project is to deliver detail knowledge about white collar crime in India and focus of this project will be on justice delivery.

OBJECTIVES:

- To investigate India's current legal system for dealing with white-collar crime.
- To study the processes for investigating and prosecuting white-collar crimes in India, as well as the departments that deal with them.
- To study the current sentencing procedures in India for white-collar crimes.
- To make appropriate remedies/recommendations to effectively combat white collar crime in India.

RESEARCH METHODOLOGY

The research methodology sets the goals and is followed by the systematic approach focuses on what and how the project is done like the data collection, data analysis, tools and materials used in a research, reasoning for choosing the method and which type of research is done. The methodology shows the way to take measurements and sampling. We circulated a QUESTIONNAIRE for getting the more authentic results for the present research. In the allotted research the methodology is used as the EXPLANATORY AND EMPIRICAL RESEARCH where we can use the Hypothesis as Does lack of awareness and increase in the greediness and competition gives rise to the White-Collar crimes and Economic offences? The reason to choose this as issue is various research suggests that in the today's modern world there is gradual increases in the matters and complaints of these types of crime. To understand

matter this research paper gives in depth analysis about the topic mainly focusing on to the justice delivery system. The research is conducted by using the secondary data method because the data is collected from the highly reliable and authentic sources.

Research type and general goal

Primary and Secondary both of the sources have been used to get more realistic and authentic results. The research focuses on both descriptive and empirical research data with the help of questionnaire, previous research works done in this field, newspaper reports, NCRB Data sets, various governmental agency report, books, law commission reports and various legislations and codes.

Population and sample

A questionnaire was circulated to analyse the various aspects about the legal awareness, previous experiences of the people of different age group and what they think of White Collar and Economic nature crimes. Total of 30 responses we got. Some of the responses valuable suggestions were given by the people.

INTRODUCTION

The term “**white collar crime**” was first described by **Edwin Hardin Sutherland**, the most prominent criminologist of 20th century and also a sociologist in 1939 as "crimes committed by people who enjoy high social status, great repute, and respectability in their profession." It is a crime committed by a business executive who has a **high status within the organisation**, which he does in the **course of his business** or occupation. With the advancement of trade and technology, white collar crime has become a **global phenomenon**. White collar crime is rife in India, as it is in any other country. The rapid growing economy and industrial growth of this developing world are the reasons for the massive rise in white collar crime in recent decades.

According to a study published by the **Business Standard** on October 22, 2016, titled "The changing dynamics of white-collar crime in India," CBI has found a total of 6,533 cases of corruption in the last ten years, with 517 cases reported in the last two years. According to statistics, 4,000 crores worth of trade was done with fake or duplicate PANs.¹ India is a developing country, and white-collar crime, along with poverty, health, and other factors, is becoming a major contributor to the country's underdevelopment. White collar crime is on the rise in India, posing a danger to the country's economic growth. These crimes necessitate immediate government action, not only in the form of strict legislation, but also in ensuring their proper execution. There is a need to strengthen perception, especially among the upper class and the public sector.

White collar **crime costs** businesses a lot of money. To make up for the loss, these businesses increase the price of their product, which reduces the number of consumers who buy it. This is based on **the law of demand**, which states that, all other factors being equal, when the price of a product increases, demand falls, and when the price falls, demand rises. **Employee salaries** are being reduced as a result of the company's loss. Several employees are often eliminated by the company. It becomes difficult for the companies to **repay their loans**. Therefore, it is also becoming more difficult for people to get credit.

The rise of white-collar crime in India is primarily due to **greed, competition, and a lack of appropriate laws to deter such crimes**. Poverty is a significant source of financial and physical deprivation for a substantial portion of the population. Therefore, **poverty** can also

¹ The changing dynamics of white-collar crimes in India. (2016, October 22). Retrieved March 25, 2021, from https://www.business-standard.com/article/markets/the-changing-dynamics-of-white-collar-crimes-in-india-116102200032_1.html

lead to cause for white collar crime as to fulfil their **desire** people may commit such crime. Criminals have been encouraged to commit more crimes and hide everywhere in the world as a result of the introduction of people to the internet and digital world, where large transactions can be completed in seconds and reaching out to people all over the world takes just a few minutes. And when the perpetrator of a white-collar crime is apprehended, the legal system fails to keep them responsible due to **loopholes in law**.

DIFFERENCE BETWEEN WHITE-COLLAR CRIME & ECONOMIC OFFENCE:

The word "white-collar crime" applies to nonviolent, financially motivated crime perpetrated by business and government officials. Whereas economic offences are crimes that have a financial component. These offences are committed when engaging in some form of economic or commercial operation. While the word "economic offences" has been described in some parts of the world, such as the United States, a rigorous definition of the term is still lacking in India. This is why determining the types of crimes can be challenging.

LITREATURE REVIEW

Law Commission's 47th Report discusses about the concept of economics offences and it talks about the measures, scope, inquiry, administrative adjudications, prevention detention and the various amendments and the investigation procedures. This report also shows the recommendations. It also says the economic offences has the major impact on harming the society. The examples of such economic offences include tax evasion, misuse of various government officials, black marketing and document trafficking.

A Blog by **Mr. Diganath Raj Singh** talks about the concept of economic offences especially with respect to the India. This research describes in depth about the crime rate data according to the NCRB it shows that year by year the rate is increasing. If we look into the history of economic offences the criminals took huge loan amounts from bank resulting the financial crises to banks. This research also focuses on how the economic offences influence the demand and supply.

According to an Article of the **Hindustan Times** it laid down that NCRB has classified the

economic offences² in broad categories such as counterfeiting, criminal breach of belongings and frauds. There has been a slight improvement regarding the redressal of the cases in justice delivery system. pendency of cases is diminishing but the conviction rate is still poor and it shows that there is still a bit lack of justice.

According to the **study of Criminal Justice** conducted by the Sardar Patel University of Police³ says that In India there is no systematic redressal enforcement machinery is there for the Economic offences also the other developed countries like USA and Florida have such specific institutions for the same. The damage done by the economic offence in last few decades is very drastic to the National economy such as on inflation rates and marginalization of tax base and the non-equilibrium standards of Indian economy.

With Regards to an **FBI report** seeks analysis that the present schemes of fraud are so much sophisticated as compared to the older ones. The FBI website talks about the various types of White Collar and Economic offences and various dimensions related to them such as falsification of financial information and the various corporate insider crimes. The FBI works specially to investigate with the help of other agencies such as Internal Revenue Service and U.S Postal Inspection Service.

A blog of **Corporate Finance Institute**⁴ laid down the crime which are white collar in nature are increasing the major reason behind this is the advancement of technology. In this blog there is a description of similarities between Blue Collar Crimes and White-Collar Crimes. There are various white-collar crimes such as Fraud, Insider Training and Ponzi Scheme.

EMERGENCE OF WHITE-COLLAR/ ECONOMIC OFFENCES

WHITE COLLAR CRIME IN ANCIENT INDIA: It is said that crimes have existed since human beings first began to live together. There are a variety of crimes that have evolved over time, and others that have taken on new dimensions as society has become more modern. According to an ancient Vedic text, the idea of white-collar crime has existed in society since

²The growing challenge of ECONOMIC offences in India. (2020, October 07). Retrieved March 27, 2021, from <https://www.hindustantimes.com/india-news/the-growing-challenge-of-economic-offences-in-india/story-CC1uaeBv1vQCuFKd3fkVtL.html>

³Centers-SARDAR PATEL University OF POLICE,SECURITY and criminal justice, jodhpur. (n.d.). Retrieved March 27, 2021, from <https://policeuniversity.ac.in/centers.php?id=4>

⁴White-Collar crime - OVERVIEW, TYPES, CLASSIFICATIONS. (2020, August 26). Retrieved March 27, 2021, from <https://corporatefinanceinstitute.com/resources/knowledge/finance/white-collar-crime/>

the dawn of time.

CRIME OF BRIBERY: If a man gives something out of fear, rage, desire, sorrow, in jest or by accident, or by a dishonest act by a juvenile, or while intoxicated, it is considered a bribe, according to Narada. Yagnavalkya once suggested that the king, as the highest authority, destroy the dishonest officers while rewarding the honest ones. He goes on to say that someone who tries to extort money from others will have their property confiscated and transported. In his Arthashastra, Kautilya claims that the functions of those in authority will be tracked, and if any wrongdoing occurs, they will be held accountable.

HEALTH: The people's welfare has always been a source of concern for them. Selling dog meat was also made illegal in ancient times to prevent an outbreak from spreading. Yajnavalkya, Vijnaneswara, and Kautilya suggested various punishments for those involved in the selling and purchase of dog meat. Ashoka was the one who founded hospitals for humans and animals, keeping the general public's health in mind. Ashoka advises citizens not to use meat as a food source and to avoid killing birds for food in his edicts.

USE OF FALSE WEIGHTS IN STORES: It is important to avoid erroneous business tactics in order to keep the economy on track. In ancient times, shopkeepers often used fictitious weights and measures to increase their income. According to Kautilya, a supervising officer should be assigned to the market in order to prevent shopkeepers from engaging in such unethical business practises. In the business, Kautilya and Yajnavalkya proposed the imposition of a fine if one is caught using unethical tactics.

COUNTERFIT COINS: Coins were used as a means of trade for the first time in the Indian economy. In ancient times, the guild was in charge of all financial matters. Silver, gold, and copper coins were minted under the supervision of the government. Kautilya enacted a law that stipulated that anyone who counterfeited coins would be punished. He referred to counterfeit coins as 'Nanaka,' and the people who made them as 'Kutarupa Kara.'

GROWTH IN MODERN ERA: After the First World War (1914–1919), India's rapid industrialization created a class divide. There were two groups of people: the capitalists, or those who owned the main means of production, or the bourgeoisie, and the proletariats, or those who worked in the factories. The proletariat class was socially excluded as a result of the extreme market conditions that accompanied the fast-growing economy. The high level of competition and the desire to enjoy monopoly contributed to an increase in illegal behaviour.

At this time, the seed of white-collar crime had been planted. While the country was preoccupied with the freedom struggle and fighting wars, these criminal activities grew in prominence, posing a threat to the Indian economy's development.

ECONOMIC OFFENCE: The history of this crime can be traced back to early 2000, according to the National Crime Records Bureau (NCRB), and it has been steadily increasing since then. During these years, numerous scams and financial crimes were perpetrated by individuals, banking institutions, chit funds, and others. Our main focus will be on the crimes committed between 2014 and 2018 and how they were committed. According to NCRB records, the following economic offences have occurred in recent years:

STATISTICS

- **In 2014, there were 1,42,560 cases filed.**
- **In 2015, there were 1,50,170 cases filed.**
- **In 2016, a total of 1,43,524 cases were filed.**
- **In 2017, a total of 1,48,972 cases were filed.**
- **In 2018, there were 1,56,268 cases filed.**
- **In 2019, there were 1,65,782 cases filed.**

(NCRB has not released the data for 2020 year).

As can be seen from the above statistics, Economic Offences are not a minor or petty offence, but rather a major or minor offence. The number of cases registered by the NCRB is in the lakhs, and just by the number, we can imagine the severity and scope of these crimes. Consider the year 2016, which is the lowest of the five years (of the above data) in terms of the number of cases of scam registered under Economic Offence in India, and the base year (approx.) In that year, the scam sum was Rs.10,000/-, and the overall amount was about Rs.143,52,40,000/-. Now that the figures are in crores, it's worth noting that this amount is very close to the District Budget (approximately).

TYPES OF WHITE-COLLAR/ ECONOMIC OFFENCES

A. BANK FRAUD: Commercial banks commit crimes such as bank fraud by misrepresenting themselves to their customers. Bank frauds include cases involving negotiable instruments such as bounced checks, shares, and other related activities that jeopardise the relationship

of confidence and fiduciary against corporate institutions. **Sahara Vs. SEBI**⁵ is one of the most relevant cases under this heading. This case concerned the provision of false information in the company's prospectus, which resulted in a large number of lawsuits being filed with the Supreme Court by investors. The court ordered the company to refund nearly Rs.5120 crores based on the facts and the allegations made by the investors.

- B. BRIBERY:** Money is provided to people in higher positions with the aim of forcing them to carry out their legal duties and obligations. In the case of **Satya Narayan Sharma vs. State of Rajasthan**⁶, the Supreme Court issued a valuable judgement in order to curb aspects of bribery. The Supreme Court held that in cases where public servants are accused of any act of corruption under the provisions of the Prevention of Corruption Act 1988, any order issued under CrPC could not be used to stay the proceedings. The act should be adjudicated and investigated properly in accordance with the provisions of the Prevention of Corruption Act.
- C. MONEY LAUNDERING:** This particular crime is committed by concealing the original statements or ownership of the money obtained as a result of engaging in illegal activities. The primary goal of getting involved in the laundering process is to demonstrate that the money was obtained through legal means by making multiple transfers to show that the source is legitimate. The concealment, ownership, acquisition, or use of property by projecting or claiming it as unascertained property and converting it by bank draught will definitely fall within the scope of criminal activity relating to a scheduled offence, according to the court in **Rohit Tandon v The Enforcement Directorate**. That would fall under section 3 of the Act and be punishable under section 4 of the Act.
- D. TAX EVASION:** In this regard, it can be claimed that practises such as tax evasion are carried out with the intention of concealing the true estimate of taxable income. Various practises that serve as an eyewash to government officials are being carried out with the aim of lowering the amount of tax that is payable by the taxpayer. In the case of India, legislation known as The Special Bearer Bonds (Immunity and Exemption) Act, 1981 was passed with the aim of uncovering black money held by the population. The validity of this particular law was further examined in the case of **R.K Garg vs. Union of India**⁷ (1981), in which the Supreme Court stated that the main goal of this Act is to conduct a national search in which tax payers would be encouraged to reveal the amount of black money they

⁵ Sahara Vs. SEBI (2012) 10 SCC 603.

⁶ Satya Narayan Sharma vs. State of Rajasthan 1AIR 2001 SC 2856.

⁷ R.K Garg vs. Union of India (1981).

possess in exchange for a monetary reward.

E. FOOD & ADULTERATION: Based on the recent report that has been submitted by the Ministry of Health of the Government of India it has been demonstrated that approximately 70% of the food and other edible stuff are being adulterated in nature and has the potential of causing health risks and damages to the general public. One of the most common types in white collar crime, of which the present Indian society is a target, is the act of selling adulterated foods and drugs to the general public, resulting in significant health consequences. According to a recent study submitted by the Ministry of Health of the Government of India, approximately 70% of the food consumed in India is contaminated. In case of **Municipal Corporation of Delhi v. Kacheroo Mai Sarkari of Foodstuffs and Other Goods** is the subject of the legislation (Entry 18 List III Seventh Schedule). It is a constitutional measure for social protection introduced to combat the pervasive evil of food adulteration. Its aim is to put an end to a social and economic mischief—an evil that seeks to poison the very sources of life and well-being for monetary gain. The evil of food adulteration and its consequences for public health are reaching alarming proportions. Adulteration is a crime that has a social effect.

F. HOARDING & BLACK MARKETING: Activities such as hoarding and black marketing of basic commodities, which have increased in recent years in India, are being carried out for the purpose of achieving huge amounts of income within the business framework. To combat such unlawful activities, the government has enacted specific laws and regulations, such as the Trade Restrictive Practices (Amendment) Act 1992 and the Consumer Protection Act 1986, both of which provide harsh penalties for those who violate its provisions and other offenders. In **Bhim Sen For R.S. Malik Mathra Das v The State of Punjab**⁸ the plaintiff was detained under section 3 (2) of the Preventive Detention Act to prevent them from behaving in a manner prejudicial to the preservation of supplies of cloths vital to the community. The grounds detail the appellants' actions as managing officers, partners in various companies, or employees of the aforementioned corporations. They were allegedly selling fabric stock District on the black market at "exorbitant" prices. They deprive the legitimate claimants of different stocks of fabric by illicit means in order to sell them on the black market at "exorbitant" prices.

G. IDENTITY THEFT: When someone else uses an individual's personal information fraudulently for financial gain, this is known as identity theft. The most common

⁸ 1952 1 SCR 18.

information obtained by the robber is the victim's name, address, phone number, and banking information. They may have gotten this information from your discarded mail, your computer, or even someone with whom you've done business. The information is then used to make transactions and obtain loans in your name. The growing danger of identity fraud was recognized by Congress in 1998, and the act was made a federal crime. It's now deemed a crime, which carries harsher penalties. In the **Bank NSP Case**, a bank management trainee was engaged and planning to marry. Using the company's machines, the couple used to send a lot of emails. After the two broke up, it was discovered that the girl had developed a fake email account called "India Bar Associations" and was sending annoying emails to the boy's foreign clients. She had business knowledge about the boy and the specifics of his clients because she was next to him. She sent these emails from the bank's phone. Many of the boy's company's customers were lost as a result of this, and the company brought the bank to court. Since the email was sent to the bank's server, the bank was held responsible.

H. HEALTH CARE CRIME: What is a health-care fraud, exactly? This form of crime occurs when someone or something takes advantage of the health-care insurance system for financial gain. A health care provider, a company, or a person may commit this type of crime. Such instances are as follows:

- Providers who charge more than the procedures are worth should be avoided.
- Providers who conduct unnecessary procedures in order to get paid by the insurance company
- Falsifying a diagnosis to justify testing that isn't appropriate
- Overcharging the insurance company
- Medical identity fraud is a serious problem.
- Health-care statements that are false

According to the National Health Care Anti-Fraud Association, false health care insurance premiums cost the country tens of billions of dollars per year.

I. SCHEMES & SCAMS: Deceptive financial practises are illegal, from Ponzi schemes to the notorious Nigerian Prince scam. Typical deceptions involve requests for money to be sent as an investment in a company, a commodity, or a relationship. You've been ghosted after the victim sends the money. The other person or company vanishes, and your chances of ever seeing your money again vanish as well. In the famous **Saradha Chit Fund Scam**,⁹

⁹ Subrata Chatteraj v. Union of India, (2014) 8 SCC 795.

the Saradha Group (SG) of Financial Services offered a PONZI SCHEME service, which was similar to a chit fund. Those who invest in this business, on the other hand, would receive a high rate of return; this is what the group advertised in order to attract investors. The SG's initial capital assessment was accomplished by issuing Secured Debentures to investors. The business grew in size, and the number of employees reached 50, coming under SEBI's jurisdiction. SG, on the other hand, disobeyed SEBI's rules and regulations, expanding its reach to any corner of India. The investors were kept in the dark about the true existence of the assets, which were later fraudulently marketed as chit funds. SEBI interfered and, through the West Bengal State Government, issued an alert to shut down or do the necessary. In 2013, SG was able to entice the media, the economy's most volatile catalyst. TMC used blackmail to forcefully buy journalists and newspapers for a fraction of their market value, exposing all of the group's illegal conversions. This information was leaked, and SEBI sued the SG to liquidate all of their properties and dissolve their undertakings in order to remit the money owed to the investors.

J. CYBERCRIME: Have you heard of the scam in which criminals hack into databases, steal information, and then bribe an individual or company into handing over money in exchange for the information? This form of cybercrime is becoming more prevalent, and the police are unprepared to deal with such rapidly changing criminals. In addition to this fraud, cybercriminals are stealing people's financial information and hacking into their computers. There is usually no brutality involved in these types of financial crimes. Despite this, they are not without victims. The Department of Justice confirms the financial, emotional, and even physical harm that victims of common forms of economic crime may inflict. In **Varpaul Singh V state of Punjab**, the defendants created fake bills and entries, as well as deleting critical data from computers. The bills for the work done were removed from the mainframe computer. In another **BSNL case in 2009**, a Techie from Bangalore named N G Arun Kumar was charged with modifying data on the BSNL Broadband network and was sentenced to one year in prison and a fine of 5200 rupees under sections 420 of the Indian Penal Code (Cheating) and 66 of the Information Technology Act (Hacking).

K. TAX FRAUD: A large portion of the nation is asking to see President Trump's tax returns for a reason. Tax evasion is a common occurrence among wealthy individuals. The crime is frequently unpunished. When anyone knowingly tries to defraud the IRS by paying less tax than they should, they are committing a tax crime. The following are the most common tax offences:

- Failure to file a tax return is a serious offence.

- Inability to record earnings.
- Failure to pay taxes.
- Attempting to deduct money without permission.

The law takes tax evasion very seriously. In addition to criminal penalties, the IRS has the authority to seize your property or garnish your wages. In **2017 Cadbury India was booked for rupees 214 crores tax fraud**. CBI registered a case against Mondelez Foods Pvt. Ltd (earlier known as Cadbury India Pvt. Ltd. According to the FIR filed by the CBI, the 2017 probe revealed that the chocolate maker had proposed a manufacturing unit in Baddi in 2007 in order to avail area-based excise and tax exemption. To avail the same, some members of the executive board of the firm, along with key managers, collectively manipulated records, engaged intermediaries to route bribes to government officials, and covered up evidence.

GROWING CHALLENGES & CURRENT TRENDS

A. EMERGING DYNAMICS AND DIMENSIONS

In the modern era white collar crimes and various types of economic offences are increasing at a high pace because of the high level of development and competitiveness is among people now a days. As we have discussed the emergence of these offences and crime was majorly at the time of industrialization the seeds of crime were grown after the World War of 1914 to 1919 time and the population was divided among the capitalists, working classes, proletarians and bourgeois. So, at that time the economy growth was very fast and the proletarians were excluded. The greed for monopoly and competition took place the criminal attempts on the various kind of offences. From last many years we can see that there is a gradual increase in the white-collar crime commitment. The corporate sector, Government at various level and even an individual is taking steps now a days to curb these offences and crimes like ease of doing business and various policies. As the technology and development increases the white-collar crimes also increases because there is a direct relation prevails between them as the criminals get various ways to misuse the technology and development in their favour. Various methods to curb these fraudsters has been taken in the recent time by the corporate and government in that aspect CBI and other agencies such as SFIO and the enforcement directorate and law makers are very active in playing their roles to curb these crimes. For the protection of the various stakeholders and society recently the governance has been improved through the way of reform enhancements by

the introduction of trade friendly. India secures 39th position in the Global Competitiveness Index and the steps which government are taking has the twin objective of ease of doing business and the improvement of governance machinery. The regulatory and organizational regimes are active in taking the steps for diminishing the white collar and economic offences. The development brings favoured business destinations and the increase in crimes too.

B. CURRENT TRENDS

According to News Article of The Hindustan Times newspaper it is seen that the police is losing track of the cases of economic nature because of their increasing rate and police has been doing patchy work the major reason of this is nowadays the rates of conviction and arrests are falling to a greater extent. The growth of such crime is tremendously increasing from 2014 onwards and the annual growth become faster. The haste redressed is very important. According to a report in 2019 more than 50% of the cases were pending and the conviction rate was even the lowest. The RBI also revealed some shocking data that the gradual increase in the bank fraud in year 2019-20 is 159 % if compare from the last year. Because of the low conviction rates the unscrupulous criminals are motivated to more crimes which leads to major impact on India economy and the sectors like public and private both.

C. RECENT WHITE-COLLAR/ ECOMONIC OFFENCE CASES

- In the case of **SEBI v. Burman Plantation and Ors.**¹⁰ The accusations were made that the company is bankrupt to pay its debts and cannot made the payment to its investors. Also, there was no citation of the investors sum of money. The Allahabad HC held the accused liable under Section 24(1) of SEBI Act.
- In a case named **Abhay Singh Chautala v. CBI**¹¹, this case was filed under Section 13 of the prevention of the corruption Act, 1988 and also under Section 109 of IPC. The accusations were made of disproportion of money in their income at when they were in position of the members of Legislative Assembly. The decision made by the High Court held them liable and accused was holding dishonest properties.
- A recent case **Binod Kumar v. State of Jharkhand and Ors.**¹² The accusations were

¹⁰ SEBI v. Burman Plantation and Ors. (2013)

¹¹ Abhay Singh Chautala v. CBI (2011)

¹² Binod Kumar v. State of Jharkhand and Ors. Cr.M.P No. 2432 of 2020

made on the Chief Minister of Jharkhand for the misappropriation of money the case was transferred to CBI. No evidence was found and resulted into the more serious investigation. The court found that the white-collar crime has been committed under the IPC,1860 and PCA,1988.

- In another case of **Kanwarjit Singh Kakkar v. State of Punjab & Anr.**¹³ the decision pronounced by Justice Katju and G.S Misra says that misconduct was done under the IPC and PCA that he cannot do the private practice outside while holding office of profit and constitutes professional remuneration.

CAUSES AND IMPLICATIONS

I. ECONOMIC OFFENCES

A. CAUSES

White collar crime has a variety of reasons that are both simple and complex. The following are some of the factors that contribute to white collar crime. Artificial scarcity, produced by people with nefarious motives, destroys the economy's fabric. Because of the shift in the **moral system and ethical qualities** of men in positions of power, white collar crime is both induced and increased. People's **tolerance** for white collar crime and the lack of a strong public forum to oppose white collar crime all cause white collar crime to reign supreme. Corruption is prevalent due to widespread **illiteracy and inadequate economic infrastructure**. In a high-inflation country, government officials' **low wages** force them to take the path of corruption. Graduates from IIMs who have no experience are paid much more than government secretaries. White collar crime is at an all-time high during election season. Big business invests in politicians to cover the high expense of elections and, in the end, to gain personal favour. Bribery buys influence for politicians, and bribery buys votes for politicians. Politicians bribe **poor illiterate** citizens who are scrounging for two meals a day to get elected. Following are few more reasons:

- **Lack of effective organization and management:** There is a lack of control over different departments and their function due to mismanagement and disorganization. As a result, there is a lack of collaboration and control between departments and organizational levels. Corruption on a wide scale results from this unchecked and unsupervised government.

¹³ Kanwarjit Singh Kakkar v. State of Punjab And Anr. [2011] 6 S.C.R. 895

- **Lack of economic stability:** Unemployment and a drop in the standard of living are the results of economic recession. It creates a sense of fear in the minds of those who are affected. The majority of people lack the maturity and confidence to deal with this situation. This group of people engages in illegal and unethical acts in order to reclaim their jobs and preserve their standard of living and status.
- **Lack of support:** In India, there are few good leaders. They work tirelessly to rid society of corruption. However, due to a lack of public support and engagement, these great leaders' voices and actions are often silenced. India's people are more concerned with their personal lives than with the growth and security of their country from social ills.
- **Lack of satisfaction:** Greed is the product of dissatisfaction. People are dissatisfied with their current location, money, and prestige. They aspire to be millionaires in a short period of time.

B. IMPLICATIONS

White-collar crime is serious in nature. It has a low profile, but has a significant effect on our culture. It is reasonable to assume that white collar crime has risen at a faster pace than population growth as a result of shifts in the **structure of our economic organization**. Its consequences overlap and connect with other societal issues including **poverty and discrimination**. It's worth noting that the wider social implications of crimes and criminal acts committed by individuals can be much more detrimental to society than the monetary costs of white-collar crimes. When elected officials commit white collar crimes, it leads to a **loss of public confidence**. People's loss of confidence in the justice system fosters an atmosphere of **lawlessness**, which leads to more crime. Some businessmen's deceptive and dishonest practises compel others to indulge in similar practises in order to stay competitive, putting the **commercial market's reputation** at risk. People with social influence and status are held to higher standards of social accountability, and failure to follow the law by those people is a much more severe issue than failure by those who are less well-positioned in society. Furthermore, the proceeds of white-collar crime are often used by criminal groups to provide financial services or communications to facilitate **drug trafficking, arms trafficking, terrorism**, and other criminal enterprises. This raises serious concerns about the country's independence and stability. White collar crime has a major impact on the **environment**. It may be caused directly by factories polluting the atmosphere by breaking the rule, or indirectly by

environmentally destructive projects. In present era, with globalization and technological innovation, as well as increased trade, white-collar crime has increased at an exponential rate. White collar crime has a devastating effect on society. As a result, white collar crimes wreak havoc on a country's **social structure and undermine public confidence** in its institutions.

II. WHITE-COLLAR CRIME

The economic offences widely influence the economic security of India in a negative manner. This fact has more clear ideas in the countries that have economic rent.¹⁴ The victim faces pecuniary and monetary loses and authorities getting somewhat difficult to curb these.

A. CAUSES

The major reasons of the economic offences are Money laundering, Capital Loss, Inefficient distribution of resources, Financial Windfalls, Tax Evasion, Controls on Health and Security, No circulation of money, Lack of awareness, Unemployment, Greediness, Competitiveness, peer support, low literacy rates, low conviction rates, loopholes in the legislation and regulations, low level of ethical behaviour, Pilfering entities, High levels of technology, low levels of job incentives, Lack of strict laws, corruption, role of digital world, government's failure towards crimes, no moral justifications, lack of industrial ethics values and many more.

B. IMPLICATIONS

In 2016 the largest number of cases was reported and damaged the economy to a very higher extent. These offences affect the whole country's sovereignty and integrity rather than affecting an individual that much. There are at least 24 types of economic offences and these are not properly protested that's why the fast and quick addressable is not taking place as much as it has to take place. The NCRB given the Tax Evasion as the most prominent type of offence and taking place in the very large number which we cannot even imagine of. Also, when the urbanization and industrialization were at peak in India from that onwards the economic offences took the growth.

¹⁴YOUSEFI MARAGHEH, M., & SAADAT, A., & ZARE MAHDAVI, G. (2013). THE REASONS FOR COMMITTING ECONOMIC CRIMES AND THE SOLUTIONS. JOURNAL OF SOCIAL ORDER (ENTEZAM-E-EJTEMAEI), 5(3), 145-169. <https://www.sid.ir/en/journal/ViewPaper.aspx?id=460029>

C. GROWTH: 'LIVING DEAD NATION'

The trend is moving upward for the economic offences and one of the best ways to curb is the judicial awareness. We can also see these economic offences as the most dangerous criminal behaviour which is depleting the economic fabric of India. According to experts they say if this is not controlled on time India will become the 'LIVING DEAD NATION'.

EXISTING LEGAL FREAMWORK

I. ECONOMIC OFFENCES

Economic crimes not only cause **financial hardship** for people, but they may also have significant consequences for the **national economy**. Economic crimes such as currency counterfeiting, financial scams, bribery, and money laundering, among others, are serious concerns that have an effect on the nation's stability and governance. Below is a table listing various economic offences, applicable laws, and enforcement authorities in India:

Sl. No.	Name of the Legislation/ Act	Enforcement Authority	Name of the Offence
1.	Import & Export (Control) Act, 1947	Directorate General of Foreign Trade/ CBI ¹⁵	Illegal Foreign Trade
2.	Prevention of Corruption Act, 1988	State/Anti-Corruption Bureau /Vigilance Bureau/ CBI	Corruption and Bribery of Public Servants
3.	Foreign Exchange Regulations Act, 1973	Directorate of Enforcement	Money Laundering
4.	Narcotics Drugs and Psychotropic Substances Act	Police/ NCB/ CBI	Illegal Drug Trafficking

¹⁵ Central Bureau of Investigation.

	1985 & NDPS Act, 1988		
5.	Customs Act 1962 COFEPOSA ¹⁶ , 1974	Collectors of Customs	Illegal Trafficking in Contraband Goods (Smuggling)
6.	Indian Penal Code, 1860	Police/ CBI	Land Hijacking/Real Estate Fraud
7.	Indian Penal Code, 1860	Police/ CBI	Banking Fraud
8.	Passport Act, 1920/ Indian Penal Code, 1860	Police/ CBI	False Travel Documents Racketeering
9.	Banking Regulation Act, 1949	CBI	Fraudulent Bankruptcy
10.	Transplantation of Human Organs	Police/ CBI	Human Body Parts Trade
11.	Central Excise and Salt Act, 1944	Collectors of Central Excise	Excise Duty Evasion
12.	Indian Penal Code, 1860	Police/ CBI	Racketeering in Employment
13.	Foreign Contribution (Regulation) Act, 1976	Police/ CBI	Foreign Contribution Manipulations
14.	Indian Penal Code, 1860	Police/ CBI	Insurance Fraud

¹⁶ Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

15.	Income Tax Act, 1961	Central Board of Direct Taxes	Tax Evasion
17.	Companies Act, 1956/ Indian Penal Code, 1860/ MRTP ¹⁷ Act, 1968	Police/ CBI	Company Fraud (Contraband)
18.	Indian Penal Code, 1860	Police/ CBI	Credit Card Fraud
19.	Indian Penal Code, 1860	Police/ CBI	Stock Market Manipulations

PENALTIES: Different forms of offences are dealt with, under various Acts and regulations under the general crime of Economic Offence. Following are some of the acts with penalties:

- **Section 415 to 420 of IPC¹⁸:** These sections define and deals with “cheating” and its punishments, where the maximum punishment for cheating is given imprisonment of either description, extendable upto 3 years with or without fine or both.
- **Section 465 to 477A of IPC¹⁹:** “Counterfeit” is defined by this section 28 of the act. An individual is said to be a "counterfeit" if they make one object resemble another, intending to deceive with that resemblance, or knowing that deception is likely to occur as a result of that resemblance.
- **Section 489A of IPC²⁰:** This section states that anyone who counterfeits a currency note or bank note, or knowingly participates in any part of the counterfeiting process, shall be sentenced to life imprisonment, or to imprisonment of either description for a period up to ten years, as well as a fine.

¹⁷ Monopolies and Restrictive Trade Practices Act, 1969.

¹⁸ Indian Penal Code, 1860.

¹⁹*Id.*

²⁰*Id.*

- **Section 405 to 409 of IPC²¹:** Section 405 defines criminal breach of trust as any dishonest use or disposition of property by one person to whom another person has entrusted his property, and the latter should have suffered breach of trust as a result of the dishonest use or disposition, as the act must have been performed in discharge of such trust. Section 406 of the Criminal Code states that someone who commits a criminal breach of trust is subject to a sentence of up to three years in jail, a fine, or both.
- **Section 276C of Income Tax Act, 1961:** Willful attempt to evade tax is covered under this section. It further explains that cases where the amount sought to be evaded or tax on under-reported income exceeds ₹25 lakh, the person can be imprisoned for a term of at least six months up to seven years and with fine.
- **Section 112 & 114 of Customs Act, 1962:** These sections provide for penalties for illegal import and export of goods, a penalty of up to 10% of the duty demanded to be evaded, or Rs 5,000, whichever is greater.
- **Section 3 & 4 of Prevention of Money Laundering Act, 2002:** According to section 3, whoever directly or indirectly tries to indulge or is a party or is actually involved in any process or action related to proceeds of crime, including their concealment, possession, acquisition, or use, and projecting or declaring it as untainted property, is guilty of money laundering. Section 4 provides for the punishment which is imprisonment of maximum 7 years and fine extendable upto 5 lakhs.

II. WHITE-COLLAR CRIME

Government has made these laws somewhat stringent to get the control over these crimes and to make them diminished. There are several laws to curb these in the present Indian legal framework as follows:

Sl. No.	Name of the legislation	Remarks
1.	Indian Contract Act, 1872	This Act defines and bans active concealment of facts, frauds, dishonest concealment, deceiving motives and gives the principle of <i>FRAUS OMNIA VITIATE</i> which

²¹*Id.*

		means everything is violated by the fraudulence conduct.
2.	Prevention of Corruption Act, 1988	This Act criminalizes the corruption and unhealthy practices related to the same. The Act provides the definitions such as Public duty, Public servant and public authority which clears their ambit for the curb of White-collar crimes that is suggested in 1964 by the <i>Sanathan Committee report</i> .
3.	The Companies Act, 2013	This Act provide to curb the Corporate white-collar crimes such as non-compliance with the provisions, mismanagement and oppression, company frauds and provide for the speedy trials in the public interest.
4.	Indian Penal Code, 1860	This Act lays down many provisions in regard to the Money Laundering, Cheating, Fraud, Wrongful gains and losses, Bank Fraud, Forgery, Credit and Insurance etc. Section 403 to 409 lays down the Criminal Breach of Trust and bans the dishonest misappropriation of money.
5.	Information Technologies Act, 2002	For keeping on track of the cybercrimes and computer related crime aspect of the white-collar crimes the IT Act has a much bigger role because Section 43 and 44 gives detail about the various offences and their penalties such as illegal extraction of data, Hacking, Piracy, Fraudulent Virus and Malicious websites, Illicit damage of computer system, Unauthorized and illegal access etc.
6.	Prevention of Money Laundering Act, 2002	India involves Black Money tremendously and tops the list. This act criminalizes all those activities which deals with the money laundering and Black Money. This Act is for the purpose of ending the Black Money in India

		and turning it into genuine money. The money laundering increases the socio-economic crimes at a very high pace.
7.	The Negotiable Instrument Act,1881	Section 38 and 141 has a greater role to play and this Act works on purpose to criminalize of various white-collar crimes related to bouncing of the cheque, dishonest purposes as it gives for the ease of doing business which is a great measure to stop white Collar crimes.
8.	Securities and Exchange Board of India Act, 1992	This supports the investors and various stakeholder interest. The insider trading plays a large role to increase the white-collar crimes. The very famous case of Hindustan Lever is the first matter of white-collar crimes in which SEBI has punished the defaulters.
9.	The Imports and Exports (control) Act, 1950	This Act governs the white-collar crimes in related to the trade aspect by providing the control on the unfair means of imports and exports.
10.	CARO Act, 2016	This Act lays down what an auditor has to disclose essentially for the better transparency and fair means.
11.	Clause 49 of Listing Agreement	With the help of this the corporate governance is strengthened by providing the fair means for board of directors and controls of misusing their power.
12.	The Special Court (Trial of offences relation to Transactions Securities) Act, 1992	This lays down for the speedy and haste trial which is very necessary because in the modern era the trend of case related to the white-collar crimes and courts are burdened from the high complaints and cases. This Act safeguards the offences related to the transactions of securities.

13.	Essential Commodities Act, 1955	Sec. 6 relates to the orders which are in effect of inconsistent with the other enactments.
14.	The Central Vigilance Commission Act, 2003	By the virtue of this act supervision is done in the Delhi Special Police Establishments because in nowadays the police is doing patchy work by low conviction rates of White-Collar crimes a report says.
15.	Income Tax Act, 1961	This act restricts the scope of tax evasion which helps to curb white collar crimes to a very helpful extent.
16.	The Foreign Exchange (Regulation) Act, 1974	This Act governs the trade policies of India deals with the import and export laws. It restricts the illicit practices in the trading sectors.
17.	The Industrial (Development and Regulation) Act, 1951	The industrial sector of India is dealing with the high rates of White Collar issue this Act provides for the transparent ways in curbing the same
18.	SEBI (LODR) Regulations, 2015	This gives a mandate to disclose the stock exchanges also initiation of audit reports in the listed entities. Also, various provisions are there which gives a way to control the various fraudulent criminal activities.
19.	Reserve Bank of India Guidelines	This mandate the KYC policies in which says banks and financial institution for the transparency must maintain the records of their every transaction.
20.	Consumer Protection Act, 1986	Provides for the strict provisions related to consumer cheating and malicious frauds done by the Shopkeepers and sellers.

21.	Ministry of Corporate Affairs	It brings the powerful governance system in India and it stops the bribery and deals with the various jurisdictions and adjudication related to the White-Collar crimes such as NCLAT. Also, MCA keep bringing new amendments to keep track on lowering the White-Collar crimes.
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PENALTIES: The legislations and various legal provisions regarding to White Collar crime are discussed above there are some very common are fines, imprisonment, Trials, detentions, and restitution. The national beneficiary and social capitals are affected in many ways. Government always tries to find out the new reasons that why and how these crimes are controlling our nation and tries to take proactive steps accordingly. There are several penalties separately provided in the India legal framework such as the following:

- **Section 447 of Companies Act, 2013:** Major objective of this section is to stop frauds by providing for the punishment of frauds. This section provides the minimum punishment as 6 months which further can extend to 10 years and the amount of fine minimum would be 3 times of the amount actually involved in that fraud. By the virtue of this provision if any person found doing fraud, he will be liable for the misconduct done by him.
- **Section 448 of Companies Act, 2013:** The section penalizes the misconduct done by using any false statement in such as certificate, reports, document, memorandum and article of association of the company etc.
- **Section 449 of Companies Act, 2013:** This section punishes for the false evidence given in the proceedings such as oaths, affirmations or any court or tribunal's proceedings. This section also includes any corporate stating false evidence at the time of dissolution of the company by any means of affidavit and depositions. This penalizes fines and imprisonment both depending upon the case.
- **Section 450 of Companies Act, 2013:** This penalizes the crimes which has been done by authorities and officers of a company who is not complying with the Companies Act or doing illegal activities prohibited under law. The maximum punishment is 10 lakh

and it keeps on increasing if the accused continue and didn't stop.

- **Section 451 of Companies Act, 2013:** It provides for the punishments if the company commits same offence twice allegedly within the period of 3 years to the first crime attempt.
- **Section 454 of Companies Act, 2013:** This section virtues the appointment of the officer who will look into the matters dealing with the penalties under Companies Act and the jurisdiction of this section will be in hands of the government officers.

IMPACT ON DIFFERENT LEVELS

- A. EFFECT ON COMPANY LEVEL:** White collar crime costs businesses a lot of money. To make up for the loss, these businesses increase the price of their product, which reduces the number of consumers who buy it. This is based on the law of demand, which states that, all other factors being equal, when the price of a product increases, demand falls, and when the price falls, demand rises. In other words, a commodity's price is inversely proportional to its production. Employee wages have been reduced as a result of the company's loss. Several employees' positions were often eliminated by the company. It is impossible for the company's investors and workers to repay their loans. It is also becoming more difficult for people to receive credit.
- B. EFFECT ON EMPLOYEE:** White collar crimes endanger employees. They become conscious of their working conditions, whether it is safe anymore or not. They begin to wonder if they are safe and if they can continue to put their faith in the business.
- C. EFFECT ON CUSTOMERS:** Customers' primary concern is whether or not the goods they are using are healthy. When you consider the pace at which white-collar crime is on the increase, you can understand why.
- D. EFFECT ON SOCIETY:** White collar crimes are detrimental to society because they are perpetrated by individuals who should be held up as moral role models and who must act responsibly. As a result, culture becomes poisoned.

When a former director of Andhra Bank and the directors of Sterling Biotech, a Gujarat-based pharma firm, were arrested for their roles in a Rs. 5000 crore fraud case. They used to take money from many benami companies' bank accounts. This was a large-scale con that instilled fear in the public. In addition, the Punjab National Bank (PNB) discovered fraudulent transactions totalling 11, 346 crore rupees in its Mumbai branch in 2018.

According to Business World, "the staff there used to fake LoU (Letter of Understanding) for the buyer's credit to the company of Nirav Modi and Gitanjali Group."

E. EFFECT ON OFFENDERS - Since white collar crimes are done in camera, there are no eyewitnesses. This ensures that the criminals commit these crimes while sitting in a locked room or in their personal space, using their laptops, and no one can see what they are doing. This makes catching the criminals challenging. Both of these loopholes encourage criminals to commit such crimes without fear, because the penalty is still relatively light compared to blue-collar crimes. Offenders are often seen roaming free, posing a threat to society.

F. EFFECT ON THE TEMPERAMENT OF THE AFFECTED PERSON - The criminals usually target elderly people who have limited access to liquid assets and have lower cognitive abilities than younger people. As a result, they become a convenient target for criminals. Since the loss suffered is often intolerable, victims of such crimes often experience depression and are seen as having suicidal tendencies.

Vijay Shekhar Sharma, the renowned start-up founder who created the widely used transaction app Paytm, was blackmailed by his personal secretary Sonia Dhawan. To extort money from him, she and others stole his personal information as well as confidential business plans. Sharma also received repeated phone calls threatening that his personal details would be shared with others. Sharma also received repeated phone calls threatening that his personal details would be released to the public if he did not pay the necessary sum. Sharma was placed under a great deal of stress.

OTHER STEPS TAKEN BY GOVERNMENT TO CURB SUCH CRIMES:

The major steps that Government of India took beside the Indian legal framework provisions and legislations it includes fast track courts, legal awareness programme, various types of independent bodies governing white collar crimes, adequate training to the adjudicatory officers etc. But we can conclude that these are not actively working in modern day situation. Government is not very active with regarding these measures. The need is there that the measures to be followed stringently which is not happening till now

47th LAW COMMISSION REPORT

The Law Commission stated in its 47th report that since a company does not have a physical body, it cannot be punished with pain. Since an organisation lacks the mental capacity to be convicted of criminal intent, new penalties should be enacted to punish them for their unlawful and wrongful actions. The Commission determined that the true punishment for the company would be a blemish on their reputation. They can also be referred to as a disgrace. The commission stated that the company, not just the directors or managers, should be disciplined. People should be able to link the crime to the company's name as well. The commission proposed that the Indian Penal Code, 1860, be amended to include the following provisions:

- In a case where the crime was committed by a corporation and the sentence included imprisonment, fine, or both, the court would have the authority to impose only a fine on the defendant.
- In a case where the defendant is a business and the penalty for his offence is either incarceration or some other punishment other than a fine, the court shall have the discretion to impose only a fine on such criminals.
- In this section, the term "corporation" refers to an incorporated company or other legal entity. Firms and other organisations would also be included.

SUGGESTIONS: The object of punishment is to prevent the accused from committing the crime in the future and to serve as a deterrent to those who are like-minded. For example, hundreds of people died after drinking country-made liquor that was tainted with poisonous content. As a result, white collar criminals should also be punished harshly.

- It is necessary to make socioeconomic offences criminally punishable.
- In the absence of a demand, the punishment could be increased to a death sentence or life imprisonment.
- Efforts should be made at every stage to raise public awareness about these crimes through the press channel and other audio-visual mediums.
- For successful enforcement and a strong message of deterrence, more stringent regularity laws and punishment for white collar crimes are required.

- Special tribunals, similar to fast-track courts, should be established with the authority to sentence white collar criminals to jail terms of up to ten years or even life.
- White collar crimes should have their own chapter in the IPC so that they are not overlooked by the courts and are not spared punishment due to their high social status.
- To have a meaningful shift in the long run, public vigilance will still be needed.

JUSTICE DELIVERY SYSTEM

The government has made several attempts to curb the white-collar crimes and time to time government brings various amendments and new laws for speedy redressal. By going into the most important leading cases and pronouncement we can get the idea of the Justice Delivery system with regard to the white-collar crimes and economic offences.

CASE LAWS:

1. HARSHAD SHANTILAL MEHTA V. CUSTODIAN & ORS.²²

This is a leading case law in the history of the biggest scams of the world. This famous case shattered the whole Indian economy into pieces. The criminal in this case took help of small banks to take the fraud receipts and used the **receipts** to obtain the securities. Harshad Mehta took the help of the legislative loopholes in the system of Indian framework. He manipulated the stock market bubble. After seeing this situation, the bank chairman, himself committed suicide. The progressive economy of the country was affected badly and whopping of around Rs. 5000 crores were swindled by the banks.

2. SAHARA V. SEBI²³

The SIRECL and SHICL issued for the optionally fully convertible debentures and these were subscribed and issued to the millions of people but the company calling that as the private placement with claiming the defense that it belongs to hybrid security and collected over the amount of 17 crores. This **landmark case** was related to the aspects of a company issued misleading information. The court held them accountable for the refund to its millions of subscribers within the period of 3 months.

²² Harshad Shantilal Mehta v. Custodian & Ors. 1998 ECR 1 SC, JT 1998 (4) SC 323

²³ Sahara India Real Estate v. Securities & Exch Board of India (2012) 10 SCC 603

3. SATYAM SCANDAL²⁴

This case is termed as India's biggest corporate accounting fraud which involves approx. amount of Rs. 14000 crores. The **confession** was made through the letter by Mr. Ramalingam Raju who was the founder and owner of Satyam Computers Services Limited. The letter was published in Times of India stating the manipulation of accounts and overestimating the figures. In the year 2009, this case called the recession in the country. Court held the company liable for the fraud and held accountable them for payment of 300 crore.

4. KETAN PAREKH SCAM OF SECURITIES²⁵

He manipulated the various stocks from the banks such as GTB and MMCOB. Case related to the circular trading and **stock manipulations**. Scandal costs aver 1200 crore. He was given only 1 year imprisonment but lot of fines and debarred from trading in stocks.

5. NIRAV MODI FRAUD CASE

Famous Scandal in the banking sector. The accused in this case was a leading elite jewellery designer. The **Letter of undertakings** and transmission using SWIFT method in this case were found to be misleading and of fraudulent nature and was illicit prima facie didn't comply with the provisions of law. This case also known as Punjab National Bank Fraud case.

6. HITEN DALAL CASE²⁶

The criminal in this case came with various stock brokers such as SCB, MCB, HSBC banks. Bank complained of not getting the **receipts and securities** in the due time. The court held accused liable and imprisoned for 2 years in jail.

REASONING FOR FAILURE IN JUSTICE DELIVERY

- According to Sutherland, white-collar criminals' preferential care can be explained by their elevated socioeconomic status, the remedial philosophy of the laws in question, and the public's relatively unorganized distrust of white-collar crimes. Reasoning-

²⁴ M/S. Satyam Computer Services v. Directorate of Enforcement (2018)

²⁵ Bank of India v. Ketan Parekh and Ors. (2006)

²⁶ Hiten P. Dalal v. Bratindranath Banerjee (2001)

- In such cases, the legal violations are complex and can only be understood by experts.
 - The public media institutions (such as the press) do not communicate the organised moral feelings of the population, partially because the crimes are complex and difficult to portray as news, but more likely because these **agencies of communication** are themselves dominated by businessmen in the community.
 - The laws governing business control are a relatively recent and specialised subset of statutes.
- Apart from the fact that the public is not only insensitive and apathetic to such breaches of law, another impediment to the prosecution and punishment of white-collar offenders is that many members of the government themselves contribute to the commission of various white-collar crimes.
- In other words, white-collar corruption is also the fault of the victims of crime. Many of these offences are impossible to commit unless there is a market for illicit goods and services in the community.
- Finally, in the case of white-collar crimes, another element is thought to be to blame for the inability to prosecute or for insufficient penalties. Judges of the courts are typically from the upper echelon of society, and their attitudes toward white-collar criminals from the same **social strata** can be influenced by this aspect

REASONS FOR GROWTH IN CRIME RATE

Inaction by the government encourages corruption, which leads to an increase in economic crime. **Failure** gives suspects an advantage in the commission of economic crimes, even though it isn't absolute. More importantly, when these criminals are brought to justice, due to some shortcomings in investigative procedures and **loopholes in legislation**, the judiciary is rendered **powerless**, giving the impression to these criminals that even after being caught in the web of laws, they will escape sooner or later and will only be parting with a small portion of the black money/illegal money gained. Economic crime arises as a result of the violator's departure from his or her primary profession. Furthermore, the majority of the laws involved or broken are not found in the conventional criminal code. In terms of their purpose and method of operation, these crimes vary from **typical crimes**. Traditional criminals steal small amounts of money and also use brutal force and traditional tools to accomplish their goals. A criminal committing an economic crime, on the other hand, can steal large sums of money and use technology and communications to carry out illegal commercial transactions. **Victims** are

gullible and naive, and they are always unaware that they have been duped. Furthermore, economic crimes are often seen as "**good business**," and good business often necessitates cutting corners.

Corporate legal violations, including industrial spying or neoliberal or psychologically suggestive market tactics, are often regarded as part of the business system. These practises are seen as an extension of the capitalist system, which is founded on **profit** and follows the letter of the law rather than the **spirit of the law**. Economic crime is widely assumed to be a direct result of the following major causes:

- Political, bureaucratic, and industrialist nexus for unethical practise.
- A desire for more.
- Procedures, norms, and standards
- Inadequate and time-consuming investigation procedures.
- Failure of national legislation to meet existing and revised requirements.
- The current financial institutional structure is not prepared.
- Law enforcement agencies' poor results.
- Ineffective arrangements of mutual and legal assistants.
- The use of fictitious bank accounts to commit fraud and money laundering.
- Using the internet, advanced technological knowledge, mobile phones, and other electronic devices to commit the crime, and so on.

MISCONCEPTIONS

A short column in the most recent issue of Psychology Today debunks four major theories about white-collar crime, which is described as an illegal act performed for financial gain.

- **White-collar offenders are well-paid:** you may be thinking of popular Ponzi schemers like Bernie Madoff or Allen Sanford here but they still depend on low-wage employees.
- **White-collar crime is nonviolent:** many people believe this misconception because white-collar crime is commonly portrayed as nonviolent. Criminals, on the other hand, have a sense of entitlement and a desire for power.
- **White-collar offenders are otherwise good people;** about 40% of white-collar criminals have a criminal record. As a result, no.
- **It's all about the money:** sure, there are low-paid white-collar offenders, but the crime's mastermind may be extremely wealthy. People commit white-collar crimes

because of "social pressure, business culture, and sheer hubris," according to researchers.

HIGH PROFILE CASES (Disposal and acquittal)

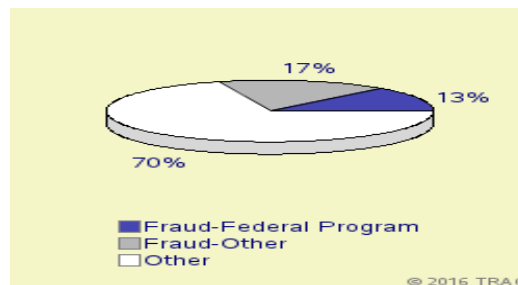
Sometimes the courts itself did not recognize how much alarming the increasing rate of such crimes are. The trend which is following in India is that there is a gradual decline in the conviction rates of white collar crimes. According to many researches and newspaper the blame is on the police workers patchy work is analyzed. If we analyse the data set given by the Justice departments we can seek that.

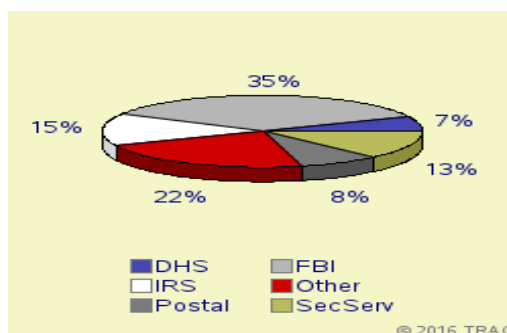
Table 1 shows latest data published by the Justice department-:

Data of the latest month	520
Change in comparison to the previous month	-5.6
Percentage changes in comparison to the last 5 years (including the data set of Magistrate courts)	-16.7
Percentage changes in comparison to the last 5 years (excluding the data set of Magistrate courts)	-7.9
Change in compare to last one year	-7.3

Figure 1 shows about the specific convictions-:

Figure 2 tells about the convictions by investigation agency-:





ANALYSIS AND INTREPRETATION

These types of crime are mostly non-violent in nature but can still cause economy to be shattered in pieces and their main reason for the growth is sophisticated technology, development and lack of legal knowledge among the people of our nation. The term comes from 1939 from a socio-criminal expert Mr. Edwin Sutherland before his coining the term the major belief prevailed in the society was that these crimes are only committed by the high-profile individuals or group. In today's world this belief is partially true. Mostly the offenders of such crimes are big businessmen and **government authorities**. Also, these types of crimes include the breach of trust not only on the individual level but also affects the economy and development of country in a negative manner. It is analysed that the police have a very bigger role to play but they are not doing their work upto the expectations because the rates of conviction are really very low which keeps motivating the criminals to do more and more offences. The paper discussed that there is a need to bring more harsh punishments.

We have more than enough laws which deals with White Collars and Economic offences but if we see in depth the penalties are not much stringent. The current need is that the law must be draconian so some extent then only the results will be depleting. In our **daily activities** we everywhere see the commission of crimes like if we simply go to a shop to file a pan card application sometimes the shopkeeper asks for the bribery. But if we compare from the past times the legal awareness among the population is obviously increased. The betterment in technology, commerce and advancement of the industrialization because by using this an offender has lower risk of being caught. The hacking software are so much updated that in now-a-days it is very difficult to catch the criminal. In the year 2017-18 there was a slight decrease in the cases but not for much time and the cases began to rise more till date.

The government need proper implementation of laws by providing for better measures other than legal provisions and legislations. Also, some experts, reports and authorities are of view

that there is always **mens rea** not needed for these crimes. Current situation of our country is that there are politicians also included with the offenders which helps them to not go behind the bars. With the increasing number of crimes, the public also loses faith in the **Indian legal framework**. While researching it was comprehended that there is a lack of clarity among the data of these types of crimes which shows lack of strictness and awareness to an extent.

White collar crimes are those that have a negative impact on the economy of a nation as a whole. It poses a threat to the country's economy by bank fraud, economic theft, and tax evasion, among other things. It not only impacts a country's or individual's financial situation, but it also has a negative effect on society. Bribery, corruption, and money laundering are just some of the crimes that have had a **negative impact** on society.

- Penalties for white collar crime should be more severe, as harsher penalties will help to deter these crimes to a large degree.
- If the crime is particularly egregious, the sentence can be increased to life imprisonment.
- Since most people are unaware of most of these crimes, public awareness by all means possible is needed.
- The government should enforce stringent environmental legislation.

QUESTIONNAIRE ANALYSIS

There were in total **35 respondents** to the questionnaire. Most respondents were from 18-25 years from the graduation level of educational qualification. 37% of the respondents were female and rest were male. 65% people have heard the term white collar and economic offences earlier and they were **familiar** with the basic idea related to it. 11% has the complete understanding of these term, 58% has the **moderate understanding** and the rest has no understanding. According to the majority respondents the highest **motivation** of these crimes is financial needs/greediness. 65% of respondents think middle class people are most involved with these crimes. 20% think rich and high class are involved. 90% of the **respondent are familiar** with the famous cases such as Harshad Shantilal Mehta, Ketan Parekh, Satyam Scandal etc. 85% of people have faced the **experience** of economic and white collar crimes. Most of them were getting fraudulent calls from banks, asking PIN, OTP, fake shopping coupons etc. While asking them about have they registered any complaints regarding the same it the result was only 15% of the respondents has **registered**

complaint against the crime they have faced. 60% people get fraudulent fake banking calls 1-3 times per month. 20% get more than 6 times per month and rest get nearly 4-6 calls per month. Majority of the respondents think these crime are **non violent**. Most of the people are not aware of the current legislative framework, codes, provisions such as IPC, Companies Act etc. 2-3 respondents suggested that laws to be more stringent and strict to curb these offences. 1 respondent suggested that **extradition laws** to be made more strict. One respondent commented that these crimes involve high political influence and sometimes corruption is also included. One respondent commented that there is a need to bring more **legal awareness** related to field on these crimes.

CONCLUSION

Based on a detailed discussion of the various aspects of law relating to white collar crime prevention, an attempt has been made here to wrap up the discussion and make some specific suggestions to make this branch of law more practical in combating the threat of white-collar crime. Although the word "white collar crime" is **not specified** anywhere in the Code, the definition of white-collar crimes is so broad that it was determined after reviewing the provisions of the **Indian Penal Code** that some of the Code's offences are closely linked to white collar crimes.

Apart from the Indian Penal Code, 1860, there are a number of other laws aimed at combating white collar crime, including the **Prevention of Food Adulteration Act, 1954, Essential Commodities Act, 1955, Narcotic Drugs and Psychotropic Substances Act, 1985, Prevention of Corruption Act, 1988, Transplantation of Human Organs Act, 1989, Foreign Exchange Management, 1994** etc. We may conclude by examining the provisions of different laws that we have many laws covering almost every area of public life. An examination of some of the most relevant laws reveals that compliance is weak due to a lack of will on the part of the general public, as well as legislators and bureaucrats in particular. Amendments to current laws are needed to combat the threat of white-collar crime. The legislature is responsible for containing white collar crime in India, and the courts are only there to support it. The Indian judiciary, which is a crucial pillar of democracy, has taken serious notice of the rise in such crimes. In the hands of the courts, Public Interest Litigation has proven to be a powerful and effective tool, allowing them to unearth numerous schemes and corruption in public life and prosecute those who are guilty of those scams. In **State of**

Gujarat v. Mohanlal Jitamalji Porwal and Ors²⁷, the Supreme Court stated that the country has seen an unprecedented increase in white-collar crimes in recent years, which has harmed the country's economic structure. The Indian judiciary has also looked at the different aspects of economic offences. So, while the legislative efforts in India to contain, govern, and regulate white collar crimes are primarily focused on the legislative level, it is encouraging to know that the judiciary has also played a significant role in this regard by correctly interpreting the various provisions of various laws. To serve its purpose and protect our economy and culture from the clutches and negative consequences of white-collar crime.

RECOMMENDATIONS

Few submissions in the form of suggestions have been made based on the current research report, which are broadly divided into the following two parts:

A. SOCIAL ACTION:

- **NGOs** will help nip the economic crime in the bud. It's time to nip violence in the bud. Where the police are unable to take command, they should intervene.
- To prevent tax avoidance by unscrupulous merchants, it is recommended that people take a **bill** with them if they buy products from the market.
- **Right to Information Act, 2005** is a powerful weapon in the fight against corruption, it is recommended that more people become aware of it.
- Every political party's election platform should include plans to **address the issue** of white-collar crime as well as the proper implementation of white-collar crime laws.
- The government should establish a **public complaint centre** where citizens can file complaints against white collar criminals.
- The public release of **negative information** about white collar criminals may also help to contain this threat.
- Those involved in white collar crimes must not be given **tickets by political parties**. Furthermore, their pledge against white collar crime should be included in political party manifestos.

B. LEGISLATIVE ACTION:

- Under the **Prevention of Black-marketing Act, 1980**, illegal dealing with rationed articles and adulteration of petroleum products is an offence, and any case filed must be

²⁷ AIR 1987 SC 1321.

- prosecuted in a Special Court established in each State for a speedy and relevant remedy.
- The **Prevention of Corruption Act** stipulates that all cases of corruption must be tried by special judges. In comparison to the number of corruption cases filed in their courts, the number of **special judges is woefully inadequate**. As a result, these courts are overburdened, and there is a significant disparity between the number of cases resolved by the investigating agencies and the number of cases resolved by the courts, resulting in an annual backlog. Therefore, it is proposed that their number to be increased.
 - For anti-money laundering and terrorist financing, financial institutions should be **licensed** or registered and supervised.

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