
EVERYTHING TO KNOW ABOUT THE SOCIO-ECONOMIC OFFENCES

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ABSTRACT

An analysis of a critical study on white-collar crime in India is presented in this research paper and the need to get the idea of white-collar crime in India. White-collar crime refers to crimes that educated members of a higher social class commit while working for a living. The author of this work has addressed the characteristics that set white-collar crime apart from blue collar or regular crimes. It's also known as the elites' professional and educational wrongdoing. The author of this paper goes into additional detail about the prevalent forms of white-collar crime that have emerged in India over the past several years. And how this has developed into a crime with a socio-economic impact. In addition, there are crimes committed by those working in the medical and educational fields.

Keywords: Socio-economic crimes, White-collar Crime, Higher Class, India, Crimes.

White-collar Crime: What is it?

White-collar crimes are those that a respectable, well-to-do individual commits while working in his line of work. It is a crime that is typically done by those in business or paid professionals, and it usually entails some sort of fraud or money theft.

Sociologist Edwin Sutherland coined "white-collar crime" in 1939. These are non-violent crimes carried out by businesspeople who, by using deceitful means, can obtain substantial sums of money and use them for their own financial advantage. White collar crime encompasses a broad variety of actions and is perpetrated by individuals who are involved in otherwise legal enterprises. Until their crime is found, the offenders maintain dignified positions in the community. The specifics of the crime committed determine which laws apply to white-collar offenses.

Definition of White-collar Crime

Edwin Sutherland described "white-collar crimes" as "crimes committed by a person of responsibility and high social status in the course of their occupation." The definition of white-collar crimes provided above comprises five characteristics.

1. It is a criminal offense.
2. Committed by a respectable person.
3. Of high social status.
4. In the course of their career or occupation.
5. Typically a violation of trust.

Prof. E. Sutherland pointed out that, in addition to "traditional crimes or blue-collar crimes," white-collar crimes include assault, robbery, dacoit, murder, rape, kidnapping, and other violent activities.

Different Types of White-collar Crimes

There are several kinds of white-collar crimes. Some of them include the following:

1. **Bank Fraud:** Bank fraud is defined as engaging in such acts to defraud a bank or obtaining assets held by financial institutions through illicit means.
2. **Blackmail:** Blackmail is defined as a demand for money made by threatening someone with bodily harm or revealing their secrets.

3. **Bribery:** Bribery is defined as offering money, goods, or any other present to someone to exert influence over their activities. It is a criminal to give or accept a bribe.
4. **Computer Fraud:** Computer fraud is defined as the theft or hacking of another person's information.
5. **Embezzlement:** Embezzlement occurs when someone is entrusted with money or property and utilizes it for personal gain.
6. **Extortion:** When a person illegally takes someone's property by real or threatened force.
7. **Insider Trading:** Insider trading occurs when someone utilizes confidential knowledge to trade in shares of publicly traded companies.¹
8. **Money Laundering:** Money laundering is the concealing of the origin of unlawfully obtained funds.
9. **Tax Fraud:** Tax fraud is defined as dodging taxes by giving incorrect information on tax forms or transferring property unlawfully in order to avoid taxes.

Characteristics of White-collar Crimes

After analyzing the definitions and researching the distinct features of white-collar crime, the following step is to determine the nature of these crimes. An offense or crime represents "a legal wrong that can be followed by criminal proceedings which may result in punishment." Criminality is defined as a violation of the criminal law. Two opposing viewpoints exist on the nature of white-collar crime. According to one viewpoint, white-collar crimes are 'crimes' in the true sense, whilst the other side questions their criminality. Those who advocate for the exclusion of white-collar crimes from the definition of 'crimes' argue that most of the white-collar legislation is regulatory rather than penal in philosophy, administrative in procedure, and directed primarily at our society's business and professional classes. Most of the statutes dealing with white-collar crimes are administrative in nature. The responsible authority has the option to determine whether to commence punitive action. It is examined in the field of criminology, which is appropriate given that it violates the criminal code.

White-collar crimes constitute crime, but they differ from traditional crimes in five ways: genesis, assessment of culpability, ideology, enforcement and trial method, and punishment. The fundamental point of dispute is that these regulatory offenses are 'civil' in nature, while

¹ Analysis of White Collar Crimes in India, *available at*: <https://blog.ipleaders.in/analysis-white-collar-crimes-india/> (last visited on September 15, 2024).

others consider them to be 'criminal'. Most white-collar crime statutes provide for both civil and criminal responsibility for the same offense. As a result of the many remedies available to enforce white-collar offenses, this misunderstanding has arisen. The sole distinction is that the legal procedures in civil matters differ from those in criminal proceedings. Many offenses, such as carelessness, defamation, trespass, and so on, can be tried both under tort law and under the Bharatiya Nyaya Sanhita (BNS), 2023. Cases under tort are followed in accordance with the provisions of the Civil Procedure Code of 1908, but cases under criminal law must be conducted in accordance with the Bharatiya Nagarik Suraksha Sanhita of 2023. If some types of illegal behavior are dealt with by tort law rather than criminal law for reasons of tradition or administrative convenience, the argument that white collar crime is not truly a crime since offenders are dealt with under civil law loses much of its traction. In today's world, where white-collar crime has reached unprecedented levels, there is no reason not to consider it a true crime.

History of White-collar Crimes: a) Ancient Period

It is an undeniable fact that since humans first began to live together, crime has risen. A few types of crime have become outdated, while many new forms of crime have emerged in modern society. White collar crime is not a new issue. References to these crimes may be found in ancient and medieval Indian literature, dating back to the Vedic period.² Manu, the great law giver of India, believed that there was a time when 'dharma' was faultless, but that 'adharma' eventually took over, leading to tendencies such as stealing, deceit, and fraud.

- A. Brahaspati claims that in the past, mankind was rigorously pious and had no mischievous tendencies. They have now been taken over by greed and hate. In India, the notion of bribery is not new. Bribery is mentioned in a variety of holy scriptures.
- B. According to B. Narada, "what has been given by men with fear, anger, lust, grief, or in jest or by mistake or through any fraudulent practice by a minor, an idiot, a person not his own master, one insane or intoxicated, an outcast, or in consideration of work unperformed be considered ungiven or bribe."
- C. Hindu Dharmatra authors are constantly concerned with improving society, hence Smrtikars examine people's health and sickness issues. In this context, they trash non-food items whose sale is illegal. Yajnavalkya initially said that selling dog meat is a

² Prof. N. V. Paranjape, *Criminology & Penology With Victimology 143* (Central Law Publications, Allahabad, 16th Edn., 2016).

crime, and individuals involved in such sales must face consequences. In addition to monetary penalties, their hands, nose, and ears will be mutilated. In his commentary on this poem, Vijnaneswara adds that the nose, ears, and hands, the three organs of the body, should be maimed. Kautilya has advocated amputating both hands and legs to sell non-eatable flesh. The physician was punished. The embryology was well understood in ancient India, and the removal of an immature fetus was considered a crime and the ultimate sin. Kathak Samitha condemns and, along with Maitrayini Samitha, considers fetal removal to be a more serious crime than killing a Brahmin. Yajnavalkya has taken a close look at this horrible act and has prescribed a harsh punishment for the individual who destroyed the embryo.

According to Kautilya, the fabrication of forged coins is known as 'Kutarupa Kara', and anybody who mints coins anywhere other than the government mint or without supervision from the state mint maker is a counterfeit coin maker. Kautilya lists the tools that the counterfeit coin manufacturer utilized. They include metal alkali, charcoal, bellows, clipper, hammer, anvil, customized die, and crucible.

b) Modern Period

The establishment of some cotton textile and jute mills in India in the last quarter of the 18th century did not change the complexion of things because the British government had adopted a policy of some toleration towards labour in India, which was in fact primarily directed by reason and motives of preservation of the textile industries of Manchester and Lancashire in view of the competition between the two. Before the working conditions of Indian manufacturing workers deteriorated significantly, the Factories Act of 1881 was enacted. Rapid industrialization in India began only with the First World War (1914-1919), but even then, the British government's objective was to artificially limit it to the minimal.

Despite modest industrial progress, it resulted in the formation of two new socio-economic strata in Indian society: industrial capitalists and modern workers.

The influxes to metropolitan regions had also begun, even though the workers had not completely severed their ties and lost contact with their local family. As industrial activity developed, people became more isolated from their rural lives. The pursuit of monopolistic advantages led to intense corporate competition and illegal behavior. Criminalistic behavior is inherently present and implicit in extreme business competitiveness and monopoly, thus the

demon of white-collar crime began to grow in India as well, and in not too short a period, this newer form of criminality, until now almost unknown to the Indian scene, came to the forefront, and despite all the provisions of the Bharatiya Nyaya Sanhita, 2023.

Root Causes of White-collar Crime

The prevailing belief is that white-collar crimes are perpetrated out of avarice or economic instability. However, these crimes are also committed because of situational pressures or the intrinsic desire to have more than others. White-collar crimes, on the other hand, can occur for a variety of causes.

- **Not really a crime:** Some criminals convince themselves that their activities do not constitute a crime since they do not resemble street crimes.
- **Not realizable:** Some people rationalize committing crimes by claiming that government restrictions do not comprehend the practical challenges of competing in a free economic environment.
- **Lack of awareness:** One of the primary causes of white-collar crime is a lack of knowledge among individuals. The essence of the crime differs from typical crimes, and people seldom grasp it, while being the worst victims of crime.
- **Greed:** Greed is another motivator for crime. Some people believe that because others are breaking the law, it is okay for them to do the same.
- **Necessity:** Another aspect that contributes to criminal behavior is necessity. People commit white collar crimes to satisfy their egos or to provide for their families.

Judicial Attitude Towards White-collar Crime in India

The Indian government has enacted several regulatory laws, any violation of which will result in white-collar criminal activity. Some of these legislations are the Essential Commodities Act of 1955, the Industrial (Development and Regulation) Act of 1951, the Import and Exports (Control) Act of 1947, the Foreign Exchange (Regulation) Act of 1974, the Companies Act of 1956, and the Prevention of Money Laundering Act of 2002. The government is divided into three organs: the legislative, the executive, and the judiciary, all of which have specific functions. Our Constitution established a complex legal structure, centered on the Supreme Court, to ensure that laws be enforced effectively. Because law abhors a vacuum, when the Executive failed to act and the legislative could do little about it, the Indian judiciary stepped

in to preserve the day. Public interest litigation (PIL) is a powerful tool for combating white-collar crime.³

Criticism of Sutherland's Views on White-collar Crime

Sutherland's definition of white-collar crime has received criticism from certain sources. Coleman and Moynihan noted a lack of clear criteria for identifying "persons of responsibility and status." Sutherland's definition of white-collar crime is the most disputed. Sutherland's intention appears to have been to avoid prosecution for offenses other than white-collar crimes. The definition's use of "high social status" creates confusion as it has a narrower connotation than is commonly understood. Sutherland did not adhere to this definition, instead included thefts and frauds done by middle or even lower middle-class workers within the course of their employment or labor. Critics argue that such crimes should be referred to as "occupational crimes" rather than "white-collar crime." It is further stated that the most crucial factor in defining white-collar crime is not the individual's socio-economic level, but rather the sort of crime committed and the circumstances surrounding its conduct. These often involve theft, fraudulent accounting, bribery, embezzlement, and so forth. Sutherland, on the other hand, advocates the specific method of trial for white collar criminals by administrative authorities on the grounds that it will shelter the offender from the stigma of criminal prosecution. One criticism of the notion of white-collar crime is that it does not always need mens rea, a necessary component of a crime. The common law notion of mens rea does not apply to statutory offenses in India, and the necessity of a guilty mind may be omitted either directly or implicitly in such situations.⁴

Conclusion

White-collar crimes are crimes that undermine the overall economy of the country. It undermines the country's economy through bank fraud, economic theft, tax evasion, and so on. It has a detrimental influence on society in addition to affecting a country's or individual's financial situation. Crimes like bribery, corruption, and money laundering have a detrimental impact on society. There is no clear definition of white-collar crime under Indian law. The government should not be lax in dealing with these socio-economic crimes. Penalties for white-collar crime should be harsher since strong penalties can significantly reduce these crimes. If

³ *Ibid.*

⁴ Prof. J. P. S. Sirohi, *Criminology and Penology* 234 (Allahabad Law Agency, Delhi, 7th edn., 2014).

the offense is particularly serious, the sentence may be increased to life imprisonment. People are unaware of most of these crimes; hence public awareness must be raised through various means of communication. The government should enforce strong restrictions addressing economic thievery in the country.