
WHITE COLLAR CRIMES IN INDIA

Ms. G Vinaya, Assistant Professor, School of Law, Sathyabama Institute of Science & Technology, Chennai

ABSTRACT

White collar crimes are a recent development in India. Usually, crimes are associated with people from low background because they are the people who desperately needs money. But the concept of white-collar crimes proved this wrong. White collar crimes are committed by those people who are in the positions of power and trust, in the course of their occupation. These are different from the day-to-day crimes as they impact the socio-economic conditions of the society in a very adverse manner. This paper analyses the concept, nature, causes and types of white-collar crimes. Further the paper discusses the white-collar crimes involved in the various professions like medical, engineering, educational and legal. Lastly the paper elaborates on the laws in India to prevent white-collar crimes and a few scams that happened in India

INTRODUCTION

In criminal science, white collar crime is a relatively recent development. While some of these crimes, including bribery and other corrupt practices, were prevalent in western nations like the United States, Europe, and Britain since their founding, they were also prevalent in India during the Hindu and Muslim periods. Nonetheless, research led by the late Professor Edwin Sutherland produced the findings of the current study on white collar crime. The phrase "white-collar crime" was first used by criminologist and sociologist Edwin Sutherland in the 1930s. He created the term "persons of respectability" to characterize the types of crimes typically perpetrated by people who are thought to have a high social position.

In 1940–1950, he released his seminal research on white-collar crimes perpetrated by seventy of the largest private companies in the United States. The study demonstrated the extent to which people of high social position, reputation, and status were engaging in anti-social behavior while pursuing their careers in America. Before Sutherland popularized the term "white-collar crime," it was widely believed that individuals of the upper classes of society were mostly not capable of indulging in such illegal conduct. When Sutherland first wrote a book about it, the concept was so ingrained in American culture that some of the biggest corporations were effective in their attempts to have the book mostly buried.¹

DEFINITION OF WHITE-COLLAR CRIMES

Prof. H Edwin Sutherland defined White-Collar Crimes as:

“A crime committed by a person of responsibility and high Social Status in the course of his occupation”. This definition of White-Collar Crimes has 5 attributes.

1. It is a crime,
2. Committed by a person of respectability,
3. Of high Social Status,

¹ Moin Aftab and Irshad Ali, “Understanding the Underbelly: The Evolution and impact of white-collar crime in India” 29 *IOSR Journal of Humanities and Social Sciences* 4 (2024)

4. In the course of his profession or occupation,
5. It is usually a violation of a trust.²

NATURE OF WHITE-COLLAR CRIMES

"A legal infringement that is likely to be followed by criminal action which may result in punishment" constitutes a crime or offence. The violation of the criminal law is the distinguishing feature of criminal activity. There are two opposing viewpoints about what constitutes white collar crime. One perspective holds that white collar crimes are "crimes" in the true sense, whereas the opposing viewpoint casts doubt on the criminality of white-collar crimes. Proponents of excluding white collar crimes from the definition of "crimes" contend that the majority of white-collar laws are administrative in nature, have a regulatory philosophy rather than a criminal one, and are primarily targeted at our society's business and professional classes. The majority of the statutes pertaining to white collar crimes are mostly administrative in character. The relevant authority has the authority to determine whether or not criminal action has to be taken. Because it violates the criminal code, it is legitimate in being examined under the field of criminology.³

White collar crimes are distinct from traditional crimes in five areas namely origin, determination of responsibility, philosophy, enforcement and trial procedure and sanctions. The primary point of argument is that although some believe these crimes are "criminal" in character, others believe they are "civil." For the same offence, the majority of white-collar crime statutes provide both criminal and civil penalties. Consequently, the multiplicity of remedies available to enforce white collar offences is the cause of this confusion. The only distinction is the legal process in civil and criminal ones.⁴

Numerous offenses, such as negligence, defamation, trespassing, etc are prosecuted under the Indian Penal Code, 1860, as well as the tort law. While criminal matters must be prosecuted by the Criminal Procedure Code, 1973, tort cases are handled following the rules of the Civil Procedure Code, 1908. The idea that civil law deals with offenders and so renders white collar crime less criminal is significantly undermined if certain illegal behaviors are handled by tort

² Joyshri Maity, "White Collar Crime in India and its Effect in the Society: A Critical Study", 8 *International Journal of Creative Research Thoughts* 2174 (2020)

³ *Id.*

⁴ *Id.*

law instead of criminal law due to administrative or traditional reasons. Therefore, there is no excuse in the modern world for not handling white-collar crime as a real crime, especially now when it has reached unprecedented heights.⁵

CAUSES OF WHITE-COLLAR CRIMES

The commonly held belief is that white collar crimes are committed due to either greed or economic instability. However, these crimes can also be a result of situational pressure or the innate desire to acquire more than others. Nonetheless, multiple factors contribute to white collar crimes namely

1. Competition

The main strategy used to counter market rivalry is called "survival of the fittest." According to this theory, competition between people will always exist in societies, and the people who are able to adjust to their environment the best will be the ones who survive. The same drive drives white-collar crimes as well, since success may be attained by any means, including forging documents, fraud, and entering into fictitious marriages. These people frequently receive recognition and advancement inside their companies for producing extraordinary short-term earnings. To improve their performance in comparison to others, some people are even reluctant to amend the current laws. The people who commit these crimes think that there is a greater hierarchy and smaller globe, and they also think that the damages they suffer are substantial.⁶

2. Access to Information

On their computers and cellphones, anyone can access private information such as passwords, bank account numbers, and other details. Criminals may choose to use this information for personal advantage. Numerous white-collar burglars may target affluent people or establishments like casinos, financial institutions, and hotels where substantial sums of money are routinely exchanged. Therefore, utilizing access codes,

⁵*Supra* note 2 at 2178

⁶ *Id.*

retinal images, and other information, hackers can easily fool biometric systems, then alter that information to their own advantage.⁷

3. Technological Progress

As technology has advanced, white-collar crimes have expanded globally and are also rising quickly in India. This problem has been exacerbated by the increasing use of cell phones and personal computers, which not only help generate new ideas but also make it possible for people to obtain these ideas from anywhere in the world.⁸

4. Lack of awareness

People's ignorance is another major factor in white collar crime. even though they are the most severe victims of crime, people hardly ever comprehend the nature of this type of crime because it is not like ordinary crimes. The public at large doesn't help the government bring these perpetrators to justice.⁹

TYPES OF WHITE-COLLAR CRIMES

1. Tax Evasion

Evading taxes is a necessary aid for hoodlums handling large sums of money. The money must be transferred via several accounts before being used for legitimate enterprises. There, it is included in the income and is no longer associated with any illegal conduct.¹⁰

2. Identity theft and hacking

These two are the common type of crimes related to computers. Hacker is the who exploits the details of programmable systems and knows how to utilize their capacity. These people may steal data affecting the websites and e-mails thereby completely

⁷ Paras Kaushik, Yashika, Himanshu, "White Collar Crimes in India: A thorough study", 4 *International Research Journal of Modernization in Engineering Technology and Science* 702 (2022)

⁸ *Id*

⁹ *Id*

¹⁰ Harkunwarjot Singh, Ankit Kaur, 'White Collar Crimes in India: A Setback for Progressive Nation Building' 6 *Journal of Positive School Psychology*, 3549 (2022)

destroying the entire business. They also steal the identity of other people in committing these crimes.

3. Insider trading

Insider trading is the act of trading on the financial markets while in possession of material, confidential information that provides the trader with an advantage. These insiders' exchanges of the company's own shares in light of significant confidential information are seen as dishonest since the individuals involved are abusing their duty as trustees to the investors. Insider trading has increased dramatically in the recent past. The issue of administrative adequacy is frequently addressed when insiders get access to confidential information by engaging in insider trading.¹¹

4. Counterfeiting

It is the act of counterfeiting real objects, such as money and coins. To stop counterfeiting, we need to add more vivid details to our currency. It was practically too simple to even contemplate reproducing the old cash using the modern PCs and cutting-edge laser printers. The effectiveness of government initiatives in this field is, nevertheless, a topic of significant disagreement.¹²

5. Embezzlement

Larceny is another name for the theft violation known as embezzlement. An employee taking a few bucks out of a cash drawer or an intricate scheme to move millions of dollars from the organization's accounts to the embezzler's bank are examples of embezzlement.¹³

WHITE-COLLAR CRIMES IN PROFESSIONS

1. MEDICAL PROFESSION

In India, middle class transgressions are so pervasive that they don't confine themselves

¹¹ Supra note 10 at 3551

¹² *Id*

¹³ *Id*

to the boundaries of the law. Analogous sorrowful situations can also be found in other professions, such as those of doctors, engineers, educators, financial advisors, legislators, and so forth. Clinical specialists are frequently found to be involved in the issuance of fictitious endorsements, the completion of illegal fetal removals, the selling of example pharmaceuticals and medication, and occasionally even the prescription of contaminated medication to patients.

The advancement of medical science and the emergence of super specialty hospitals further accelerated the rate of criminality in the medical profession. Issue of false medical certificates, purposely prolonging the treatment with an ulterior motive for money, secret services to criminals for their acquittal, quack doctors practicing as experts, and administering medicines without the knowledge of their effect on the patient are some of the white-collar crimes committed by them. They frequently use tardy techniques when treating their patients, even if the patient has excellent practice, to earn a significant amount of money.¹⁴

2. ENGINEERING PROFESSION

When it comes to the architect's role in white-collar crimes, we frequently find instances of dishonest project management, provider mismanagement, passing off substandard work, and support for false reports of our lab's operations. They can obtain more money from the project workers for their subpar jobs than they can for their certified work. In this way, a tremendous number of them gamble dangerously with a great number of people's lives out of an ever-growing need to acquire.¹⁵

Early collapse of buildings, bridges, and other structures is a clear indicator of white-collar crime in the engineering field. Using dishonest tactics to secure contracts for suppliers and contractors, demonstrating negligence in the use of inferior building materials, and fabricating documentation to commit fraud are only a few instances of white-collar crime in the engineering field.¹⁶

¹⁴ Dr. Rega Surya Rao, '*Lectures on Criminology, Penology & Victimology*' 50 (Gogia Law Agency, 1st edn, 2021)

¹⁵ *Id*

¹⁶ *Supra* note 14 at 51

3. EDUCATIONAL INSTITUTIONS

It would be most appropriate to say educational industry rather than educational institution. The recent past witnessed a mushroom growth of education institutions right from primary school education to higher education. The mushroom growth of engineering and medical colleges has extended to almost all states in India. Whether the education institution is aided or unaided white-collar criminality is inevitable. In government-aided institutions, fake and bogus enrollment of students, payment of meager salaries to staff against the signatures for full salary, misappropriation of government funds and student scholarships, etc are instances of white-collar criminality. In unaided institutions collection of donations, building funds, denial of merit in the allotment of seats and selection of staff, violation of government rules regulations etc happens.¹⁷

The issue relates to middle class misdeeds; educational foundations are encouraged to work in the association without fear of repercussions. Private foundations play a nastier role because they are less concerned with providing training but only focusses in making money at the detriment of the future of the children. In fact, many institutions even employ rackets to force students to appear for exams based on falsified qualification certifications, undermining the standard of education in India.¹⁸

4. LEGAL PROFESSION

Legal Profession is considered as a noble profession. But presently it is looked up with less respect for a variety of reasons namely:

- Deteriorating standard of legal education.
- Violation of professional ethics by both the members of Bar and Bench.
- Mushroom growth of law colleges throughout the country.

Aiding and advising organized criminal gangs, preparing false and fabricated

¹⁷ *Supra* note 14 at 52

¹⁸ *Id*

claims and evidences, delaying litigation by colluding with the opposite parties, violating all the norms of legal profession are some of the common white-collar crimes in the legal profession.¹⁹

EFFECTS OF WHITE-COLLAR CRIMES

1. Bankruptcy and Unemployment

Usually, the white-collar criminals are highly reputed and ranked professionals from a company. When they involve in these kinds of crimes, it severely affects the business of the company and ultimately results in liquidation process and bankruptcy. This may result in the collapsing or taking over of the company by another company. This will result in unemployment of the employees who are dependent on the company due to lay-off.²⁰

2. Loss of government revenue

One of the major outcomes of these crimes is the loss of lumpsum amount that would otherwise be credited to the government fund which in turn could be used for the development of the country. Even though the exact amount due is not known, the biggest scams in India like the Satyam Computers Scam (2008) worth ₹14,000 crores, Saradha chit fund case (2013) worth ₹ 20,000 crores, 2G spectrum scam (2007) worth ₹176,000 crores, Commonwealth games scam (2010) worth ₹35,000 crores, Telgi Scam (2003) worth ₹20,000 crores, Harshad Mehta Securities Scam (1992) worth ₹5000 crores etc definitely throws light on this fact.²¹

3. Financial Instability

It is usually the poor and middle class who become victim of these crimes. They will be either the employees of these companies or may be a trustworthy follower of this criminal without knowing the reality especially in cases like Ponzi Investment Schemes. When these criminals go away after committing the crime, it is this poor people who suffer losses and may lose their hard-earned savings as well as get falsely

¹⁹ *Id*

²⁰ *Supra* note 14 at 53

²¹ *Id*

accused in the case. This will affect not only their financial matters but also their family lives.²²

LAWS AGAINST WHITE COLLAR CRIMES

The Indian Government have implemented various enactments to prevent White Collar Crimes. They are as follows:-

1. Central Excise and Salt Act, 1944
2. Companies Act, 2013
3. Drugs and Customs Act, 1940
4. Emblems and Names (Prevention of improper use) Act, 1950
5. Essential Commodities Act, 1955
6. Foreign Corrupt practice Act, Foreign exchange regulation, forward contracts (regulation act, 1952)
7. Income Tax Act 1961
8. Narcotic Drugs & Psychotropic Substance Act, 1985
9. Prevention of Corruption Act, 1988
10. Prevention of Food Adulteration Act, 1954
11. The Anti-corruption Laws (Amendment) Act, 1961
12. the Anti-corruption Laws (Amendment) Act, 1967
13. The Central Vigilance Commission Act, 2003
14. The Custom Act, 1962

²² *Supra* note 14 at 54

15. The Import and Exports Control Act 1947

16. The Foreign Exchange Management Act, 1991

SCAMS IN INDIA

1. Saradha Chit Fund Case

After this fraud was discovered, hundreds of people from lower socioeconomic backgrounds ended their own lives. The Saradha Chit Fund, which originated in Bengali, was a Ponzi scheme that earned it the nickname "Bonzi." A Trade Brains investigation revealed that Sudipto Sen, the program's creator, lured rural investors into the scam with promises of enormous returns and a dash of religion through "Saradha"—One of the most revered saints in Bengal, Ramakrishna Paramahansa, was married to Sarada Devi. The organization raised an incredible 300 billion rupees from one million investors before collapsing. In addition, some of the most credulous celebrities in the film industry gave the group high-profile endorsements. Sen used the money to support his local football teams, many TV news programs, and small-town films.²³

Sen generously supported political heavyweights to quell the concerns of aggrieved investors. In the process, Saradha created over 200 companies as a means of creating shell companies to deflect SBI's investigation. Sen and his associates faced several consequences, one of which was a securities market suspension imposed by SEBI until all reimbursements were received. Sen departed after confessing to the CBI about his wrongdoings, and other FIRs were then lodged against him. CM Mamata Banerjee announced a \$7 million relief fund for resentful low-income depositors, and a SIT started an ongoing inquiry. As of 2021, Trade Brains reports that Sen possesses 98 unresolved claims.²⁴

2. Suresh Chandrasekhar Fraud

Suresh Chandrasekhar became well-known for his seemingly opulent lifestyle after pulling off several scams. The current home minister, Amit Shah, was one of the

²³ *Supra* note 7 at 704

²⁴ *Id*

government figures that Sukesh, a dropout, exploited to con unsuspecting parties out of millions of rupees. His name was also associated with the Bollywood actresses Jacqueline Fernandes and Nora Fatehi, whom he showered with expensive cars, designer handbags, and racehorses. Recent sources claim that Sukesh helped AIADMK deputy general secretary TTV Dhinakaran secure a favorable position with the election commission. The Delhi Police Crime Branch first apprehended Sukesh and Dhinakaran in 2017 in relation to the election commission bribery case, and the inquiry is still ongoing. He is said to have defrauded around 200 crore rupees.²⁵

3. Satyam Scandal

The most remarkable method was used to expose the Satyam scandal, which is without a doubt one of the biggest accounting scams in our nation. In 2009, B Ramalingam Raju of Satyam Computers acknowledged in a testimony published in the Times of India that he had forged his books. The 14,000-crore fraud, as reported by Lego Desk, made the bad recession of 2009 worse. SEBI launched a crackdown on Raju and his friends, accusing them of financial fraud, insider trading, along with other major financial scams. A Lego Desk report states that SEBI sentenced the guilty to pay 3000 crore rupees in 45 days and barred them from the securities markets for 14 years.²⁶

4. Harshad Mehta Scam

The most well-known instance of white-collar crime that has been given is the Harshad Mehta Scam. The life and times of Bombay's most famous stockbroker and businessman, Harshad Mehta, are immortalized in the movie "Scam 1992." In Mumbai's trading scene, Mehta was well-known, and there were rumors that he was manipulating stock prices, causing share prices to spike. Mehta allegedly used deceit to earn somewhat more than 5000 crore rupees, as reported by Lego Desk. Thanks to her superb research, prominent financial journalist Sucheta Dalal was able to finally uncover the scam. Mehta took advantage of inherent systemic vulnerabilities, making his conduct more immoral than illegal. Following the discovery of this fraud, the SEBI

²⁵ *Supra* note 7 at 705

²⁶ *Supra* note 7 at 708

significantly amended market laws and regulations. Lego Desk claims that Mehta's efforts resulted in panic sales.²⁷

5. Sahara India Real Estate Corporation Ltd. (SIRECL) and the Sahara Housing Investment Corporation Ltd. (SHICL) vs. SEBI²⁸

In order to combine SIRECL and SHICL, the company first issued a fully convertible debenture in the amount of Rs 24,400 crores in 2008 and 2009. The agreement was reached with partners, various organizations, laborers/representatives and others related/associated or associated in any way with Sahara India Group of Companies.²⁹ However, the total number of individuals was over 2.21 crores, and the addresses of these investors were not clearly visible. Undoubtedly, a debenture was issued and no bogus account was formed; as a result, the debenture was delivered to the innocent investors. But finally, on August 31, 2012, the Honorable Supreme Court delivered the decision against Sahara and ordered the two organizations stated earlier to give the collected amount.

CONCLUSION

White-collar crimes are those that negatively impact the nation's economy collectively. Bank fraud, economic theft, tax evasion, and other issues threaten the nation's economy. It has a detrimental effect on society and a nation's or individual's financial situation. The different crimes, such money laundering, corruption, and bribery, have a detrimental impact on society. To reduce the risk of white-collar crimes, the Indian government is implementing several measures, including the Prevention of Money Laundering Act of 2002, the Income Tax Act of 1961, and the Information Technology Act of 2005. Notwithstanding the implications of these regulations, white-collar crime in India is nevertheless significantly on the rise. Previous studies have also noted that the introduction of efficient laws and regulations by a nation's government can readily curb the rising incidence of white-collar crime.³⁰

Establishing an efficient tax system can also lower the rate of tax evasion, which can readily assist a nation in undermining the rise in white collar crime. To promote India's growth, the

²⁷ *Id*

²⁸ AIR 2012 SC 3829, 2012(10) SCC 603

²⁹ *Id*

³⁰ *Supra* note 10 at 3552

Indian government must be effective in undermining the threat posed by white-collar crime. The notion that there is less public worry about such white-collar crimes has resulted in less backing for severe penalties than in the cases of conventional criminal acts. Even though the public's opinion of white-collar crimes is more mixed than that of traditional crimes, writers like Box have seen this as a further barrier to their attempts to inform the public about the significance of not viewing the procedures through which they become victims of crimes as mishaps or tragedies.³¹

³¹ *Id*