

Study on the Concept of White-Collar Crimes in India: Trends and Consequences

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Abstract: *White collar crime, often cloaked in the guise of sophistication and business acumen, undermines the very fabric of trust that binds our society together. It operates in the boardrooms and executive suites, where individuals wielding power and influence exploit loopholes and manipulate systems for personal gain. From embezzlement and insider trading to corporate fraud and money laundering, these offenses leave a trail of financial devastation and shattered lives in their wake. Despite their non-violent nature, the repercussions of white-collar crimes can be just as devastating, eroding confidence in institutions and corroding the foundation of integrity upon which our economic systems rely. As we strive for accountability and justice, shedding light on the intricate web of deceit woven by white collar criminals is essential in safeguarding the integrity of our financial systems and restoring trust in the pursuit of a fair and just society.*

Keywords: crime, corporate, offence, complaint, victim white- and blue-collar crime

I. INTRODUCTION

Government-owned firms and privately held firms make up the bulk of India's corporate sector. Growth in both numbers and capital for both components has been rapid since 1970s, notably since the beginning of that decade. Unlike the private sector, which focuses mostly on products that are sold directly to consumers, government-owned corporations are found primarily in businesses that require a lot of raw materials, heavy equipment, and large amounts of cash.¹

Indian businesses are at the beginning of an economic revolution. As a result of one of the many trade-friendly policies and tax reforms, India has become one of the most attractive investment destinations in the world. Global Competitiveness Index: India has leapt 32 ranks in the last two years, now occupying a position of 39th in the rankings. BRICS (Brazil, Russia, India, China, and South Africa) peers, it ranks second only to China, which is ranked 28th. This year's Global Investment Report by the United Nations Conference on Trade and Development shows that India received \$83 billion in foreign direct investment (FDI) inflows in 2020, up from \$35 billion in 2014.²

Profit is king in the business world. In order to make money, some people conduct crimes such as tax evasion, insider trading, fraud, bribery, etc. People in the corporate sector are compelled to commit 'committee crimes' because of their desire to make money. Corporate crimes are those committed by corporations. Corporations are guilty of all socioeconomic offences. In some circles, these offences are referred to as "White Collar Crimes."

E.H. Sutherland first proposed the idea of white-collar crime in 1941. In addition to classic crimes like assault, robbery, dacoity, murder, rape, kidnapping, and other violent acts, Sutherland argues that people in positions of power engage in anti-social behavior as part of their work or business. When Sutherland uses the term "upper strata," he is referring to both individuals and corporations.³

¹ M.L. Benson & S.S. Simpson, *Understanding White-Collar Crime: An Opportunity Perspective*, New York: Routledge (2015).

² *Ibid.*

³ H. Croall, *Who Is the White-Collar Criminal?* *The British Journal of Criminology*, 29(2), 157-174 (1989)

Most emerging countries, where the level of corruption in public life is at an all-time high, have also seen a rise in white collar crime. Government officials, from the lowest to the highest levels, are routinely accused of committing a variety of criminal acts. Among the most frequently reported cases in Indian media are those involving bank scams, Hawala fraud, computer-generated crimes, electronic banking crimes, corporate fraud, counterfeiting coins and currency, doctors and drug companies cheating, business corruption, black money, the misappropriation of government funds, and match fixing, among other things.

II. HISTORICAL BACKGROUND

White collar crime has roots as deep as human civilization itself. Throughout history, as societies have developed complex economic systems and institutions, opportunities for exploitation and fraud have emerged alongside them. Even in ancient civilizations like Mesopotamia, Egypt, and Rome, records indicate instances of financial fraud, bribery, and corruption among those in positions of power and influence. In medieval Europe, with the rise of trade guilds and early forms of banking, fraudulent practices such as counterfeiting coins, falsifying records, and engaging in deceptive trade became prevalent. The Medici banking scandal of the 15th century in Florence, for example, involved accusations of usury and fraudulent accounting practices, highlighting the dangers inherent in the financial dealings of the time. During the Renaissance, as commerce flourished and international trade expanded, so too did opportunities for white collar crime. The Dutch Tulip Mania of the 17th century is a famous example of speculative excess and market manipulation, where the value of tulip bulbs soared to exorbitant levels before crashing dramatically, leaving many investors ruined.

III. CONCEPT OF WHITE-COLLAR CRIME

After doing study on white-collar crimes, we can come on this conclusion that these crimes are tied to the social structure of modern societies. When a person believes that society views him as a criminal as well as he himself, then we might call that person a criminal. White-Collar Crime, in particular, can elicit strong feelings since it is not directly linked to material deprivation or the social and psychological make-up of the individual offender. For the average person, the notion of crime is restricted to its more obvious manifestations, such as homicide, rape, theft, and so on, all of which have a tendency to dramatically disrupt the placid seas of human emotions. But to think of criminal activity as nothing more than an inhuman act of murder, rape, or burglary is analogous to considering mussels as only another skin imperfection. These types of criminal behavior, which are variously termed as standard, conventional, or classic street crime, do not adequately represent the expansive scope of criminal activity. This is because crime is a subject that encompasses not only the street crimes but also economic crimes, occupational crimes, corporate crimes, and crimes in corporate sectors. But white-collar crime has been there for as long as there has been immorality in society; however, up until very recently, it was not recognized as a kind of criminality or a societal ill on par with criminality.⁴

IV. ANALYSIS OF WHITE-COLLAR CRIME

Due to the British rulers draining India's natural resources, a huge portion of the country's natural resources are now being used in commercial schemes like common wealth, Coalgate, and Vyapam scam. Those who are greedy for more money than they earn are not satisfied by their earnings. Their crimes include unlawful contract, combination, unfair labor practices and illegal commercial operations such as food and drug adulteration, as well as bribing government officials. They are considered corporate criminals. A variety of crimes are committed while hiding behind the corporate veil. These types of fraud, which can subsequently be exposed as large schemes, are quite sophisticated in terms of technology. Nobody can point the blame at the businessman since it was well arranged. These scams have major consequences for national security and governance, as well as for export and import regulations.

In Indian Penal Code, to keep pace with a constantly evolving society, the law has developed. Law must create its own jurisprudence by developing new principles and establishing new norms to address issues that occur in a constantly

⁴ Stuart P. Green, *Lying, Cheating, and Stealing: A Moral Theory of White-Collar Crime* Oxford: Oxford University Press (2006).

changing world. Criminal activity in the context of continually changing social, political, religious, and economic interactions necessitates many of the laws addressing white collar crime.

In *Tay ChooWahvs Public Prosecutor*⁵, the appellant served as a director of a corporation having 3000 shares held by that company in another firm. As soon as the shares were worth far more than the par value, the director sold them to members of his family at the par value they were originally purchased for.⁶ As a director and agent of the corporation, the appellant in this case received and sold shares. He was found guilty of violating this clause by fraudulently disposing of the stock. For even a little period of time, a firm can be held liable for misusing its funds. It's dishonesty on the part of the cheater. If someone is tricked, the deceiver is obligated to act in their best interest. It's possible that any item is altered or destroyed due of the deceiver. Amend the code to better protect victims, especially those who are the victims of white-collar crime. In order to maintain the integrity of our financial system and to ensure the safety of our customers, we need to eliminate the legal ambiguity that these crimes provide. Major crimes including bank fraud, ATM fraud, and internet and technology fraud are on the rise, and the perpetrators may be from India or cross-border.

In 1868, the Indian Penal Code became law. The code is out of date and does not meet the demands of today's technologically advanced world. Person and property crimes are the most frequent in code. The provisions relating to white collar crimes found in different special legislation do not apply to offences not specified in the Indian Penal Code. Crimes in the Indian Penal Code are conceptually and substantively distinct from white-collar crimes in the corporate sector. Other statutory statutes have codes that are substantially different from those of this one. As a general rule, the codes list and define all offences against society and the state. Law is not a constant. White collar crimes and socioeconomic crimes should be included in the Indian Penal Code, however it's not a simple undertaking. Only one chapter will be added if it is done with great care. It's impossible to put this into practice in an efficient manner.

In Companies Law, Section 469 (1) of the Company Act 2013 has been enacted, and the rules have been issued by the Minister of Corporate Affairs as a result. The Serious Fraud Investigation Office was formed by the Government of India in accordance with the Companies Act 2013. Experts in the fields of accounting, forensic accounting, and information technology work together in this multidisciplinary unit to uncover and prosecute white-collar crimes. In the event of an arrest, the Director's written authorization must be requested.⁷ Companies Act Section 182 (1) requires a Board of Directors meeting decision sanctioning such a donation. Section 182 (3) mandates that the amount and the name of the political party be included in the company's profit and loss account. In the event of a violation of the section's requirements, the company's officers might face a punishment of up to five times what they donated, as well as up to six months in jail and a fine of up to five times what they gave.⁸ Amendments to the Companies Act 2017 (No. 1 of 2018). The definition of investing company, the definition of subsidiary company, the definition of associate company, and the definition of Investment Company have all been revised. According to the Companies Act, a company's "substantial influence" is defined under section 2(6). A corporation's chief officers and directors are in charge of overseeing operations and formulating strategic plans. Shareholders aren't required to have any of those. Conflicts of interest develop as a result of the division between ownership and management.

V. OBSERVATIONS OF RESEARCH

The goal of statutory legislation is very necessary to act on offender (authorized person in corporate) under specified laws. It should be appropriately defined and offender appropriately punished. No tolerance should be essential in favors of corporate crooks as it is detrimental to all society.

⁵ 1976 SLR(R) 725

⁶ Ahmar Afaq & Rupal Chhaya, *White Collar Crimes and its Impact on Indian Society*, <https://ssrn.com/abstract=3990855>

⁷ Companies Rules 2017, r 2(1)

⁸ Sarasu Esther Thomas and Vivek G Menon, *White Collar Crimes with specific reference to Section 630, Indian Companies Act, 1956* 5 Student Adv (1993) 45

The type of punishment, method, trial should need to be revised. The trial must be swift without delays, summary trial and the severe regulatory rules and drastic punishment for white collar criminals in business sectors may be help in reducing the crime rate.⁹

The New criminal law must diverge from previous paradigm of fundamental component to prove crimes. Which make assumption and favored interpretation of clauses of special acts since old theory is benefitting to corporate sector offenders and undermining criminal laws goal and purpose to ensure continued harmony and health and prosperity of a nation.

VI. CONCLUSION

Because of the scientific and industrial revolutions, crime has increased. There has been a shift in the types of crime and the way it is seen. The socioeconomic elements of India have been impacted by these acts. These crimes have come to progressively dominate contemporary Indian culture. Indian white-collar crime is aided by technological advancements. In India, these kinds of financial crimes are all too common.¹⁰ Socioeconomic crime (white collar) is on the rise as a result of the growth in industrial and commercial activity. As result, the populace is ill-informed. When companies commit crimes, they damage their own reputations as well as the country's economy.¹¹

White collar criminals in the corporate sector are guilty of breaking a variety of laws. A larger threat to national security and society as a whole is posed by these crimes and offenders than by more traditional kinds of criminality.¹² Individuals and organizations do illegal behaviors in order to avoid paying or losing money or to obtain access to fraudulent financial services. It was found by the Supreme Court in the case of State of Gujarat vs. MohanalJitamlijiParwal 1 that the country has seen an alarming surge in White Collar Crimes in recent years, which affected the country's economic systems. A broader view of the impact of White-Collar Crime on the nation's health and wealth is long overdue. These crimes need more harsh measures in order to defend the country's fabric and potentially its very survival. Preventive care is always preferable than curative treatment when it comes to one's health. Public trust and faith in these self-serving individuals and corporations is being defrauded by the activities of these self-centered individuals and corporations.¹³

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⁹ S. Wheeler, D. Weisband, E. Waning, N. Bode, *White-collar crime and criminals*, American criminal law review, 25(2) 1988

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¹¹ Tara. N, *Nepotism: An Eradicator of Meritocracy* (2017) Retrieved from <https://courtingthelaw.com/2017/07/07/commentary/nepotism-an-eradicator-of-meritocracy/>

¹² *Supra Note 158*

¹³ Crime and punishment, (2012) <https://www.bbc.co.uk/bitesize/guides/znhf9j6/revision>