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From Diamonds to Deception: Exploring Money Laundering as a White-Collar Crime through a Criminological Analysis of the Nirav Modi Scam

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ABSTRACT

This article examines the concept of white-collar crime through the lens of the high-profile Nirav Modi fraud case in India. It delves into the theoretical underpinnings of white-collar crime, tracing its origins to Edwin Sutherland's seminal work and exploring its manifestations in corporate and occupational contexts. The intricate dynamics of money laundering, a prevalent facet of white-collar criminality, are also scrutinized. The article dissects the modus operandi of the Nirav Modi scam, shedding light on the collusion between bank employees and Modi's companies to defraud Punjab National Bank of nearly \$1.8 billion through unauthorized bank guarantees. Employing the Fraud Triangle and Fraud Diamond theories, it probes the motives, opportunities, and rationalizations that enabled this audacious fraud. Furthermore, the far-reaching aftermath of the scandal is examined, spanning stock market turmoil, regulatory reforms, and legislative developments in the Prevention of Money Laundering Act. Finally, the article explores criminological perspectives on white-collar crime prevention, underscoring the need for a multifaceted approach encompassing victim education, deterrence, and stringent oversight measures.

Keywords: *White Collar Crime, Money Laundering, Fraud Triangle Theory.*

I. INTRODUCTION

In the corridors of power and privilege, a silent menace lurks - white-collar crime. A far cry from the stereotypical notions of criminality, this realm of corporate malpractice and financial treachery inflicts staggering losses on economies and erodes public trust. The Nirav Modi scam, a brazen \$1.8 billion heist perpetrated through unauthorized bank guarantees, serves as a sobering wake-up call. It exposed the vulnerabilities within India's financial system and the audacity of those who exploit them. This article dissects the intricate web of white-collar criminality, unraveling the motives, opportunities, and rationalizations that enable such transgressions. From the theoretical underpinnings of the Fraud Triangle to the legislative

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labyrinth of the Prevention of Money Laundering Act, every facet is scrutinized. The aftermath underscores the urgency for reform, prompting a clarion call for stringent oversight, victim empowerment, and an unwavering commitment to upholding ethical conduct. This exploration delves into the heart of a crime that threatens the very fabric of economic stability. **The Nirav Modi fraud case serves as a stark reminder of the pervasive nature of white-collar crime and the dire consequences it can unleash, necessitating a comprehensive overhaul of preventive strategies through legislative reforms, enhanced regulatory oversight, and a resolute commitment to upholding ethical conduct within the economic sphere.**

(A) Objectives

Objective 1: To understand the origins and evolution of white collar crime, and criminologically assess the Nirav Modi Scam.

Objective 2: To identify any inconsistencies or ambiguities within the existing legal framework surrounding money laundering and propose potential solutions or clarifications.

(B) Methodology

This research employs a doctrinal methodology to examine and analyse white collar crimes and attempts to provide a criminological examination of money laundering vis-à-vis the Nirav Modi Scam.

II. WHITE COLLAR CRIME: MEANING

In 1939, **Edwin Sutherland** introduced the term "White-Collar crime"² to challenge prevailing stereotypes associating criminal behaviour exclusively with lower socioeconomic classes. He defined it as unlawful acts committed by individuals of high social standing during their professional endeavours. Sutherland later refined this definition to encompass violations of criminal law by those in the upper echelons of society within their occupational and professional realms. He identified white-collar criminals as typically middle-aged individuals of respected status, residing in affluent neighbourhoods. Sutherland critiqued the prevailing perceptions of crime as misleading, stemming from biased samples and flawed understandings. The absence of a precise definition has led to diverse interpretations among criminologists, with disagreement over the significance of social status. White-collar crimes are often categorized as occupational or organizational offenses, yet their exact classification remains subject to

² Payne, Brian K. "Understanding White-Collar Crime Understanding White-Collar Crime: Definitions, Extent, and Consequences". *White-Collar Crime The Essentials*, 2, (2002): 38.

debate.³ **E.A. Ross** in the year 1907, defined “**criminaloid**”⁴ as-

The immunity enjoyed by the perpetrator of new sins has brought into being a class for which we may coin the term criminaloid. By this we designate such as prosper by flagitious practices which have not yet come under the effective ban of public opinion. Often, indeed, they are guilty in the eyes of the law; but since they are not culpable in the eyes of the public and in their own eyes, their spiritual attitude is not that of the criminal. The lawmaker may make their misdeeds crimes, but, so long as morality stands stock-still in the old tracks, they escape both punishment and ignominy.

Marshall Clinard and Richard Quinney, in 1973⁵ divided white-collar crime into two types: Corporate crime: illegal behaviours committed by employees of a corporation to benefit the corporation and occupational crime: violations of legal codes during activity in a legitimate occupation. **Ermann and Lundman**, in 1978⁶ defined "organizational deviance" as actions contrary to norms outside the organization but supported by internal operating norms of the organization. **Simon**, in 2006⁷ used the term "elite deviance" to refer to acts committed by persons from the highest social strata, some of which may be crimes. **Schrager and Short**, in 1978⁸ defined "organizational crime" as illegal acts by individuals in a formal organization, in accordance with the organization's goals, that have serious physical or economic impact. **Gary Green** in 1990⁹ defined "occupational crime" as any act punishable by law committed through opportunity created in the course of a legitimate occupation. White-collar crime in essence is "any violation of criminal, civil, or regulatory laws—or deviant, harmful, or unethical actions—committed during the course of employment in various occupational systems."¹⁰

³Upadhyay, Dr. Minal H. “White-Collar Crime in India”. *International Journal of Research in Humanities and Social Sciences*, 2, (2014): 1-5.

⁴ Small, A.W. (1908) 'Sin and Society: An Analysis of Latter-Day Iniquity. Edward Alsworth Ross,' *American Journal of Sociology*, 13(4), pp. 566–568. <https://doi.org/10.1086/211612>.

⁵ Payne, Brian K. “Understanding White-Collar Crime Understanding White-Collar Crime: Definitions, Extent, and Consequences”. *White-Collar Crime the Essentials*, 2, (2002): 38.

⁶ Payne, Brian K. “Understanding White-Collar Crime Understanding White-Collar Crime: Definitions, Extent, and Consequences”. *White-Collar Crime the Essentials*, 2, (2002): 38.

⁷ Payne, Brian K. “Understanding White-Collar Crime Understanding White-Collar Crime: Definitions, Extent, and Consequences”. *White-Collar Crime the Essentials*, 2, (2002): 38.

⁸ Payne, Brian K. “Understanding White-Collar Crime Understanding White-Collar Crime: Definitions, Extent, and Consequences”. *White-Collar Crime the Essentials*, 2, (2002): 38.

⁹ Payne, Brian K. “Understanding White-Collar Crime Understanding White-Collar Crime: Definitions, Extent, and Consequences”. *White-Collar Crime the Essentials*, 2, (2002): 38.

¹⁰ Payne, Brian K. “Understanding White-Collar Crime Understanding White-Collar Crime: Definitions, Extent, and Consequences”. *White-Collar Crime the Essentials*, 2, (2002): 38.

(A) Who are white collar offenders?¹¹

White Collar Offenders (WCOs) represent a diverse group with complex motivations influenced by demographic, socioeconomic, biological, forensic, mental health, and psychological factors. WCOs are typically characterized as white, male, older individuals with college degrees and stable employment. Socioeconomic status plays a significant role in white-collar crime (WCC), with upper-class individuals often motivated by self-interest, while lower-class individuals may engage in unethical behaviour to assist others in committing crimes. Legal sanctions for WCC offenders, particularly those with high financial resources, tend to be more lenient, potentially reducing their perceived risk of offending. Gender disparities are evident, with between 80% and 92% of WCOs being men.¹² Women who engage in WCC are more likely to be white, less educated, and tend to commit low-level offenses, often working alone. Opportunities for female WCC may be restricted by organizational hierarchies, but increasing female representation in higher positions could impact rates of WCC. Biological factors, such as genetics and hormonal influences, contribute to WCC. Studies suggest a genetic predisposition to rule-breaking behaviour, distinct from aggression. Hormonal factors like cortisol and testosterone may influence unethical behaviour, offering relief from psychological distress. Neurobiological research indicates differences in brain functioning between WCOs and other offenders, suggesting superior cognitive abilities among WCOs. Mental illness prevalence among WCOs is understudied, with assumptions that they are psychologically normal. Psychological explanations for WCC include low self-control, strain theory, rational choice theory, and social learning theory. WCOs may perceive their actions as non-criminal and use neutralization techniques to justify their behaviour. Leadership roles within organizations and subcultural norms can also influence WCC. Personality factors play a complex role in WCC, with conflicting findings regarding traits like conscientiousness and self-control.¹³ White-collar crimes frequently involve money laundering, where criminal groups disguise illicit funds through legitimate businesses. This complex process obscures the source of the money, posing challenges for law enforcement to detect and confiscate illegal assets. Money laundering fuels ongoing fraud and other criminal activities, perpetuating a cycle of deceit.¹⁴

¹¹ Clarkson, Rose, and Rajan Darjee. "White-Collar Crime: A Neglected Area in Forensic Psychiatry?". *Psychiatry, Psychology and Law*, 29, (2022): 927-932. <https://dx.doi.org/10.1080/13218719.2021.1995522>.

¹² Blickle, Gerhard, Alexander Schlegel, Pantaleon Fassbender, and Uwe Klein. "Some Personality Correlates of Business White-Collar Crime". *Applied Psychology*, 55, (2006): 220-233. <https://doi.org/10.1111/j.1464-0597.2006.00226.x>.

¹³ Clarkson, Rose, and Rajan Darjee. "White-Collar Crime: A Neglected Area in Forensic Psychiatry?". *Psychiatry, Psychology and Law*, 29, (2022): 927-932. <https://dx.doi.org/10.1080/13218719.2021.1995522>.

¹⁴ "Understanding White Collar Crime: Impact, Prevention, and Examples." November 17, 2023. Accessed March 18, 2024. <https://www.tookitaki.com/glossary/white-collar-crime>.

III. MONEY LAUNDERING- A TYPE OF WHITE COLLAR CRIME

Money laundering, as defined by the UN Vienna 1988 Convention Article 3.1, involves the conversion or transfer of property known to be derived from criminal activities. Its purpose is to conceal the illicit origin of the funds or assist individuals involved in the crime in evading legal consequences. The process of money laundering typically consists of three stages¹⁵:

Placement: This involves moving the illicit funds away from their direct association with the crime¹⁶.

Layering: Here, the trail of the funds is disguised to make it difficult to trace and investigate¹⁷.

Integration: The laundered money is then reintroduced into the financial system in a way that makes it appear legitimate and accessible to the criminal¹⁸.

One of the recent and biggest money laundering cases in India, was the PNB Scam or the Nirav Modi Scam.

IV. BROAD OUTLINE OF THE NIRAV MODI CASE

The Punjab National Bank fraud, perpetrated by diamond tycoon Nirav Modi and his associates, also known as the ‘Nirav Modi Scam’, unravelled in February 2018 when it was revealed that they had defrauded the bank of nearly \$1.8 billion. The modus operandi involved the collusion of senior PNB employees who issued unauthorized Letters of Undertaking (LoUs) – bank guarantees used in international trade – to Modi's companies without maintaining records or demanding collateral. These LoUs were then used to obtain credit from other Indian and foreign banks by bypassing the bank's core banking system and misusing the SWIFT messaging platform. The scam, which had been ongoing for over seven years, came to light when a new employee at PNB's Brady House branch in Mumbai demanded collateral for issuing fresh LoUs, prompting an investigation. The fraud had far-reaching consequences, impacting PNB's stock price, exposing several other banks to losses, and raising concerns about the credibility of public sector banks and regulatory oversight in India's financial system.¹⁹

¹⁵ “Money Laundering.” United Nations Office on Drugs and Crime. Accessed March 18, 2024. <https://www.unodc.org/unodc/en/money-laundering/overview.html>.

¹⁶ “Money Laundering.” United Nations Office on Drugs and Crime. Accessed March 18, 2024. <https://www.unodc.org/unodc/en/money-laundering/overview.html>.

¹⁷ “Money Laundering.” United Nations Office on Drugs and Crime. Accessed March 18, 2024. <https://www.unodc.org/unodc/en/money-laundering/overview.html>.

¹⁸ “Money Laundering.” United Nations Office on Drugs and Crime. Accessed March 18, 2024. <https://www.unodc.org/unodc/en/money-laundering/overview.html>.

¹⁹ Sehgal, Diganth Raj. “A detailed study on PNB scam - iPleaders.” IPleaders. December 31, 2020. Accessed March 18, 2024. <https://blog.ipleaders.in/detailed-study-pnb-scam/>.

(A) Possible Motive Of Modi- The Fraud Triangle Theory And The Fraud Diamond Theory

Fraud Triangle Theory (FTT)

The Fraud Triangle Theory, initially proposed by criminologist **Donald Cressey** in 1950, seeks to understand why individuals commit fraud by identifying three key elements: **pressure, opportunity, and rationalization.**

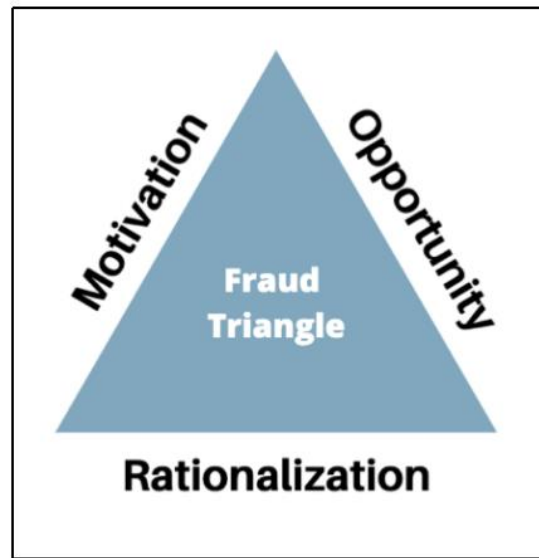


Figure 1: The Fraud Triangle²⁰

1. Pressure/Incentive/Motive

This element refers to the factors that drive individuals to engage in unethical behaviour, such as financial difficulties, personal problems, or external pressures like societal expectations.²¹ According to Pavan Lall, a senior business journalist who has authored the book, ‘Flawed, subtitled Rise and Fall of India's diamond mogul Nirav Modi’, it is evident that there was a serious intention to establish a luxury business, reflected in the marketing, design, and branding of Modi's products. However, the ultimate goal remains a curiosity. While an IPO and going public seemed to be part of the plan, the potential funds raised would not have covered the substantial debts owed to Punjab National Bank. This raises questions about the true endgame—whether it was merely an exit strategy or something else entirely. Speculation abounds, leaving the puzzle of Modi's intentions still unresolved.²²

²⁰ “Fraud Triangle Theory.” National Whistleblower Centre. Accessed March 21, 2024. <https://www.whistleblowers.org/fraud-triangle/>.

²¹ Rabi, and Noorhayati Mansor. “Fraud Triangle Theory and Fraud Diamond Theory. Understanding the Convergent and Divergent for Future Research”. International Journal of Academic Research in Accounting, Finance and Management Sciences, 5, (2015): 38-45. <http://dx.doi.org/10.6007/IJARAFMS/v5-i4/1823>.

²² “Secrets of Storytellers.” Secrets of Storytellers. Accessed March 18, 2024.

2. Opportunity

Opportunity arises when there are weaknesses in internal controls or governance systems that allow individuals to exploit the situation for fraudulent purposes. Factors contributing to opportunity include inadequate job division, weak internal controls, and irregular audits.²³ The PNB scandal highlights deficiencies in internal controls, allowing prolonged policy violations to go undetected for 7 years. It is incredulous that lower-level officers could execute such a major fraud without higher management's knowledge, indicating poor supervision. The fugitive had ample, rather created ample opportunity for such a fraud and faces ongoing criminal investigations with limited progress. The incident reflects poorly on banking compliance procedures, urging RBI to implement stricter measures to safeguard organizational integrity and prevent future abuses of the Core Banking System.²⁴

3. Rationalization

Rationalization involves justifying fraudulent behaviour to oneself, such as convincing oneself that the actions are acceptable or necessary. Examples include telling oneself "I was only borrowing the money" or "I deserve this because my employer mistreats me."²⁵ Pavan Lall continues to say that high-level fraud perpetrators are often driven not just by monetary gain, but also by the thrill of outsmarting authorities and the belief they won't get caught. It's about proving superiority and executing complex schemes. Despite achieving wealth and recognition, the adrenaline rush of evasion becomes addictive. This psychological aspect is common among fraudsters, also seen in Nirav Modi, leads them to continue despite having enough wealth and recognition.²⁶

These three elements interact to create a conducive environment for fraud to occur. When pressure, opportunity, and rationalization converge, individuals may be more likely to commit fraudulent acts.²⁷

<https://secretsofstorytellers.com/authors/flawed-the-rise-and-fall-of-nirav-modi-with-pavan-lall>.

²³ Rabi, and Noorhayati Mansor. "Fraud Triangle Theory and Fraud Diamond Theory. Understanding the Convergent and Divergent for Future Research". *International Journal of Academic Research in Accounting, Finance and Management Sciences*, 5, (2015): 38-45. <http://dx.doi.org/10.6007/IJARAFMS/v5-i4/1823>.

²⁴ Gupta, Dr. Chander Mohan, Shivam Kohli, and Monika Thakur. "Shadow Game or a Perfect Financial Crime: What Nirav Modi did to PNB". *International Research Journal of Humanities and Interdisciplinary Studies*, 2, (2021): 2-23. <chrome-extension://efaidnbmnmbpcajpcglclefindmkaj/https://irjhis.com/paper/IRJHIS2106017.pdf>.

²⁵ Rabi, and Noorhayati Mansor. "Fraud Triangle Theory and Fraud Diamond Theory. Understanding the Convergent and Divergent for Future Research". *International Journal of Academic Research in Accounting, Finance and Management Sciences*, 5, (2015): 38-45. <http://dx.doi.org/10.6007/IJARAFMS/v5-i4/1823>.

²⁶ "Secrets of Storytellers." *Secrets of Storytellers*. Accessed March 18, 2024. <https://secretsofstorytellers.com/authors/flawed-the-rise-and-fall-of-nirav-modi-with-pavan-lall>.

²⁷ Rabi, and Noorhayati Mansor. "Fraud Triangle Theory and Fraud Diamond Theory. Understanding the Convergent and Divergent for Future Research". *International Journal of Academic Research in Accounting,*

Fraud Diamond Theory (FDT)

The Fraud Diamond Theory, introduced by **Wolfe and Hermanson** in 2004, expands upon the Fraud Triangle Theory by adding a fourth element: **capability**. This theory posits that all four elements—pressure, opportunity, rationalization, and capability—must be present for fraud to occur. It defined capability as: referring to the skills, traits, and abilities necessary for individuals to commit fraud successfully. This includes intelligence, creativity, ego, coercion, deceit, and the ability to handle stress. The Fraud Diamond Theory suggests that while pressure, opportunity, and rationalization create the conditions for fraud, it is the presence of capability that enables individuals to recognize and exploit these conditions effectively.²⁸ Pavan Lall iterates that though Nirav Modi's uncle served as a mentor, but Mehul Choksi's direct involvement in Nirav's plans remains unproven. Senior executives at Nirav Modi Holding Company, previously called Firestar, managed operations and facilitated financial transactions across continents establishing capability of Nirav Modi to commit a fraud of massive scale.



Fig 2: The Fraud Diamond ²⁹

(B) Aftermath

The Nirav Modi PNB scam not only resulted in financial losses for investors and institutions but also prompted regulatory reforms to prevent similar incidents in the future. The Nirav Modi Punjab National Bank (PNB) scam had far-reaching impacts on various sectors, including the stock market, banking industry, jewellery sector, Life Insurance Corporation (LIC), credit

Finance and Management Sciences, 5, (2015): 38-45. <http://dx.doi.org/10.6007/IJARAFMS/v5-i4/1823>.

²⁸ Rabi, and Noorhayati Mansor. "Fraud Triangle Theory and Fraud Diamond Theory. Understanding the Convergent and Divergent for Future Research". International Journal of Academic Research in Accounting, Finance and Management Sciences, 5, (2015): 38-45. <http://dx.doi.org/10.6007/IJARAFMS/v5-i4/1823>.

²⁹ Brannon, Windham. "Using the Fraud Diamond Model to Prevent or Detect Fraud." Windham Brannon. July 18, 2022. Accessed March 21, 2024. <https://windhambrannon.com/blog/prevent-fraud-diamond-model/>.

ratings, export-import industry, and regulatory reforms. Firstly, the scam significantly affected investor confidence in the financial sector, leading to a sharp decline in the NIFTY and SENSEX indices. Banking stocks, especially those involved in the scam or associated with it, witnessed a substantial decrease in market capitalization. PNB alone suffered losses of around eight thousand crores, while other banks involved in issuing unauthorized Letters of Undertaking (LoUs) faced similar consequences. In the jewellery sector, Nirav Modi and Mehul Choksi's companies controlled a significant portion. Although Modi's companies were not listed, Choksi's Gitanjali Gems stocks plummeted post-scam, causing volatility and reluctance among banks to extend credit to other jewellery companies. LIC, a major institutional investor in the exposed banks and Gitanjali Gems, incurred substantial losses due to the stock market downturn triggered by the scam. Furthermore, PNB's credit ratings took a hit, with agencies like CRISIL, Fitch, and Moody's downgrading its ratings post-scam. The scam also led to the banning of LoUs by the Reserve Bank of India (RBI) and the implementation of stricter regulations, including the integration of the SWIFT system with banks' record-keeping systems and the introduction of Prompt Corrective Action (PCA) framework for riskier banks. To prevent offenders from fleeing the country, the Indian government enacted the Fugitive Economic Offenders Act³⁰, allowing for the confiscation of properties of economic offenders who evade prosecution.³¹

V. LEGISLATIVE LOOPHOLES AND DEVELOPMENTS IN THE PREVENTION OF MONEY LAUNDERING ACT (PMLA), 2002

The Prevention of Money Laundering Act (PMLA) of 2002³² has seen significant changes since its enactment in 2005. The latest amendments, introduced through the Finance Acts of 2015³³, 2018³⁴, and 2019³⁵, aimed to address loopholes in the legislation to bolster efforts against money laundering. Notably, the 2019 Amendment provided clarity on the definition of "proceeds of crime" under Section 2(1)(u)³⁶ of the Act, a critical aspect concerning the identification of money laundering activities.³⁷ Furthermore, revisions were made to Section 45 following a

³⁰ The Fugitive Economic Offenders Act, 2018, No. 79, Acts of Parliament, 2018 (India).

³¹ Garg, Rachit. "All you need to know about the Nirav Modi scam - iPleaders." IPleaders. May 12, 2022. Accessed March 18, 2024. <https://blog.ipleaders.in/all-you-need-to-know-about-the-nirav-modi-scam/>.

³² The Prevention of Money-Laundering Act, 2002, No. 15, Acts of Parliament, 2003 (India).

³³ The Finance Act, 2015, No. 20, Acts of Parliament, 2015 (India).

³⁴ The Finance Act, 2018, No. 13, Acts of Parliament, 2018 (India).

³⁵ The Finance Act, 2019, No. 23, Acts of Parliament, 2019 (India).

³⁶ The Prevention of Money-Laundering Act, 2002, § 2(1) (u), No. 15, Acts of Parliament, 2003 (India).

³⁷ Vasani, Bharat. "The PMLA – is the net cast too wide?" Cyril Amarchand Mangaldas. February 15, 2021. Accessed March 16, 2024. <https://corporate.cyrilamarchandblogs.com/2021/02/the-pmla-is-the-net-cast-too-wide/>.

landmark Supreme Court ruling in the **Nikesh Tarachand Shah**³⁸ case. This decision struck down the bail conditions outlined in Section 45(1), which were deemed unconstitutional. Consequently, the 2018 Amendment broadened the applicability of bail conditions under Section 45(1)³⁹ to all offenses falling under the purview of the PMLA, not limited to scheduled offenses. The scope of scheduled offenses, encompassing crimes covered by the PMLA, has expanded over time. Initially encompassing offenses from six laws, the list now includes offenses from thirty statutes.

Concerns have been raised regarding the inclusion of less severe offenses in this list, potentially diverting attention from more serious crimes.⁴⁰ Additionally, the admissibility of statements made to investigating officers during PMLA proceedings has drawn attention. Despite the general rule that confessions made to police officers are inadmissible, such statements are deemed admissible as evidence in PMLA cases. However, recent legal developments, exemplified by the **Tofan Singh case**⁴¹, have raised questions about the treatment of investigating officers under certain laws and the admissibility of statements made to them. In **Opto Circuit v. Axis Bank**⁴², the Supreme Court held that freezing of bank accounts of the accused undertaken without strict compliance with the pre-conditions prescribed under Section 17⁴³ of the PMLA shall be invalid. The Court emphasized that while the objective of the PMLA is to tackle money laundering, the statute simultaneously enlists safeguards to protect the rights of the accused, and can be seen as a positive step in the right direction, especially after the scams like **ABG Shipyard Case** and **Nirav Modi Case**, rummaging the economic backbone of the country.

While the PMLA aims to combat money laundering effectively, ongoing legal discussions and amendments underscore the need for clarity and precision in its implementation. Key areas of focus include the definition of "proceeds of crime," the applicability of bail conditions, the scope of scheduled offenses, and the admissibility of statements in PMLA proceedings.⁴⁴

³⁸ Nikesh Tarachand Shah v. UoI, (2018) 11 SCC 1.

³⁹ The Prevention of Money-Laundering Act, 2002, § 45 (1), No. 15, Acts of Parliament, 2003 (India).

⁴⁰ Vasani, Bharat. "The PMLA – is the net cast too wide?" Cyril Amarchand Mangaldas. February 15, 2021. Accessed March 16, 2024. <https://corporate.cyrilamarchandblogs.com/2021/02/the-pmla-is-the-net-cast-too-wide/>.

⁴¹ *Tofan Singh v. State of Tamil Nadu*, (2020) SCC Online SC 882.

⁴² *Opto Circuit India v. Axis Bank* (2021) SCC Online SC 55.

⁴³ The Prevention of Money-Laundering Act, 2002, § 17, No. 15, Acts of Parliament, 2003 (India).

⁴⁴ Vasani, Bharat. "The PMLA – is the net cast too wide?" Cyril Amarchand Mangaldas. February 15, 2021. Accessed March 16, 2024. <https://corporate.cyrilamarchandblogs.com/2021/02/the-pmla-is-the-net-cast-too-wide/>.

VI. PREVENTION OF WHITE-COLLAR CRIMES- A CRIMINOLOGICAL PERSPECTIVE

In the realm of criminology, both positivist general prevention and negative general prevention emerge as suitable approaches, particularly when considering the rationality of white-collar criminals. This suggests the necessity for a nuanced crime prevention strategy, with an emphasis on the efficacy of punitive measures. Such an approach mandates a thorough restructuring of the crime-prone environment. Criminological scholarship identifies three tiers of prevention: primary prevention targets underlying causes, secondary measures deter potential offenders by modifying opportunities or promoting adherence to legal standards, and tertiary prevention aims to diminish recidivism through appropriate penalties, intervention, and rehabilitation. Secondary prevention aims to disrupt the criminal opportunity structure by erecting barriers in the path of potential perpetrators, likely dissuading occasional offenders more effectively than hardened criminals.⁴⁵

1. Victim Education: One avenue for achieving this objective is to prioritize potential victims and educate them on safeguarding themselves against victimization. Utilizing mass media to disseminate information on self-protection offers tangible benefits, although such gains may be compromised by media messages detailing methods for committing white-collar crimes.⁴⁶

2. Increasing the risk of apprehension: Given the prevalent expectation of instant gratification and the cultural or moral validation of the current economic system, a fundamental approach is warranted to foster socially responsible conduct by imposing credible penalties for economic offenses. Since white-collar criminals tend to engage in rational and calculated actions rather than crimes of passion, expediting the charging and sentencing process could serve as an effective deterrent.⁴⁷

3. Legislation: Another avenue for crime prevention and control involves enhancing the administrative framework by streamlining legislation and regulations. There exists a pressing need for stricter oversight of financial and regulatory affairs, including internal and external auditing, which should be prioritized in legislative efforts.⁴⁸

⁴⁵ Kube, Edwin. "Prevention of White Collar Criminality: Possibilities and Limitations". National Institute of Justice/NCJRS, (1984): 1-4. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/international-summaries-prevention-white-collar-criminality>.

⁴⁶ Kube, Edwin. "Prevention of White Collar Criminality: Possibilities and Limitations". National Institute of Justice/NCJRS, (1984): 1-4. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/international-summaries-prevention-white-collar-criminality>.

⁴⁷ Kube, Edwin. "Prevention of White Collar Criminality: Possibilities and Limitations". National Institute of Justice/NCJRS, (1984): 1-4. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/international-summaries-prevention-white-collar-criminality>.

⁴⁸ Kube, Edwin. "Prevention of White Collar Criminality: Possibilities and Limitations". National Institute of Justice/NCJRS, (1984): 1-4. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/international-summaries-prevention-white-collar-criminality>.

4. Improving the execution framework and expediting the justice delivery system.

5. Reducing Profitability: Depriving criminals of any financial gain from their illicit activities would undoubtedly deter future offenses. The dynamic between white-collar criminals and their victims differs significantly from that of other criminal offenders and their victims. While refining legislative intricacies could substantially alter the trajectory and frequency of white-collar crimes, legal provisions must align with the principles of compensatory jurisprudence. Facilitating asset seizure, streamlining bureaucratic processes such as obtaining senior approval, and mitigating political influence would enhance meticulous due diligence in sensitive matters like white-collar crimes.⁴⁹

VII. RECOMMENDATIONS AND CONCLUSION

The Nirav Modi case exemplifies the far-reaching ramifications of white-collar crimes, with the money laundering of nearly \$1.8 billion, inflicting severe financial losses and eroding public trust in India's banking sector. The aftermath transcended monetary damages, triggering a sharp decline in investor confidence and stock prices, exposing vulnerabilities in regulatory oversight and internal controls within financial institutions. This high-profile scandal catalyzed a wave of regulatory reforms aimed at fortifying preventive measures and deterrents. The integration of the SWIFT system with banks' record-keeping systems and the implementation of the Prompt Corrective Action framework seek to enhance transparency and accountability. Additionally, the enactment of the Fugitive Economic Offenders Act demonstrates a commitment to preventing perpetrators from evading prosecution while allowing for the confiscation of ill-gotten assets.

Nonetheless, the evolving nature of white-collar crimes necessitates a multifaceted approach that extends beyond legislative actions. Criminological perspectives underscore the criticality of victim education, amplifying awareness and self-protection mechanisms through mass media campaigns. Concurrently, expediting charging and sentencing processes could serve as an effective deterrent, given the rational and calculated tendencies of white-collar offenders. Ultimately, the battle against white-collar crimes demands a holistic strategy encompassing legislative reforms, stringent oversight, victim empowerment, and a resolute commitment to upholding ethical conduct within the economic sphere. By learning from the lessons of the Nirav Modi scandal, India can fortify its defences

prevention-white-collar-criminality.

⁴⁹ Kube, Edwin. "Prevention of White Collar Criminality: Possibilities and Limitations". National Institute of Justice/NCJRS, (1984): 1-4. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/international-summaries-prevention-white-collar-criminality>.

against future financial transgressions, safeguarding the integrity of its institutions and fostering an environment conducive to sustainable economic growth.

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