

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

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White Collar Crime in Indian Scenario

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ABSTRACT

This study provides a thorough examination of both the crimes that have previously happened in India and their causes. Researchers refer to herbivores as "people who commit crimes when their offences are minor and limited to a particular administrative region." Meat Eaters are involved in white collar crime and can be found in practically every business. The growth of technology and education has led to an increase in white-collar crime, which is masked by professionals who take advantage of legal loopholes and are covertly supported by the government. The linkages started banding together, committing white-collar crimes, and obtaining legal protection. As a result, some insignificant employees ended up becoming white collar criminals. Regarding the prevalence of white collar crime in India, it is gradually creeping on every aspect of the nation's society. White-collar crime, such as corruption, is a topic that is widely debated in all facets of society, including the social, economic, and political sectors. Despite this, no dramatic measures have been done to counter this threat. The goals of this essay are to define white-collar crime, examine its historical progression, and offer potential remedies to the issue. There was no criminal justice system in the scumbag civilisation. The phrase "Tooth for tooth, life for life" was revolutionary in terms of criminal justice. Additionally, due to public outcry, cheating spread. As a result of technical developments and his ideas, a new type of guilt known as cabin harm is currently emerging.

Keywords: *White Collar, Cybercrime, Insider Trading, Stocks & Shares, Commercial Bills.*

I. INTRODUCTION

To describe the type of crimes typically committed by those who are thought to have a high social rank, criminologist and sociologist Edwin Sutherland coined the phrase "persons of respectability" in the 1930s. Sutherland later established the Bloomington School of Criminology at the State University of Indiana.

Before Sutherland popularised the idea of "white-collar crime," it was generally believed that members of society's upper strata were mostly incapable of engaging in such illicit activity. This idea was so deeply ingrained in society when Sutherland originally published a book about it that some of the largest companies in America were successful in their attempts to have the

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book largely suppressed. The first element influencing white collar crime is opportunities to do crimes. According to Hirsch and Gottfredson (1987), white collar crime varies from other common crimes in terms of breaking the law. White collar crime receives a different response from officials than other types of crime (Hirsch & Gottfredson, 1987).

Since Edwin Sutherland used this phrase in 1939 while delivering a speech to the American Sociological Society, debates on which specific infractions will be regarded as clerical breaches have grown. Sutherland defined cubicle misbehaviour as "wrongdoing committed throughout the course of employment by a guy of respectability and good economic wellbeing." Overall and uniformly, peaceful transgressions. It was generally and unequivocally thought that this group encompassed peaceful wrongdoings for monetary benefit. Natural law violations, antitrust violations, and different forms of fraud are arguably the most well-known behaviours that fall under the heading of legal wrongdoings. The fact that open defiling and evading taxes are considered salary offences significantly restricts the ability of those working in the administration to break the law in other ways. Despite the fact that theories about these crimes are continually changing, there is no widely recognised criminology theory that explains them. Experts in sociology, law, and criminology all have divergent theories. It's true that, in our sick society, there are an increasing number of anti-social and anti-human activities that members of the upper strata engage in as part of their business, occupation, or profession in addition to more common crimes like assault, battery, robbery, dacoit, murder, rape, kidnapping, and other violent acts and omissions. The result is that any complaint or report against such a business, profession, or successful approach frequently goes unrecognised and unpunished, which benefits lawbreakers who break the law and cause pollution as salaried wrongdoings everywhere.

(A) Reading Review

Accounting irregularities in company are a well-researched topic. Business fraud is a problem that has existed for as long as accounting itself. As a result, there is a vast amount of literature on these subjects. This section examines pertinent issues related to current frauds and scams in Indian company accounting.

Chander Mohan Gupta (2018) has considered the different accounting frauds that have occurred throughout the nation in his research. The authors of this paper have determined certain recurrent causes for a lot of accounting frauds that have recently happened in Indian industry between 1995 and 2022. They looked at the details and root reasons of the biggest frauds and swindles that had recently been uncovered.

In order to determine if the aspects of the fraud triangle are present and how strong they are, Vishnu S. Kumar and Dr. Biju T. (2012) examined various corporate frauds using the framework of the fraud triangle. "Fraud triangle has been one of the most accounting fraud models that are most usually used to describe it in both individual and corporate businesses. In his book *Other People's Money*, American sociologist and criminologist Donald Cressey wrote about his research on the fraud triangle, which was first discovered in the early 1950s. The academic literature has thoroughly studied the three components of the fraud triangle— incentive/pressure, opportunity, and rationalization—typically in varied forms and taking the deception as committed by one individual. Mayank Shrivastava studied the major accounting scams of two different period that is PRE-SEBI period and scams which was 1947 to 1992 however, in terms of the capital market, the era was considered comparatively a little weak because there was no authority that could have served as a severe regulator and also he studied the POST-SEBI period and scams in that era. He examine the frauds occurred in both the areas their reasons and most importantly the difference SEBI has created in corporate world and how the scenarios took a shift when SEBI got power as primary regulatory of the market.

II. WHITE-COLLAR VERSUS BLUE-COLLAR CRIMES

White-collar criminals are more frequently in a position to carry out elaborate and complex fraud schemes, such as when they have positions as loan officers at banks. This is what distinguishes white-collar criminals from blue-collar criminals due to the variety of illicit activities that the criminal may engage in. Blue-collar crimes like robberies and break-ins typically tend to be more straightforward due to the less sophisticated methods of the culprits.

(A) White-collar Crime Types

1. Fraud: People lose money in a variety of ways, but one of the most popular and basic scams involves offering the victim a large sum of money, say \$10,000, in exchange for a small sum, say \$300, which the con artist would use as processing or finder's fees. Of course, the con artist keeps the money that is given to him but never gives the money that he promised to give away.

2. Insider trading: An employee at an investment bank, for example, might be aware that Company A is preparing to acquire Company B. The employee could invest in Company B in the hope that the company's stock price would soar dramatically after the acquisition was made public.

3. Ponzi scam: A Ponzi scheme is an investment fraud that promises investors extraordinarily high returns and pays these returns to the initial investors using money that has just been put by new investors. Charles Ponzi was the original perpetrator of this investment fraud.

The fraud falls apart like a house of cards when the con artist is unable to bring in enough new clients to pay off the old ones, leaving many investors with large losses.

4. Identity theft and computers: Identity fraud and "hacking" are two of the most prevalent online offences, and it is predicted that identity theft damages will exceed \$2 billion in the United States alone in 2019. California residents suffered the most, with nearly 73,000 cases reported; Florida residents suffered the second-highest number of incidents, with 37,000 cases. The old money was basically too simple to even consider recreating with the modern PCs and cutting edge laser printers, so our currency must be made more vivid and detailed in order to prevent counterfeiting. However, there is some debate regarding the government's efforts in this area's efficacy. Within 24 hours of its initial release, copies of the new \$100 note in very high resolution were allegedly available online.

5. Tax fraud

Hoodlums require assistance with managing vast sums of money, such as tax avoidance, which entails transferring the money through a number of accounts before entering into legitimate firms, where it becomes part of the income and can no longer be linked to illicit activity.

A representative of a foreign government, for example, might get in touch with an Apple employee and make an offer of \$10,000 for access to the necessary data in exchange for a piece of Apple Inc. technology. Spying, also known as espionage, is typically a white-collar crime.

III. WHITE COLLAR CRIME LAW

The Indian government has set up a variety of regulatory regulations, the breaking of which will constitute white collar crime. Hoardings profiteering and black marketing are two instances of white collar crimes that are pervasive in Indian industry and business.

Among these statutes are some.

Companies Act of 1956; Central Excise and Salt Act of 1944; Drugs and Customs Act of 1940; Emblems and Names (Prevention of Improper Use) Act of 1950; Essential Commodities Act of 1955; Foreign Corrupt Practise Act; Foreign Exchange Regulation; Forward Contracts (Regulation Act) of 1952; Immoral Traffic (Prevention) Act of 1956; Immoral Traffic (Prevention) Act of 1956; Emblems and Names (Prevention of Improper Use) Act of

(A) Different Professions and White Collar Crime

1. In the field of medicine and health: Creating phoney medical credentials; pretending to extend the course of therapy in order to increase costs; subjecting children to sex discrimination

in order to financially benefit from the patient; extending treatment times in order to increase costs; and selling sample medications, which is prohibited for chemists.

2. In the field of law: Threatening witnesses for the other party. Fabricating documents in order to gain an advantage.

3. In relation to education: Donations have replaced admission based on merit; amass a large sum of money; get significant amounts of money from students under the cover of donations in order to admit them.

IV. WHITE-COLLAR CRIME IS ON THE RISE

1. Competition

The important tactics for combating rivalry that is used in the the marketplace is "survival of the best." It shows that there will always be rivalry among the humans in a wealthy society, and that only those who are best able to adjust to the situations will endure. White-collar crimes also always result from the same inspiration. They don't mind doing crimes like deception, forged documents, and homosexual marriage in order to win. For short-term, unusual profits, it is effectively compensated and raised within the company. Some din's ven hesitant to move forward with cutting the current laws in order to optimise their performance in comparison to others. People who commit these crimes think that the universe is lesser and more hierarchical, and the damage they incur are essential.

2. Technical

The widespread use of personal computers and cellphones has made this problem worse since they not only contribute to the creation of new ideas but also provide opportunities for people living anywhere in the world to access these ideas, which has caused white-collar crimes to spread across the world and increase quickly in India as well. 13/48,100%

3. Rationalism

Criminals commit crimes and then persuade themselves that their actions are not unlawful because it is difficult for conventional scholars to understand and describe them. Insider trading is seen as a crime without victims by many stock traders, who fail to identify the victim. Bribery salespeople believe they are successfully completing their tasks by closing the deal without cause.

4. The Office

When faced with an ethical choice, individuals may be tempted to behave significantly

differently by non-metal signs such as poorly considered employment rewards or managerial indifference to ethics. As a result, some individuals succumb to these temptations and compromise their moral principles, which results in illegal behaviour.

5. Access to Information

Many white-collar thieves may target wealthy individuals or institutions like casinos, financial institutions, and hotels where large sums of money are transacted on a regular basis. Therefore, hackers may easily trick biometric systems using access to sensitive information like bank account numbers, passwords, and other details that people can access on their cellphones and computers.

6. Greed

A man may more quickly and readily forget the loss of his inheritance than the death of his father, according to Machiavelli, the founder of modern political philosophy, and the same is true for anyone wishing to engage in any form of white-collar crime. Otherwise, why would a man with good financial standing and a high social standing commit murder? This vice is advantageous since it may motivate some people.

V. WHAT CONSEQUENCES DO WHITE-COLLAR CRIMES HAVE?

1. effect on the industry

Losses incurred by the company as a result of one deviant employee in collusion with or without an outsider can have a direct and exponential impact on the overall profitability of the company, and once the information enters the public domain, it can damage the company's reputation in the long-term, which is difficult to quantify, and eventually may even force it to close.

2. Effect on Customers

The last thing that customers want is to deal with any legal issues, so when a business is involved in such crime scenarios and investigations, it creates uncertainty in the client's mind. A portion of clients may stop doing business with the company out of fear of unnecessary hassle. As a result, people start looking for viable alternatives. Everyone loves to buy goods from a business with a welcoming trade atmosphere.

3. The Impact on Society

What are the methodologies used by White collar criminals? When a business fails due to illegal activity of any kind, there are job losses at all levels, a decline in stock prices that reduces shareholder capital, and a loss of faith in the judicial system.

White collar crimes are any non-violent crimes committed by a person from a high socioeconomic class that result in personal financial advantage. These crimes include those committed through money laundering, cybercrime, or even bribery. Cybercrimes are becoming a bigger factor in white collar crimes as a result of modern technology.

(A) There have been several white-collar crimes in India.

1. Suresh Chandrasekhar fraud, to start

Suresh Chandrasekhar, a conman, gained notoriety for his ostentatiously lavish lifestyle as a result of the numerous scams he carried out. Suresh, a dropout, used several government figures, including the current home minister Amit Shah, to defraud unwary parties of millions of dollars. Suresh's name was also connected to Bollywood actresses Nora Fatehi and Jacqueline Fernandez, whom he lavished

Suresh allegedly helped TTV Dhinakaran, the AIADMK deputy general secretary, get a favourable position with the electoral commission, according to recent reports. Suresh and Dhinakaran were initially detained by the Delhi Police Crime Branch in 2017 in connection with the electoral commission corruption case, and the inquiry is still ongoing.

2. Satyam Scandal,

B Ramalingam Raju of Satyam Computers admitted to forging his books in a testimony that was published in the Times of India in 2009. According to Lego Desk, the 14,000 crore fraud was the cause of a crackdown by SEBI, which held the defendants in contempt of court. The Satyam affair, unquestionably one of the largest accounting frauds in our country, was exposed in the most spectacular way.

3. Case of the Saradha Chit Fund

Hundreds of people in lower economic brackets committed suicide once this fraud was exposed. The Bengali chit fund known as Saradha Chit Fund was a Ponzi fraud, garnering the moniker "Bonzi." According to a Trade Brains investigation, the program's mastermind, Sudipto Sen, enticed rural investors into the scheme by promising exorbitant profits and adding a dash of religion through "Saradha"—Sarada Devi was the wife of Ramakrishna Paramahansa, one of Bengal's most respected saints. Before crumbling, the organisation raised a staggering 300 billion rupees from a million investors. Additionally, the group received high-profile endorsements from some of the most gullible celebrities in the movie industry. Sen spent the cash on many TV news programmes, regional movies, and local football clubs. Sen spent the cash on many TV news programmes, regional movies, and local football clubs. Sen

lavishly funded political power players in order to muzzle the complaints of impacted investors. Over 200 firms were established in this process as Saradha proceeded to develop shell corporations to divert SBI's attention from its probe. Sen and his accomplices were subjected to a number of measures, including a securities market ban by SEBI until all refunds were made. Sen fled after confessing to the CBI about his wrongdoings, and several FIRs were thereafter filed against him.

Sen has 98 claims pending as of 2021, according to Trade Brains, and CM Mamata Banerjee established a relief fund of \$70 million for wronged low-income depositors. 3) Harshad Mehta Scam

The most well-known case of white-collar crime that has been described is the Harshad Mehta Scam. The life and times of Harshad Mehta, the most prominent businessman and stockbroker in Bombay, were memorialised in the movie "Scam 1992." Mehta was well-known in the trading community of Mumbai and was suspected of manipulating stock prices, which caused a sharp increase in share prices.

Mehta's actions, however, were more unethical than unlawful since he abused preexisting flaws in the system. The SEBI notably revised market laws and regulations after this fraud came to light. According to Lego Desk, Mehta's efforts led to panic selling. The hoax was ultimately discovered by renowned financial journalist Sucheta Dalal thanks to her excellent research.

VI. CONCLUSION

Deception and fraud, as has already stated, stop large multinational businesses from investing in the country, as demonstrated by the decline in foreign direct investment in 2011 and the withdrawal of capital from stock markets by international investors. If India wants to maintain its current economic trajectory, it must reduce fraud and corruption in the government as well as the private sectors.

Therefore, the Indian government must improve governance and severely punish those who break the law. The Comptroller and Auditor General are outlining the next steps; Political parties need to have the courage to clean up the mess now. The private sector must implement fraud prevention measures and focus on ethics in order to reduce fraud. To lessen the risk of fraud in India, the two sectors must work together. There are justifications for the strategies used to control white-collar crime, and the haziness of society's response to this kind of crime is linked to larger social variables that have both objective and subjective components. It has been suggested that a more subjective source of ambivalence in the social response to white

collar crimes is the assumption that there is less public concern about these behaviors when they are referred to as white collar crimes, and as a result, there is less support for harsh sanctions than in the cases of traditional street crimes. Although the public's ambivalence toward white collar crimes is higher than that of traditional crimes, authors like Box have viewed this as an additional obstacle in their efforts to educate the public about the importance of not considering the processes by which they are the victims of crimes to be accidents or disasters.

Since the activities involved misdirecting the public's confidence and conviction, the general public should step forward to protect the entire society from these avaricious people who are gradually obliterating the morals and profound quality of the public in order to pursue their own thin personal circumstance. Therefore, the guiding principle ought to be that prevention is always preferable to treatment.

VII. REFERENCES

- The Indian Penal Code, 30th version, 2006, Wadhwa, Ratanlal & Dhirajlal
- Williams, F. P., (2017) "Criminology Theory," Andersen Publication
- Mishra R., (2016) "Criminal Psychology," Sunit Enterprises
- Vikas Garg's "Criminal Liability of Corporate Bodies"
- The International Monetary Fund's "Report on White-Collar Crimes"
- <https://d1wqtxts1xzle7.cloudfront.net> – Research paper by Yash Bishnoi
- http://www.raijmr.com/ijrhs/wp-content/uploads/2017/11/IJRHS_2014_vol02_issue_02_02.pdf
