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## White Collar Crimes in India

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### INTRODUCTION

This thought evolved with the Criminologist and Sociologist Edwin H. Sutherland, in the year 1939, who popularised the term white collar crimes' by defining such a crime as one committed by a person of respectability and high social status in the course of his occupation. Sutherland also included crimes committed by corporations and other legal entities within his definition. Sutherland's study of white collar crime was prompted by the view that criminology had incorrectly focused on social and economic determinants of crime, such as family background and level of wealth. It is true to the common knowledge that there are certain professions which offer lucrative opportunities for criminal acts and unethical practises which is very often overlooked by the general mass of the society. There have been crooks and unethical persons in business, various other professions, who tend to become unscrupulous because of no reason apart from the thirst of gaining more and more for themselves. These deviants have least regard for ethical and moral human values. Therefore,

they carry on their illegal activities with impunity without the fear of loss of respect and prestige. These crimes are of the nature of white collar crimes' which is the essential outcome of the development of the competent economy of the twenty-first century.

### HISTORICAL BACKGROUND OF WHITE COLLAR CRIMES

Prior to Sutherland, scholars like W.A. Bonger (1916), E.A. Ross (1907), Sinclair (1906) and Steffens (1903) have also laid emphasis on the misdeeds by business men and elites. Karl Marx and Friedrichs Engels have also contended that powerful people commit crimes too.

American Sociologist E.A. Ross (1907) coined the term 'criminaloid' focusing on the businessmen who indulged in criminal activities under the shadow of responsibility. In 1935, Albert Morris drew up the list of the 'criminals of the upper world', which included bankers,

manufacturers, politicians, contractors, stock brokers and law enforcement officials.

However, the work of Sutherland was considered pioneering rather compared to others.

### **OTHER CRIMES VS. WHITE COLLAR CRIMES**

White collar crime is not a new phenomenon and has been in existence from many centuries. It can be found in all types of businesses, professions and industries. The Supreme Court of India in State of Gujarat vs. Mohanlal Jitmalji Porwal and Anr.<sup>1</sup> Has differentiated between the general crimes and white collar crimes. In the above-mentioned judgement, Justice Thakker had stated that murder can be committed in the heat of moment but these economic offences are committed with a cool calculation and planned strategy to gain personal profits.

The characteristics of white collar crime enunciated herein below distinguishes it from other street crimes.

1. Direct access to the victim because of offender's high position: Because of his/her position the offender has direct access to the

victim. E.g. when a thief commits a theft in a house, he first breaks the door or window and then commits the crime. Therefore, before committing theft a thief must first gain access to the house by entering it. Whereas this is not in the case of white collar crimes because the white collar offenders have easy and valid access to their targets;

2. No information about the offender: Most of these crimes are committed by offenders without coming face to face with the victim;
3. Political Connections: Most of the offenders have big political connections and somewhere the politicians are also involved in the said crimes. Therefore, it is difficult to take any action against such offenders; and
4. Harm to Society: These types of offenders can cause great harm to the public as well as to the institutions and organizations.

### **CHARACTERISTICS OF WHITE COLLAR CRIMES**

Sutherland had listed some of the features while defining white collar crimes. Some of the important features of white collar crimes are as follows:

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<sup>1</sup> AIR 1987 SC 1321

1. White collar crimes usually occur in the course of an occupation where the people from higher social status are involved.
2. In usual circumstances white collar criminals often escape from the police station due to economic reasons.
3. The motive behind the commission of white collar crime is to gain more money and not lust.
4. There are no arrests for the violation of copyright due to economic factors which precede.
5. These types of criminals have potential to cause great harm to society as well as institutions.
6. Most of the White collared criminals are associated with business and political world.

There is a lack of human feeling in the commission of white collar crimes. Hence, the background of these criminals is non-emotional.<sup>2</sup>

## CAUSES OF THE WHITE COLLAR CRIMES

Some of the reasons behind the commission of white collar crimes are as follows:

- **Greed:** People of high strata are financially stable. But, still they commit crimes out of greed. For this purpose, they adopt all sorts of illegal methods to have an economic gain
- **Technology:** Another reason behind the commission of white collar crimes can be technology. The emergence of new technologies, political pressure or growing business, has led to many more ideas which has resulted in the commission of crimes.
- **Competition:** White collar crimes usually occur because of the desire to beat the competitor and to reach ahead of them. To win, crimes like forgery, bribery and frauds are committed.
- **Legislation:** One of the major reasons behind the rise in the commission of white collar crimes are that there are not enough laws to deal with such kinds of crimes. In most of the cases, white collar criminals are not even prosecuted. The implementation of Information Technology Act 2008 is fragile due to lack of trained workers. It is tough to find white collar criminals because the crimes which are committed are mostly done in private places and hence there is no eye witness.<sup>3</sup>

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<sup>2</sup> Komal Rastogi, Analysis of White Collar Crimes In India

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<sup>3</sup> Jyosna Dighe, White collar crime and its changing dimensions in India, Legal Services India

## WHITE COLLAR CRIMES IN VARIOUS PROFESSIONS

White collar crimes can be found in every industry and profession. Below enunciated major forms of white collar crime:

**SOCIETY:** The major white collar crime very common among the individuals, no matter he/she belongs to the middle or upper strata of the society is that of evading taxes. The complexity of the taxation laws provided a number of loopholes through which many individuals tried to escape. A tax-evasion has known no professional or class boundary in our country. Be it an engineer, doctor, advocate, a business tycoon or a simple small industry trader-all have learnt the trick of evading taxes. The main difficulty posed before the Income Tax Department is to acquire true information of the real and exact income of these professionals. It is often alleged that only an insignificant amount of their total income is posed a income before the Income Tax Department and the rest therefore goes into the circulation as black money. The frequent modifications in the tax-laws of the country has been able to add very little to put a check on this continuing menace which is throwing a great negative impact in the Governmental revenue and thereby the growth of the country.

**CORPORATE:** These are only a handful of instances of white collar crimes practiced in day to day life by certain professionals in the course of their profession. The major role in committing white collar crimes are played by the business tycoons and politicians, whose greed and wants multiply with the more they acquire. In India, whenever any major scandal comes to the media focus, a thorough investigation always finds an unlawful involvement of political parties in it. So far as the businessmen are concerned, their acts of white collar crimes go beyond count. They are termed as the corporate criminals who more often than not, are involved in illegal contracts, combination and conspiracies of trade restraints, unfair labour practices, selling of adulterated foods and drugs, bribing of public officials so on and so forth. They take advantage of the corporate veil and indulged in a number of crimes. The recent Satyam scam case is one of the worth-mentioning illustrations, where it was seen how an individual, hiding himself in the veil of incorporation, indulge in defrauding crores of money.

**MEDICAL:** In India, the white collar crimes are so wide spread that it does not confine itself in the legal arena. Similar unfortunate instances

can be drawn from other professions too, like that of medical practitioners, engineers, educationalists, businessmen, politicians and the list goes on. The medical practitioners are often found involved in issuance of false certificates, carrying out illegal abortions, selling out sample drugs and medicine, even in some cases adulterated drugs and medicines to the patients. Dilatory tactics are often adopted by them in providing treatment to their patients with a menswear to extract huge amount of money, no matter the person has good practice. Some of the notorious instances are like that of Nithari case, where the medical professionals put up before the society the optimum level of brutal character they can reach for the crave of making money. Misleading and fake advertisement claiming absolute cure is also one of the frequent malpractices being carried out in the medical profession. The problem lies in the fact that, they often escape punishment, since they cannot be said to have violated the letter of law, but, by violating the spirit of law, they commit crimes which are truly anti-social and creates enormous damage to the public health and safety at large.

**LEGAL PROFESSION:** The white collar crimes became a phenomenon to be reckoned with industrial revolution. Modern industrial

capitalist economy which evolved with time became complex in nature as it developed a growing commercial nexus among insurance, banking, stocks and related corporate matters. This in turn, gave rise to critical legal intricacies relating to property rights and other legal matters which paved the way for the birth of a new class of professionals of advocates who in the name of providing justice started abetting in the wrong and thereby pursued their own narrow interest. A large number of advocates evolved, who forget the pious oath of serving the society and started looking for the legal loopholes and concentrated mainly in helping out the rich entrepreneurs to grow richer. They made extensive study to try out ways for maximum tax evasion for these rich corporate personalities as well as for themselves. The white collar crimes committed by these legal practitioners only confines in sorting out illegal methods of tax-evasion. There are very frequent instances of unscrupulous and unethical practices like that of fabricating false evidence, engaging professional witnesses, thereby violating ethical standards of legal profession and dilatory tactics in collusion with the ministerial staff of the courts.



The instances of white collar crimes committed in the Indian society by the lawyers, there lie the shameful illustrations of Magistrates and judges involved in committing crimes. They in the name of interpreting the laws often act as the protective shield for the goons having or not-having any political colour and allow them to go free whereas they should have been subjected to deterrence. It is the most unfortunate situation at the same time devastating, because here the crimes are committed by those individuals who are being given by the State the responsibility to ensure justice.

**EDUCATION:** The matter comes to the white collar crimes educational institutions do come in the league to operate with impunity. A nastier role is played by the private institutions that are least bothered in providing the education, but only concentrate of making business at the cost of the children's future. Even rackets operate in these institutions for procuring students to appear in the examinations on the basis of manipulated eligibility certificates, thereby damaging the standard of education in India. When it comes to the Governmental institutions, the teachers and staffs of the institutions are often found to be involved in unscrupulous practices, since

they can hardly make fortune from the inadequate salary they receive from the government. Teachers often drag the students for taking private tuitions and even go to the extent of blackmailing them of ruining their future, if they deny doing so.

### **WHITE COLLAR CRIMES IN INDIA**

Today white collar criminality has become a global phenomenon due to the advance of commerce and technology. Like any other country, India is also in the grip of white collar criminality.

The reason behind enormous increase in white collar crime in recent decades lies in the developing economy and industrial growth of India. The Santhanam Committee Report in its findings gave a lucid picture of white collar crimes committed by persons belonging to higher social strata. It includes businessmen, industrialists, contractors, suppliers as well as corrupt public officials. The Reports of the Vivin Bose Commission of Inquiry which looked into the affairs of Dalmia Jain group of companies (1963) highlighted that how industrialists indulge themselves in white collar crimes such as forgery, fraud, falsification of accounts, tampering with records for personal gains and tax evasion etc. Similar observations

were made by Mr Justice M.C Chagla while dealing with the case of business tycoon Mundhra who wanted to build up an industrial empire by dubious means. There were as many as 124 prosecutions against the business magnate and companies owned or controlled by him between 1958 to 1960 and as many as 113 of them resulted into conviction.<sup>4</sup> Case of Satyam Computers is one of the major recent white-collar crimes. It involved the fraud of nearly Rs. 7000 crores. Satyam had kept his record for quite a long time but was busted due to profits and revenues hike. In the year 2013, Sharda scam took place where many companies fooled the investors due to the existing flaws and loopholes in laws.<sup>5</sup> Since the opening up of the Indian Economy in 1992, there has been a series of corporate frauds, forgeries and scandals. The blame has to be equally shared by the private sector and the public enterprises including the banks. The casualty of all such scams and scandals has resulted in the erosion of both investor's faith and wealth in the equity markets. There has been massive price rigging in the counters of companies like Himachal Futuristic communications, Lupin Laboratories, Zee Telefilms, Padmini Polymers, etc. The SEBI didn't take action on the proper time and

by the time any action was taken, speculators like Ketan Parekh defrauded the whole system. The amount involved and damage incurred because of such acts are very high.<sup>6</sup>

## CONCLUSION

India to maintain its growth story needs to reduce fraud and corruption in government and private sector. As previously mentioned corruption and fraud stop multinationals from investing in the country.

Therefore, Indian government must improve governance and take strict action against the offenders. Comptroller Auditor General is showing the way forward, the need of the hour is for political parties to have the spirit to clean up the mess. The private sector must implement fraud prevention measures and focus on ethics to reduce frauds. Both sectors have to collaborate to minimize fraud risks in India. The reasons of justifications are there for the methods used for the control of white collar crimes, the ambivalence of the social response to this sort is so related to wider social factors which have both objective and subjective dimensions. As has been so mentioned a more subjective source of ambivalence in the social

<sup>4</sup> Komal Rastogi, Analysis of White Collar Crimes In India

<sup>5</sup> supra

<sup>6</sup> <http://www.lawteacher.net/free-law-essays/criminal-law/white-collar-crimes.php>



response to white collar crimes is the assumption that there is less public concern about these behaviours so termed as white collar crimes, and therefore there is a less support for severe sanctions than in the cases of crimes which are traditional street crimes. But even if there was greater public ambivalence towards white collar crimes in comparison to the traditional crimes, writers such as Box has regarded this as a further challenge to sensitize

people to not seeing processes in which they are victimised disasters or accidents.

Therefore, the motto should always be prevention is better than cure. Since the acts involved defrauding public faith and belief, public as a whole mass should come forward to protect the whole society from these greedy people who are destroying the ethics and morality of the society slowly and slowly for their sole aim of pursuing narrow self