



CRIMES OF PRIVILEGE: WHITE COLLAR CRIMES

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Abstract

The development and expansion of companies have led to an upsurge in white collar crimes¹. These are increasing at a rapid fire speed in every sphere of society. The extensive political, social, economic and technological changes as well as changes in legislation, procedures and policies in different countries have allowed this white collar white collar crime groups to become increasingly active in the international arena. White-collar crimes or more appropriately in other words corporate crimes, talk about economically motivated, nonaggressive crime committed by businesses and government professionals. These are not victimless crimes. A lone scam can put an end to a company, shatter families by wiping out their life savings, or cost investors billions of dollars or all of the above in more cases than not. Today's scam models are extra advanced than ever, and the officials and the FBI is ardent to expending its powers and capabilities to find out the offenders and stop these scams afore they commence.

Examples of white-collar crimes consist of embezzlement, corporate fraud, securities fraud, and money laundering. White-collar

crime has been associated with the educated and affluent ever since the term was first coined in 1949 by sociologist Edwin Sutherland, who defined it as "crime committed by a person of respectability and high social status in the course of his occupation"². This article traverses the meaning of white collar crimes, its types and how it is different from other crimes, its effects on society, the rules and legislations made for such crimes.

Introduction

White-collar crimes are committed by persons of status, not for need but for greed~sir Walter reckless.

White collar crime was primarily specified by the sociologist Edwin Sutherland in 1939 as "a crime perpetrated by an individual of respectability and great societal significance and status during the period of their employment"³. The concept of white-collar crime established its place in criminology primarily in 1941 when Sutherland first put out his research paper on white-collar criminality in the American sociological review. He illustrated white-collar crime as a wrongdoing perpetrated by people of high societal standing during progression of their occupation. For example- breach of patents, misrepresentation through duplicitous ad, copyrights, and trade-marks, and a

¹ For or Against Forensic diligence when facing a White-Collar Investigation: Evidentiary Value, India Corporate Law (2020), <https://corporate.cyrilamarchandblogs.com/2020/06/for-or-against-forensic-diligence/#:~:text=The%20growth%20and%20diversification%20of> (last visited Feb 28, 2021).

² James Chen, White-Collar Crime Investopedia (2019), <https://www.investopedia.com/terms/w/white-collar-crime.asp>.

³ Sutherland, Edwin Hardin (1950). *White Collar Crime*. New York: Dryden Press, p. 9.



publication of fictitious balance sheets and turnover and losses account of business, etc.⁴.

Sutherland in his research said "White collar crime may be defined as approximately as a crime committed by a person of respectability and high social status in the course of his occupation." There were many aspects involved in the formation of White-collar crime but the main problem was industrialization. In attendance today is a white collar crime records office classifying those who have done such a crime, accessible to the people to dissuade probable victims from being wronged. The initial criminal records office was founded in Utah in 2016⁵. In the years ever since, the variety of white-collar crimes has massively increased as new technology and new financial products and deals have inspired a multitude of new offenses. Prominent entities have been found guilty of white-collar crimes in latest years, and menacing new white-collar crimes facilitated through online mode consist of supposed Nigerian scams, in which fake email invitation and request to help were sent to gather a considerable sum of capital⁶.

How is it different from other crimes?

According to the FBI, the word white-collar crime came about in 1939. It quickly became identical with frauds committed by business and government professionals. The basic difference between white-collar crimes and

blue collar crimes is that in white collar crimes the offenders are usually salaried personages in high-powered positions. Moreover, white-collar crimes are very detailed and nonviolent in nature. Some examples consist of money laundering, securities scam, and open corruption. Although these are passive in their nature, this does not invalidate the effect of their consequences. They can breed truly dire effects. Some of the most intricate schemes defrauded people of billions⁷.

Whereas Criminology states that blue-collar crime is a far more common occurrence. These are crimes that are usually small-scale and their offenders perpetrate them for instant gain or consummation. The term blue-collar crime come in the early 1900s as a term to define American manual labourers. These works are usually muddled, so, labours would dress up in dark outfit to cover the filth and rubble. A lot of of those labours also dressed in blue shirts and uniforms. They were your construction workers, janitors, blacksmiths, and labourers. These types of workers normally received a meagre hourly wage, though pay varied greatly according to your niche or industry⁸.

The contrast among 'blue collar crimes', which are misconduct of a general kind, and 'white collar crimes' was given by the Supreme Court of India in the case of State of

⁴ Kasuta Manas, Concept of white-Collar Crime www.legalserviceindia.com, <http://www.legalserviceindia.com/legal/article-1028-concept-of-white-collar-crime.html> (last visited Feb 26, 2021).

⁵ White-collar crime, Wikipedia (2021), https://en.wikipedia.org/wiki/White-collar_crime#History (last visited Feb 27, 2021).

⁶ James Chen, White-Collar Crime Investopedia (2019),

<https://www.investopedia.com/terms/w/white-collar-crime.asp>.

⁷ Lawyer Referral Service of Central Texas | Austin, TX, Lawyer Referral Service (2019), <https://austinlrs.com/blog/white-collar-crime-vs-blue-collar-crime/#:~:text=Unlike%20blue%2Dcollar%20crimes%2C%20white> (last visited Feb 27, 2021).

⁸ Supra at ⁷



Gujarat v. Mohanlal Jitmalji Porwal and Anr⁹. Justice Thakkar explained that one individual can murder another individual in the heat of the moment or aggression, but setting off monetary damage or say performing economic crimes requires planning. It includes shrewdness, scheming and strategy building in order to obtain individual benefits¹⁰. Basically the difference between white-collar crime and blue-collar crime stems from the different types of criminal activity that the criminal has access to engage in. Blue-collar crime, because of the more limited means of the people committing it, tends to be straight-on – robbery, burglary, etc. In contrast, white-collar criminals are more often in a position – such as being a loan officer in a bank – to commit widespread and complex fraud schemes.¹¹

Effects on the society: -

White collar crime varies from street crimes like theft, burglary and robbery although there is some difference among criminologists about how to categorise and explain white collar crimes these are connected with corporate businessmen who perpetrated their crimes for the duration of a work activity. Nevertheless, white collar crime can be as damaging to the victims as vicious the crime is. Being a victim of scam has been connected to an amplified danger of depression and suicide¹². White collar crime can to a great extent affect the general public and it doesn't just influence the lawbreakers. It is likewise called as a financial crime since

it straightforwardly affects the general public. At the point when a white collar crime is perpetrated enormous losses on business happen which straightforwardly affect the buyers and the general public. There are different quantities of fakes and scams that had been uncovered in our country from the previous few years like 2g scam, havala scam, banking scam, fodder scam and some more. Because of these fakes and scams the economy of our nation has shambled. And afterward to make up these misfortunes of misrepresentation or any scams, they increment the expenses. This implies more inflated costs for the buyers in the method of higher expenses, government income, and expanded protection costs.

In spite of the fact that white collar crimes are not brutal, they can obliterate somebody's life more irremediably than a gunfire wound would. Many individuals who have been influenced by these white-collar crimes have wound up losing for their entire life investment savings, which has prompted destroying their families and at last pushing them to carry out self-destruction. In different cases, when the organization is greater, more individuals can be influenced by the pyramidal plan, and even organizations can wind up failing because of these multi-million dollar white-collar crimes.

Maximum studies on apparent crime seriousness advocates that the community usually positions white-collar wrong doing as severe, specifically embezzlement and

⁹ State of Gujarat Vs Mohanlal Jitmalji Porwal & Anr on 26 March, 1987, (1987), <https://indiankanoon.org/doc/1461716/> (last visited Feb 27, 2021).

¹⁰ Subodh Asthana, White Collar Crimes in India (2019), <https://blog.ipleaders.in/white-collar-crimes/> (last visited Feb 27, 2021).

¹¹ White-Collar Crime - Overview, Types, Classifications, Corporate Finance Institute, <https://corporatefinanceinstitute.com/resources/knowledge/finance/white-collar-crime/>

¹² Miele, Rymysza & P.C., Effects of white collar crime on society Miele & Rymysza, P.C. (2018), <https://www.mielerymsza.com/blog/2018/10/effects-of-white-collar-crime-on-society/>.



actions which cause loss or damage to people. Moreover scholars have left practically unexamined the injury to societal moralities and stress caused by white-collar crimes¹³.

Types of white Collar Crimes in India:-

Legal experts often split crimes into several categories. For instance, violent crimes may be considered one group of crimes, such as sexual assault and murder. Another set of crimes is property crimes. White collar crimes similarly comes under another set of crimes. These crimes got significant attention after the recession and are more frequent during times of economic downturn. White collar crimes might include forged or fake currency, multifaceted bookkeeping practices that are applied to cause embezzlement, identity theft based on phishing and other crimes that necessitate the use of technology, proficiency or classified information¹⁴. Types of white collar crimes include:-

- **Fraud** is quite possibly the most widely recognized kinds of white collar crimes. Misrepresentation of cases regularly include the culprit copying another person to remove assets from the genuine owner's account book. Fraud may aid a wrongdoer execute identity theft. Section 447 of the Companies Act, 2013 gives penalty against the commission of fraud. It maintains that in case an individual is found accountable of a crime of fraud he would get a sentence to prison for a time

not less than 6 months and which can exceed to 10 years.

- **Bribery** is another common form of a white collar crime is bribery. In bribery cases, the culprit pays somebody in a force position to make courses of action that monetarily advantage the culprit or others. For instance, a culprit may pay an administration official. It is often hard for federal regulators to ascertain and take legal action.
- **Insider Trading** is also a common white collar crime is that of insider trading. Insider trading includes individuals utilizing associations that they have within to purchase or sell stock before the significant data is unveiled. As opposed to some other white collar crimes, controllers have become progressively astute at recognizing certain exchanges that appeared to be founded on warned data. It could be hard for an individual to clutch stock realizing that this may at last mean losing cash when they have private data.
- **Cyber Crime**-Due to the internet, an increasing cause of white collar crimes is due to cybercrime. This type of crime involves collecting credit card numbers and personal identifying information through the use of computers. Some nations even use sophisticated attacks in order to discover classified information that other countries are attempting to hide.¹⁵
- **Embezzlement** happens when a person entrusted by an employer or another

¹³ Consequences of White-collar Crime (From White-Collar Crime - An Agenda for Research, P 23-49, 1982, Herbert Edelhertz and Thomas D. Overcast, ed. - See NCJ-77820) | Office of Justice Programs, www.ojp.gov, <https://www.ojp.gov/library/abstracts/consequences->

[white-collar-crime-white-collar-crime-agenda-research-p-23-49-1982](https://www.ojp.gov/library/abstracts/consequences-white-collar-crime-white-collar-crime-agenda-research-p-23-49-1982) (last visited Feb 27, 2021).

¹⁴ Different types of white collar crimes, Hg.org (2020), <https://www.hg.org/legal-articles/different-types-of-white-collar-crimes-40438>.

¹⁵ Supra at 14



person to handle money or property uses their position to misappropriate funds. An example of embezzlement is when an employee finds ways to funnel company money into their own bank account. Another is when a politician spends campaign funds for their personal expenses.¹⁶

The realm of white collar crimes is diverse. A few of the white collar crimes that have been reported in India are:-

- **Blackmail-** Section 503 of the Indian Penal Code, 1860 defines blackmailing or criminal intimidation as, making a demand for money or any other consideration by imposition of threat to cause physical injury, or to cause damage to one's property, or to accuse one of a crime, or to expose somebody's secret. For blackmailing to be viewed under the domain of white collar crime, it should be committed by or display an engrossment by someone enjoying higher social status in an occupation.¹⁷
- **Credit card frauds:** these frauds are committed when one person uses the credit card of another person who is unauthorized to obtain goods of value, he is said to have committed credit card fraud against the other person.

- **Currency Schemes:** These schemes basically refers to the practice of determining the value of the currency in the near future. The determining of the value is not based on any firm evidence though.¹⁸

Legislations:

Government has made numerous laws and rules for categorising and identifying white collar crime. These legislation contains punishment regarding these crimes. The acts mentioned below are the acts used for recognising white collar crimes.

Companies Act, 1960.

Income Tax Act, 1961.

Indian Penal Code, 1860.

Commodities Act, 1955.

Prevention of corruption Act, 1988.

Negotiable Instrument Act

Prevention of money laundering Act, 2002.

IT Act, 2005.

Imports and Exports (Control) Act, 1950

The Prevention of Corruption (Amendment) Bill of 2013 saw the light of day and was passed by both houses of Parliament and finally came into force on July 26, 2018. The Act is an attempt at making a conscious move towards a mature anti-corruption regime in consonance with the United Nations Convention against Corruption and has introduced the following key changes to the Prevention of Corruption Act, 1988-¹⁹

¹⁶ 5 Most Common White Collar Crimes, Northcentral University (2018), <https://www.ncu.edu/blog/5-most-common-white-collar-crimes#gref>.

¹⁷ Subodh Asthana, White Collar Crimes in India (2019), <https://blog.ipleaders.in/white-collar-crimes/> (last visited Feb 27, 2021).

¹⁸ Supra at 17

¹⁹ White Collar And Investigations: India And Globally - Criminal Law - India, www.mondaq.com (2019), <https://www.mondaq.com/india/white-collar-crime-anti-corruption-fraud/780342/white-collar-and-investigations-india-and-globally> (last visited Feb 28, 2021)



- Offering or giving bribe is now an offence.
- Preceding Permission to be sought before Initiating Investigations
- Commercial Organizations now liable for Prosecution
- Time Limit for Trial-The Act now requires trial of offences to be held on a day to day basis and endeavour to conclude it within two years.

While striving, the Act has not been free from reproach. It has apparently missed on tackling few key issues which similar laws under other matured jurisdictions provide for including – prosecution of corrupt practices among private entities, illegal gratifications paid to foreign officials, providing for guidelines for preventive anti-corruption policies and practices.

Conclusion: -

The frequency at which white collar crimes are growing has become a matter of trouble globally. It has been found that the damage that white collar crimes cause to society is much more than other forms of crime. Furthermore, India is a developing nation and so an unparalleled increase in white collar crime hampers its image along with being a hazard in the growth of its economy. As our general public is developing towards innovation and the world is encountering new mechanical progression, the pace of crime is likewise expanding at a quicker rate. Especially the development in white collar crimes has been colossal. From the clinical calling to instructive organizations, these crimes are being perpetrated all over the place. The instances of online misrepresentation are additionally expanding at a disturbing rate. India, as a non-industrial country, has confronted challenges in driving

its economy towards development due to these crimes as a rule and defilement specifically.

The media has a vital task to carry out in diminishing the pace of expanding white collar crimes. It has been noticed that the greater part of the white collar crimes go unreported. Along these lines, if the media turns out to be more dynamic towards distributing fakes and scams at more elevated levels and uncovering how do individuals at higher situation in an organization utilize their forces self-assertively, and furthermore put forth attempts in making individuals mindful about the white collar crimes, and evade degenerate practices, at that point this would help in decreasing the rate at which the white collar crimes are being committed. White collar crimes are the crimes which cause damage to the economy of the country as a whole. It threatens the country's economy by bank frauds, economic thefts, evasion of tax etc. It not only affects the financial status of a country or a person but it has also a negative impact on the society.
