



A Study on White Collar Offences in the Context of India

Dharmendra Yadav

Student, LL.M 4th Semester, School of law, Sandip University, Nashik

Dr. Raman Bharadwaj

Assistant Professor, School of law, Sandip University, Nashik

DR. Sharvari Vaidya

Dean, School of law, Sandip University, Nashik

Abstract

This research provides a comprehensive analysis of past white-collar crimes in India and their underlying causes. "Herbivores," individuals who engage in minor offenses limited to specific administrative regions, contrast with "Meat Eaters," pervasive across various industries, actively involved in white-collar crime. The proliferation of technology and education has facilitated a surge in white-collar crime, exploited by experts capitalizing on legal loopholes, often with tacit government support. These actors have organized into groups, enjoying legal protection, leading to the transformation of some ordinary workers into white-collar criminals. White-collar crime's pervasiveness in Indian society spans across social, economic, and political spheres, notably corruption, yet meaningful action to counter it remains lacking. This paper aims to define white collar crime, trace its historical evolution, and propose potential solutions. While ancient civilizations lacked formal criminal justice systems, the adage "an eye for an eye, a life for a life" marked a pivotal shift, though cheating

persisted, fueling public outrage. Furthermore, advancements in science have ushered in a new form of guilt known as "cabin injury."

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

INTRODUCTION

In the 1930s, criminologist and sociologist Edwin Sutherland introduced the term "white-collar crime" to describe offenses typically committed by individuals perceived to hold high social standing, whom he referred to as "persons of respectability." Subsequently, Sutherland established the Bloomington School of Criminology at Indiana State University.

Prior to Sutherland's conceptualization of "white-collar crime," it was commonly believed that individuals in society's upper echelons were largely immune to engaging in such illicit activities. Indeed, when Sutherland first published his work on this topic, it was met with resistance, with some of America's largest corporations attempting to suppress his findings. One of the contributing factors to white-collar crime is the availability of opportunities for such misconduct. Hirsch and Gottfredson (1987) assert that white-collar crime differs from conventional crimes in terms of both perpetration and societal response.

Sutherland defined white-collar misconduct as "wrongdoing committed in the course of employment by individuals of respectability and substantial economic status." Since Sutherland's initial articulation of this concept in a 1939 address to the American Sociological Society, debates have ensued regarding the specific infractions that constitute white-collar offenses. Broadly speaking, these offenses encompass non-violent acts aimed at financial gain, including violations of antitrust laws, deception, open defrauding, and tax evasion.

Despite the evolving understanding of white-collar crime, there is no universally accepted criminological theory to explain its occurrence. Various disciplines, including sociology, law, and criminology, hold divergent perspectives on the matter. In our society, alongside more conventional crimes such as assault, battery, robbery, and murder, there is a growing recognition of anti-social and unethical activities perpetrated by members of the upper strata in their professional capacities. Unfortunately, complaints or reports against such individuals frequently go unnoticed and unpunished, allowing perpetrators of white-collar crimes to evade accountability and perpetuate harm unchecked.

RESEARCH METHODOLOGY

Research Design: This study adopts a qualitative research design, incorporating both descriptive and analytical approaches. Descriptive analysis is utilized to provide an

overview of past white-collar crimes in India, while analytical methods are employed to delve deeper into understanding the root causes and consequences of these offenses.

Data Collection Methods:

- a. Document Analysis:** Various legal documents, government reports, academic articles, and news sources are analyzed to collect data on specific white-collar crimes, legal frameworks, and regulatory measures in India.
- b. Case Studies:** Several notable white-collar crime cases in India, such as the Satyam Scandal, Saradha Chit Fund Case, and Harshad Mehta Scam, are examined in detail to understand the modus operandi, impact, and legal consequences of these offenses.

Data Analysis:

Thematic Analysis: Data collected from document analysis and case studies are thematically coded to identify recurring patterns, themes, and key findings related to white-collar offenses in India.

Comparative Analysis: Comparative analysis is performed to compare and contrast different types of white-collar crimes, their perpetrators, methods, and impacts on society and the economy.

Qualitative Interpretation: Qualitative interpretation techniques are employed to interpret the findings within the theoretical framework of criminology and sociology, drawing connections between various factors contributing to white-collar crime in India.

Limitations: The study acknowledges certain limitations, including the reliance on secondary data sources, potential biases in case selection, and the dynamic nature of white-collar crime, which may evolve over time.

Scope for Future Research: The research identifies areas for future investigation, such as the effectiveness of existing regulatory measures, the role of technology in facilitating white-collar crime, and comparative studies with other countries to understand global trends and best practices in combating white-collar offenses.

DISCUSSION

White-collar crime is distinguished from blue-collar crime by the range of illicit activities in which the perpetrator may engage. Blue-collar crimes, such as robberies and break-ins, typically involve more straightforward methods due to the less sophisticated nature of the perpetrators. In contrast, white-collar criminals often have the means to execute elaborate and complex fraud schemes, such as those carried out by loan officers in banks.

Types of White-collar Crime:

- 1. Fraud:** Individuals are defrauded of their money through various means. One common scam involves offering victims a large sum of money, for example, \$10,000, in exchange for a small sum, such as \$300, which the con artist claims is for processing or finder's fees. The con artist retains the money given to them but fails to deliver the promised funds.
- 2. Insider Trading:** Insider trading involves trading securities based on non-public, material information, giving the trader an unfair advantage in financial markets. For example, an employee at an investment bank may be aware of an impending acquisition, allowing them to invest in the target company before the information becomes public, potentially resulting in significant gains.
- 3. Ponzi Scheme:** Named after Charles Ponzi, a Ponzi scheme is an investment fraud that promises high returns to investors. Initial investors are paid returns using funds from subsequent investors, creating the illusion of profitability. When new investors fail to cover returns for existing ones, the scheme collapses, leaving investors with substantial losses.
- 4. Identity Theft and Computer Hacking:** Identity theft and computer hacking are prevalent computer crimes, often involving online fraud and identity fraud. In the United States alone, identity theft damages are estimated to exceed \$2 billion, with California and Florida reporting the highest number of cases.
- 5. Embezzlement:** Embezzlement, also known as larceny, involves the theft of funds or property entrusted to one's care. Examples range from employees pilfering cash from a register to elaborate schemes diverting millions of dollars from company accounts.
- 6. Counterfeiting:** Counterfeiting involves the unauthorized reproduction of currency or goods, often using advanced technology. While efforts to prevent counterfeiting have

intensified, challenges persist, with counterfeiters exploiting vulnerabilities in currency design.

7. Tax Evasion: Tax evasion involves illegally avoiding paying taxes owed to the government, often through complex financial maneuvers. Criminals may launder money through multiple accounts and legitimate businesses to conceal its illicit origins.

8. Espionage: Spying, or espionage, is typically a white-collar offense involving the theft of sensitive information for political, economic, or military gain. For instance, a foreign operative may offer financial incentives to individuals with access to proprietary technology or classified data.

White-collar crimes often stem from various motivations and societal factors. Competition in the market drives individuals to resort to illicit activities like fraud and forgery in pursuit of short-term gains. The perception of survival of the fittest fosters a culture where some individuals rationalize unethical behavior as a means to gain a competitive edge. Additionally, technological advancements have amplified the scope and sophistication of white-collar crimes, making them more prevalent and harder to detect. Rationalization further perpetuates these offenses, as individuals may convince themselves that their actions are justified or victimless, such as in the case of insider trading or bribery.

The workplace environment plays a significant role in shaping behaviors and ethical decision making. Factors such as poorly designed incentive structures or managerial indifference to ethics can incentivize employees to engage in illegal conduct for personal gain. The consequences of white-collar crimes within a company can be severe, leading to reputational damage, financial

losses, and even closure. Moreover, the erosion of trust and confidence among clients and stakeholders can further exacerbate the fallout from such offenses, resulting in decreased customer loyalty and market competitiveness.

White-collar crimes not only harm individual victims but also have broader financial implications for businesses and society at large. The direct financial losses incurred by companies due to fraudulent activities can be substantial, affecting profitability and shareholder value. Moreover, the indirect costs associated with legal proceedings, regulatory

fines, and reputational damage can have far-reaching consequences. Job losses, stock market declines, and a loss of faith in the justice system contribute to the economic and social ramifications of white collar crimes.

The advent of technology has revolutionized the landscape of white-collar crime, giving rise to cybercrime as a prominent threat. Cybercriminals exploit vulnerabilities in digital systems to perpetrate crimes such as identity theft, money laundering, and computer hacking. The anonymity and global reach afforded by the internet have made cybercrime a lucrative avenue for financial gain, posing significant challenges for law enforcement and regulatory authorities. The sophistication of cybercriminal tactics, including the use of malware and phishing scams, underscores the need for enhanced cyber security measures and regulatory oversight to combat this evolving threat.

LEGISLATION IN INDIA FOR WHITE COLLAR CRIME: A REVIEW

Hoardings profiteering and black marketing are two examples of white-collar crimes prevalent in Indian commerce and business. The Indian government has enacted several regulatory laws, violations of which constitute white-collar crime. Some of these laws include:

- Central Excise and Salt Act, 1944
- Companies Act, 1956
- Drugs and Customs Act, 1940
- Emblems and Names (Prevention of Improper Use) Act, 1950
- Essential Commodities Act, 1955
- Foreign Corrupt Practices Act, Foreign Exchange Regulation Act, Forward Contracts (Regulation Act, 1952)
- Immoral Traffic (Prevention) Act, 1956
- Income Tax Act, 1961

White Collar Crime in Different Professions

1) In the field of medicine and health:

- Doctors fabricating fake medical certifications
- Prolonging therapy unnecessarily to inflate costs
- Subjecting patients to unnecessary procedures for financial gain
- Selling sample medications, a practice prohibited for pharmacists

2) In the legal profession:

- Falsifying documents
- Intimidating witnesses
- Violating ethical standards for financial gain

SOME WHITE COLLAR CRIMES THAT HAD TAKEN PLACE IN INDIA**1) Sukesh Chandrasekhar Fraud**

Sukesh Chandrasekhar, a conman, gained notoriety for his ostentatiously lavish lifestyle as a result of the numerous scams he pulled off. Sukesh, a dropout, used several government figures, including the current home minister Amit Shah, to defraud unwary parties of millions of dollars. His name was also connected to Bollywood actresses Nora Fatehi and Jacqueline Fernandes, whom he lavished with pricey racehorses, designer purses, and costly vehicles!

According to recent reports, Sukesh reportedly assisted TTV Dhinakaran, the AIADMK deputy general secretary, in obtaining a favourable position with the electoral commission. Sukesh and Dhinakaran were originally detained by the Delhi Police Crime Branch in 2017 in connection with the electoral commission bribery case, and the investigation is still ongoing. Sukesh allegedly defrauded at least 200 crore rupees from a number of unknowing people while incarcerated.

2) Satyam Scandal

The Satyam affair, which is undoubtedly one of the largest accounting frauds in our country, was exposed in the most spectacular way. B Ramalingam Raju of Satyam Computers admitted to forging his books in a testimony that was printed in the Times of India in 2009.

According to Lego Desk, the terrible recession of 2009 was exacerbated by the 14,000crore fraud. Raju and his associates were subject to a crackdown by SEBI, which held them responsible for financial

fraud, insider trading, and other significant financial schemes. According to a Lego Desk report, SEBI restricted the guilty from accessing the securities markets for 14 years and ordered them to pay 3000 crore rupees in 45 days.

3) Saradha Chit Fund Case

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 left after admitting to the CBI about his misdeeds, and a number of FIRs were subsequently filed against him.

A 70million dollar relief fund for aggrieved low-income depositors was established by CM Mamata Banerjee, and an ongoing investigation was launched by a SIT. According to Trade Brains, Sen has 98 claims outstanding as of 2021.

4) Harshad Mehta Scam

The Harshad Mehta Scam is the most well-known example of white-collar crime that has been provided. The lives and times of Harshad Mehta, the most well-known businessman and stockbroker in Bombay, have been memorialised in the film "Scam 1992." Mehta was well known in Mumbai's trading community and was suspected of manipulating stock prices, which led to a sharp increase in share prices. Mehta allegedly made little more than 5000 crore rupees through his use of deception, according to Lego Desk.

The hoax was ultimately discovered by renowned financial journalist Sucheta Dalal thanks to her excellent research. 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.

CONCLUSION

If India wants to maintain its current economic trajectory, it must reduce fraud and corruption in both the public and private sectors. Fraud and corruption, as previously stated, prevent multinational corporations from investing in the nation. The obvious evidence of the negative effects of fraud and corruption is the decrease in foreign direct investment in 2011 and the withdrawal of capital from stock markets by international financial institutions.

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.

Therefore, the guiding principle ought to be that prevention is always preferable to treatment. Since the activities included misdirecting the public's confidence and conviction, the general population all in all ought to step forward to guard the whole society from these avaricious people who are gradually obliterating the morals and profound quality of the general public to seek after their own thin personal circumstance.

VI. REFERENCES

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