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White collar crimes: A comprehensive analysis

Sachin Singh Parihar ^{1*}, Anwesha Ghosh ²

¹⁻² Research Scholar, Department of Law, Central University of Punjab, Bathinda, India

* Corresponding Author: Sachin Singh Parihar

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Abstract

White-collar crimes and economic offenses have increased alarmingly as a result of the modernization of crime, a disturbing trend that threatens to destroy the economy globally. White-collar crimes are admittedly very common in third-world nations and are thus by no means a new occurrence. The convergence of business and the law, as well as their interactions with innovation, moral discourse, and public perception, as well as the evolution of state regulations over time, are what give white-collar crimes their historical foundation. Since white-collar criminals were not viewed as the “typical criminals” who committed robbery, or murder, it will not be an exaggeration to argue that it took a long time for the law to recognize this form of the malicious act under the canopy of crime. Instead, there was a perception that white-collar offenses were victimless and less detrimental to society than crimes like robbery. White-collar offenders still face substantially lighter punishments than ordinary criminals in various nations. White-collar crimes create significantly more harm to society than traditional crimes because they pose a much bigger threat to economic stability by undermining public confidence. The current study’s fundamental methodology will be doctrinal, i.e., it will analyse deviances and the problems associated with white-collar crimes in considerable detail. The technique takes a strictly theoretical approach; therefore, it describes several professions where such crimes occur and provide a thorough conceptual understanding of the underlying idea. The present study will make attempt to comprehend the reasoning behind deviations and the conditions that give rise to such crimes. The study will also seek to analyse the current situation considering the context. Additionally, the study will present some untouched perspectives on white-collar crimes.

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Introduction

India is having a rich culture and tradition, coming from different walks of people. Looking at the past of this country we find that due to the intermingling of various types of races and civilizations, India has emerged with wide categories of richness in all senses. But as said everything has its two sides. We find that due to diversified people coming to this country, there are various classes also emerged.

The class system is not new or the inculcated one, even ancient India does have few classes. Now with the modernization, we find that this categorization goes very wide and prominent. One such class is the privileged class. This means those who are enjoying some sort of privileges or facilities. In India, we find a very good number of such people. These privileges are being given to them either because of their name or fame or because of their excellence in any area. They used to constitute a whole class of people as we find that they are variously present. And above all in a country like India, they are prominent too. They are being given the rights and powers.

Although there are no such hard and fast categories being decided among the common men conventionally, they are so present. The term called as the deviances is also to be highlighted. We find that it is nothing but the “*deflection from the right path*” ^[1]. When one is given some facility then definitely, he should have some responsibilities too. These responsibilities can also be termed as the ethics or the duties. When they are not being followed by the respective person they are called as the Deviances ^[2]. Here in India, we find that there are so many problems as to the large population to support along with that there are certain

other things as the problem of the employment and that of sustenance. Hence the deviances become too typical. The various types of the privileges classes are as those coming from the arenas like the politics, sports, education, administration, glamour etc. They all are today reported to have the deviances. The position of the privilege people makes them so as to control the situation in the society.

May that be only a teacher but he/she may dictate their terms to the pupils and parents! Likewise, we have the bureaucrats, they are to perform functions for the welfare of the common men but what they are doing is just to have their own good and at the expense of the ordinary people!

Basically, offences are categorised as: (1) conventional offences, where *mens rea* is an essential ingredient, (2) non-conventional offences, where *no mens rea* is required and they are termed as public welfare offences, white-collar crimes, and socio-economic offences. This paper only deals with the non-conventional white-collar crime part.

Research Methodology

The basic approach of research will be *doctrinal* i.e., it is concerned with the in-depth analysis of the reasoning behind deviances and the issues involved with white collar crimes. Since the approach is pure theoretical, it mentions various professions where such crimes exist and a thorough conceptual appreciation of the underlining concept.

Scope and Objectives of the study

1. To understand the logic behind deviances.
2. To study the factors that lead to such crimes.
3. To analyse the present situation regarding the context.
4. To finally outline some untouched perspectives regarding white collar crimes.

White Collar Crimes

Necessity is not always the motive behind commission of a crime. This idea evolved with the criminologist and sociologist Edwin H. Sutherland in the year 1939, who popularized the term white collar crimes by defining such a crime as one committed by a person of respectability and high social status during his occupation^[3]. Sutherland also included crimes committed by corporation 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 Sutherland was of a view that crime is committed at every level of society and by persons of widely divergent socio-economic backgrounds^[4].

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^[5]. Talking about the prevalence of white-collar crimes in India they are spreading like a rapid fire in every sphere of society.

Chronological Background of the Emergence of White Collar Crimes

The first documented case of white-collar crime law registered in 15th century is England^[6]. There has been a case popularly known as the Carrier's case of 1473, where the agent was entrusted to transport wool and he attempted to steal some of it for him. Therefore, the star chamber and

Exchequer chamber of the English Court of law adopted the braking bulk doctrine as it constituted the crime of larceny means the crime of theft. However, the growth of industrial capitalism in the eighteenth century ushered a new history of crime and criminality.

The base of industrial capitalism is based on coercion and robbery. Before discussing the topic, it is necessary to understand the meaning of capitalism. The Process of emergence of these conditioned was termed by Karl Marx as primitive accumulation while in the word of Adam Smith, it was previous accumulation. Therefore, the Dutch Marxist, William Bonger contended that criminal attitude develops among the working class under capitalism due to conditions of misery and at the same time the criminal attitude develop among the bourgeoisie from the avarice fostered when capitalism strive. It succeeded in United States of America in 1890, when congress passed the Sherman Antitrust act which took the initiative to make the monopolistic illegal. Other industrialized countries like Great Britain had a history of penalties involving white collar crime by that same time, but it was not as sweeping as the Sherman Act.^[7] Some nations implemented a smattering of these laws, known as competition or antitrust law, but did not have a strong binding force for a long time. But more anti-white collar crime sentiment rose in the late 19th century and early 20th century in the United States as result of group of Journalists known as muckrakers exposed gave rise to public resentment and thereby called for in some reform^[8]. By 1914, Congress attempted to solidify and strengthen the sentiment laid down by the Sherrman Act, which was used against labour Unions, with the Clayton Antiturst Act. This Act was much stricter and went much further than Sherman Act in making particular monopolistic practices illegal.

Historical Background

The concept of white-collar crime is usually associated with E.H. Sutherland whose penetrating work in this area focused the attention of criminologists on its demoralizing effect on the total crime picture. Sutherland pointed out that besides the traditional crimes such as assault, robbery, dacoits, murder, rape, kidnapping and other act involving violence, there are certain anti-social activities which are the person of persons of upper starts carry on in course of their occupation or business these activities for long time were accepted as a part of usual business tactics necessary for a shrewd professional man for his success in professional or business. Thus, any complaint against such tactics often went unheeded and unpunished^[9].

It must, however be stated that Sutherland was preceded by other writers who focused attention on the dangers to society from upper socio-economic group who exploited the accepted economic system to the detriment of common masses^[10]. In this research researcher underlined the growing incidence of crime as an organized business and its evil effect on society. In 1934, Morris drew attention to the necessity of a change in emphasis regarding crime. He asserted that anti-social activities of persons of high status committed in course of their profession must be brought within the category of crime and should be made punishable. Finally, E.H. Sutherland through his pioneering work emphasized that these upper world crimes which are committed by the person of upper socio-economic group in course of their occupation violating the trust, should be termed "White collar crime" to be distinguished from

traditional crime which he called, "Blue collar crime" [11]. Thus, he observed that if a broker shoots his wife's lover, that is not a white collar crime, but if he violate the law and is convicted in connection with his business, he is a white collar criminal.

Sutherland farther pointed out that white collar crimes differ from the crimes committed by criminal syndicates. This distinction could be based on the extent of presumed respectability. Thus, if a person who belongs to a respectable class of society and possesses some degree of good reputation, sells shoddy goods he is committing a white-collar crime. But if a group of persons unknown to their victims sells the same type of shoddy goods that would not be a white collar crime [12].

Meaning and Definition of White-Collar Crime

No doubt it is also crime against society but it is different than ordinary crimes. It is different in the sense that victim is not any individual in White collar crime as society is victim there some of the criminologist and penologist given following definitions of white-collar crime. According to Sutherland "Crime committed by persons of respectability and high social status in course of their occupation"

The concept of "White collar crime" found its place in criminology for the first time in 1941 when Sutherland observed white collar crime as a "Crime committed by persons of respectability and high social status in course of their occupation." A white-collar criminal belongs to upper socio-economic class who violate the criminal law while conducting his professional qualities [13]. Thus, misrepresentation through fraudulent advertisements, infringement of patents, copyrights, and trademarks etc., are frequently resorted to by manufactures, industrialists, and other persons of repute in course of their occupation with a view to earning huge profits. Other illustration of white-collar criminality includes publication of fabricated balance sheets and profit and loss account of business, passing of goods, concealment of defect in the commodity for sale etc., [14].

Sutherland farther pointed out that a white-collar crime is more dangerous to society than ordinary crimes because the financial loss from burglaries, robberies larcenies etc. the most dismissal aspect of white-collar crimes is that there is no effective programme for the enforcement of criminal law against them and the influential persons involved in these crimes can resist enforcement of law against themselves [15].

These white-collar crimes by their very nature are such that the injury or damage caused as a result of them is so widely diffused in the large body of society that their gravity regarding individual victim is almost negligible [16]. It is probably for this reason that late these crimes did not attract much attention as they do not carry with them and loss of social status of the offender even if he is caught detected. There is yet another reason for white collar criminals escaping prosecution. In case of misrepresentation concealment or fraud etc., the court usually place reliance on the principal of caveat emptor, which signifies that the purchaser must enter in to a deal with open eyes and guard himself against ordinary dishonesty of the vendor. As a result of this attitude of the court there was enormous increase in white collar crime during the period of depression in 1930's in United States. Perhaps it is for this reason that American President Roosevelt in 1933 insisted on withdrawal of the doctrine of caveat emptor from adjudication of cases involving white collar crime.

Contributing Factors

Of all the factors, the economic and industrial growth throughout the world has perhaps been the most potential cause of increase in white collar crimes in recent years. The changing socio-economic scenario of the society coupled with increase in wealth and prosperity has furnished opportunities for such crimes commenting on the growing incidence of white-collar crime in India, the law commission in its Twenty Ninth Report [17] observed that modern scientific and technological developments and monopolistic trends in business world have led to enormous increase in white collar crimes.

The post-independence period in India ushered an era of welfare activities which necessitated regulatory measure [18] on the part of government to control means of production and distribution so as to subserve the common good [19]. The contravention of such regulatory measures generally gives rise to white collar criminality or Corporate Criminality.

Marshal B. Clinard asserted that the problem of white-collar criminality or corporate criminality has its roots in Competitive business community which tries to oust their rival competitors in order to earn huge profits [20]. Sometimes such crimes may also be committed merely for the sake of retaining existence in the competitive business. To illustrate, though there is a prescribed code of ethical for the practicing lawyer but since the very nature of their profession involves the spirit of combat and competition, they often resort unlawful tactics such as concealment or misrepresentation of facts, which if detected is punishable under the law. Another example, the private educational institutions in India which receive public aid grants furnish false accounts simply for the sake of retaining their existence likewise, the members of industrial and business class who enjoy high status in the society have a tendency to suppress their real profits by furnishing false fabricated accounts of their income and property in order to claim tax exemptions or avoid payment of heavy taxes.

The recent developments in information technology particularly during the closing years of the twentieth century have added new dimensions to white collar criminality. There has been unprecedented growth of new variety of computer dominated white collar crimes which are commonly called as cyber-crimes. These crimes have become a matter of global concern and a challenge for the law enforcement agencies in the new millennium. Because of the specific nature of these crimes, they can be committed anonymously and far away from the victim without physical presence. Farther, cyber criminals have a major advantage they can use computer technology to inflict damage without risk of being apprehended or caught. It has been predicted that there would be simultaneous increase in cyber-crimes. With the increase in new internet websites, they are affected by cyber-crimes like banking and financial institutions, energy and telecommunication services, transportation, business, industries etc.

White Collar Crime in India

White collar criminality has become a global phenomenon with the advance of commerce and technology. Like any other country, India is equally in the grip of white-collar criminality [21]. The reason for the enormous increase in white collar crime in recent decades is to be found in the fast-developing economy and industrial growth of this developing country. The Santhanam Committee Report in its finding

gave a vivid picture of white-collar crimes Committed by persons of respectability such as businessmen industrialists, contractors, and suppliers as also the corrupt public officials highlighting the magnitude of white-collar crime in India. The commission on prevention of Corruption in its report observed:

“The advance of technological and scientific development is contributing to the emergence of mass society with a large rank of file and a small controlling elite, encouraging the growth of monopolies, the rise of a managerial class and intricate institutional mechanisms. Strict adherence to high standard of ethical behaviour is necessary for the event and honest functioning of the new social, political and economic processes. The inability of all sanctions of society to appreciate this need in full result in the emergence growth of white collar and economic crime, render enforcement of the laws, themselves not sufficiently deterrent, more difficult. Tax evasion and avoidance, share pushing, malpractices in the share market and administration of the companies, monopolistic control, usury, under invoicing or over invoicing, hoarding, profiteering, substandard performance of contracts of constructions and supply, evasion of economic laws, bribery and corruption, election offences and malpractices are some examples of white-collar crime” [22].

The Commission broadly classified white collar and socio-economic crimes in to eight categories and suggested insertion of a new chapter on white collar crimes in the Indian penal code. The matter was referred by the Government to the Law Commission of India for consideration, The Law Commission, however disagreed with proposal and observed that “Such offence are better left to dealt with by special and self-contained enactments which supplement the basic criminal law”.

The Report of the Vivin Bose Commission of Inquiry in to the affairs of Dalmia Jain group of companies in 1963 highlights how these big industries indulge in white collar crimes such as fraud. The CBI probe against Win Chaddha and Hindujas in the famous Bofors scandal and FERA enquiries against Delhi firm Jyotsna Holding Pvt. Ltd. involving 6.5 core illegal commissions for contract of pipes with ONGC in 1988 are glaring illustration on the point. The ever-biggest Multi thousand crore security scam by Harshad Mehta during 1991-92 involving persons holding high position in certain banks including certain prestigious and leading bank, the State Bank of India further evince the massive corruption, fraud and mismanagement in Indian Banks and the nexus between the brokers and brokers of Underworld gangs.

Types of White-Collar Crimes

White collar crime in India is flourishing every day in new form. Some of the white-collar crimes Common in India are:

Tax evasion

The complicity of tax laws in India has provided sufficient scope for the tax payers to evade taxes. The evasion is more common with influential categories of persons such as traders, business man lawyers, doctors, engineers, contractor etc. The main difficulty posed before the income tax Department is to know the rest of the money goes in to circulation as black money. Despite frequent modification in tax laws of the country the menace of tax evasion continues unabated and it is causing considerable loss to government revenue.

The Supreme Court in it majority decision in R.K Garg v. Union of India [23] upholding the validity of the Special Bearer Bonds (Immunity and Exemption) Act, 1981 observed that the Act was not intended to encourage tax evasion in farther and condone such evasion committed in past but the real object of the Act was to launch a nation-wide search to unearth undisclosed wealth by encouraging small incentive to those who declared their undisclosed cash. The main intention was to unearth “black money” so as to prevent further loss revenues.

Food and drug adulteration

Adulteration in food and drugs causes irreparable damages to the health of innocent people. This evil practice is rapidly increasing in India. Accordingly to survey report of Ministry of health, Government of India about 25% to 70% of the food stuffs consumed in this country are adult erected or contaminated. This tendency is due to the greed of the manufacturers the existing laws are defective and inadequate to prevent food and drug adulteration. The precaution under prevention of food adulteration Act have failed due to

- The defective reports of the public analysis.
- Delay in the examination of collected samples.
- Non-implementation of proper procedure for collection of samples.

Hoarding, Black Marketing and Adulteration

The white-collar crimes which are common to Indian trade and business world are hoarding, profiteering and black marketing [24]. Violation of foreign exchange regulations and import and export laws are frequently resorted to for the sake of huge profits. That apart, adulteration of foodstuffs, edibles and drugs which causes irreparable danger to public health is yet another white-collar crime common in India [25]. The Law Commission of India has suggested drastic measures against such offenders in several enactments like the Consumer Protection Act, 1986; the Narcotic Drugs and Psychotropic Substances Act 1985 (NDPS) Monopolies and Trade Restrictive Practices (Amendment) Act, 1992. In the Commission’s observation the tedious prosecution process involved in the trial of such cases frustrates the cause of justice and often results into unjustified acquittal due to defective report of the analyst or delay in examination of samples or lack of legal expertise etc. [26].

White Collar Crime in Certain Professions

Some of the professions involving technical expertise and skill provide sufficient opportunities for white collar criminality. They include medical profession, engineering, legal practise, private educational institutions etc.

Medical Profession

White collar crimes which are commonly committed by persons belonging to medical profession include issuance of false medical certificates, helping illegal abortions, secret service to dacoits by giving expert opinion leading to their acquittal and selling sample-drugs and medicines to patients or chemists. Dilatory tactics adopted by the members of this profession in treatment of their patients with a view to extracting huge sums from them has become an accepted norm, particularly with those medical men who do not have a good practice or have only a marginal earning [27].

The persons employed in essential services of the government or other undertakings are often confronted with

the problem of getting leave due to shortage of staff. They, therefore, procure medical certificate regarding their false sickness and produce it to the department to justify their absence from duty ^[28]. In return, they must pay certain amount to the concerned medical staff. Thus, though a white-collar crime, this tactic has proved a boon and a workable alternative to employees who have difficulty in obtaining leave from the employers.

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 antisocial and creates enormous damage to the public health and safety at large.

White Collar Crime in 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 ^[29]. 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. Many 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. 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 ^[30].

Educational Institutions

Yet another field where white-collar criminals operate with impunity are the privately run educational institutions in this country. The governing bodies of these institutions manage to secure large sums by way of government grants or financial aid by submitting fictitious and fake details about their institutions. The teachers and other staff working in these institutions receive a not enough salary far less than what they sign for, thus allowing a big margin for the management to grab huge amount in this illegal manner. The victimized teachers can hardly afford to complain about this exploitation to high ups because of the fear of being thrown out of job. They are, therefore, compelled to compromise with the situation. Although the Government has introduced the scheme of treasury-payments for teachers of private institutions, but the problem persists in one form or the other.

That apart, fake and bogus enrolments of students who are residing far away from the place of location of these institutions is yet another source of illegal earning for them. They charge huge amounts by way of donations or capitation fees from such needy students. Even rackets operate in these institutions for procuring students to appear in different examinations on the basis of manipulated eligibility certificates or domicile certificates in return for huge sums. These dishonest and unscrupulous practices have damaged the standard of education in India to such an extent that it is causing an irreparable loss to the younger generation ^[31].

White collar crime in business deals

These are only a handful of instances of white-collar crimes practiced in day-to-day life by certain professional during their profession. The major roles in committing white collar crime are played by the business men and politician whose greed and want multiply with the more they acquire. In India whenever major scandal come to the media focus a thorough investigation always find an unlawful involvement of politician parties in it and as far as businessmen are conserved, their act of white-collar crime is gone beyond the court ^[32].

White collar crimes are also rampant in business world. There have always been instances of violation of trust. *Sutherland* made a careful study of several large corporations and business houses in United States and found that they were involved in illegal contracts, combinations or conspiracies in restraint of trade, misrepresentation in advertising, infringements against copyrights and trademarks, unfair labour practices, bribing public officials and so on. The public hardly knows the trickery of business criminals as they treat it as not too important for their purpose ^[33].

Sutherland attributed the highest degree of criminality to business world which includes traders, businessmen and industrialists. It has been held that "business communities in India of large and small merchants are basically dishonest bunch of crooks. Nowhere in the world do businessmen get rich as quickly as they do in India ^[34]."

The Santhanam Committee Report on Prevention of Corruption, observed that Indian businessmen build up secret hordes of foreign exchange abroad through under-invoicing of exports and over-invoicing of imports violating the Imports & Exports Laws and Foreign Exchange Regulations ^[35].

Although bribery is an offence under the Prevention of Corruption Act, 1988 and both, bribe-takers as well as the bribe-givers are equally punishable, but commercial agents and public officials indulge in illegal gratification for their personal gain and the legal restraints provided for the purpose are hardly adequate to cure this menace ^[36].

White collar crimes also operate in insurance business where both the insured as well as insurer earn considerable profit by making false and fabricated claims. Instances are not wanting when intentional house-burning, automobile destruction and even murders are planned by the persons of respectable community in order to make good fortunes from the manipulated insurance claims ^[37].

Even the latest Nirav Modi-PNB fraud case is one of the examples of such type of white-collar crime where Modi and Choksi allegedly defrauded PNB through fraudulent LoUs and FLCs from 2011 to 2017 in connivance with bank officials of worth Rs. 11,400 crores.

Corruption and Bribery in India

The report has a special coverage on corruption in India. It shows that the 2010-2011 corruption and fraud cases in India – 2G telecom scam, Adarsh Society scam, Commonwealth Game fraud, various land scams etc. have negatively impacted India's reputation internationally. Last decade depicted India's growth story. The government and private sector post-independence never had it so good. Huge investments were planned to improve infrastructure. With liberalization foreign investment flows increased. The sudden spurt in economy also resulted in higher greed and corruption soared. The cases show how senior level politicians and business heads that were much revered and respected compromised their ethics. As per the report, 78% of the Indian organizations have stated that they are highly/moderately vulnerable to corruption. In my view, this is an understatement; around 90- 95% of the companies are exposed to corruption. The multinational subsidiaries in India are also significantly affected by corruption^[38]. Though the FCPA and/or UKBA are applicable to them, the acts do not have many teeth in Indian scenario. In my view, the US/ UK authorities will be able to follow through only on the bigger cases, and the smaller ones will be ignored. Hence, the effectiveness of these acts is limited. Secondly, the developed countries have a one-sided view of corruption^[39]. They prohibit their own country's companies from paying bribes. However, accept the bribe money deposits from Indian (and other countries) politicians and businesspersons in their country's banks. This encourages money laundering rather than curtailing corruption. Although, India has a Prevention Against Corruption Act, it has not reduced corruption. As per the act, government officials cannot receive any bribes or loose payments. However, receiving 2-10% bribe of total contract value assigned is quite prevalent^[40].

Misconceptions about White Collared Crime

Four major myths that are widely when it comes to white-collared crime-usually described as an illegal act committed for financial gain. Following are the details^[41]:

1. White-collared crimes are nonviolent-since white-collared crime is usually characterized as non-violent, many are prone to this myth. But criminals in general have a sense of entitlement and need for control.
2. White-collar criminals are highly paid-you may be thinking of famous Ponzi schemes like Bernie Madoff or Allen Sanford here, but white collared criminals also depend on poorly paid underlings.
3. White-collar criminals are otherwise upstanding citizens-about 40% of white collared criminals have a record.
4. It's all about cash-Yes, there are poorly paid white-collar criminals, but the mastermind of the crime could be very rich. Researchers say "peer pressure, company culture, and pure hubris" cause people to commit white-collared crimes.

White Collar Crime Distinguished from Traditional Crime

It must be noted that white collar criminality has a close affinity to the attitudes and values of culture in a particular society. This is evident from the fact that white collar criminals are intelligent, stable, successful and men of high social status as compared with the ordinary criminals. They are foresighted persons belonging to the prestigious group of

society. White collar crimes which are committed in commercial world are indirect, anonymous, impersonal and difficult to detect. As against this, ordinary criminals commit crimes which are direct and involve physical action such as beating, removal of property or use of force, etc. which can be easily identified and detected. It is often said that ordinary crimes which are otherwise called 'blue collar crimes' are more common with the underprivileged class while the white-collar crimes are committed by the members of privileged group who belong to upper strata of society. *Edwin Sutherland*, however, suggests that status alone is not determining of white collar or blue-collar crime. This is evident from the fact that even the most privileged and prestige persons may commit heinous crime such as assault, murder, rape or kidnapping for which they can be severely punished, while, on the other hand, most under-privileged persons may be involved in a white-collar crime like tax evasion, corruption or misrepresentation which may not be looked as serious offence^[42].

It must be stated that besides being a social problem, white collar crime is also a legal problem. As *E. H. Sutherland*^[43] rightly puts it, no distinction in terms of social status, occupational activity, attitude, or gravity of consequences materially gain with little or no loss of status. This again, gives a misleading impression that the executive and judicial authorities who are concern with the prevention of crime react favourably to the upper- and middle-class society and dispose of white-collar criminals with mere censure or admonition while other criminals are subjected to severe penal sanctions under the law without being given any pre-warning^[44]. But that the reason for this soft attitude of law-makers and prosecutors towards white collar criminals is perhaps the latter's closer contacts with agencies of social control on account of their social status and privileged position^[45]. More often than not, these criminals are friendly with the top ranking public officials. That apart, the impact of white-collar crime is so widely diffused in many people that it does not aggravate the feelings of one single individual^[46]. Therefore, the public cry against white collar criminality is far less than for the predatory crimes^[47].

The financial cost of white-collar crime is probably several times greater than that of all the crimes taken together^[48]. In a recent study it has been concluded that the financial loss to society from white collar crime is far greater than the financial loss from the predatory crimes committed by persons of lower socio-economic status. It has been further concluded that the average loss per burglary is less than ten thousand rupees and a burglary which yields as much as one lakh of rupees is exceedingly rare^[49]. On the other hand, there may be several crores' rupees embezzlements reported in one year. Notably, these embezzlements are nothing as compared with the large-scale crimes committed by corporations, investment trusts and public utility concerns. It can, therefore, be inferred that white collar criminals violate trust and create distrust which lowers social morale and results into social disorganization to a large extent while other crimes produce relatively little effect on social institutions.

By way of generalisation, it may be stated that like other criminal behaviour, white collar criminality can best be explained through the process of differential association^[50]. It is a generic explanation for both white-collar as also the blue-collar criminality. Those who become white collar criminals generally start their career in good neighbourhoods and good homes, well-educated with some idealism and get

into peculiar business situations in which criminality is, practically a routine way of life. Another explanation for white collar criminality is to be found in the process of social disorganization in the community^[51].

Latest Events

CBI v. M/s Vini Iron and Steel Udyog Ltd. & Ors.^[52] (2017) White collar crimes are far more dangerous to the society than ordinary crimes, said the special CBI court that sent former Jharkhand Chief Minister Madhu Koda and co-convicts behind bars for three years while directing them to cough up varying amounts of fine, the highest being Rs 50 lakh imposed on Kolkata-based Vini Iron and Steel Udyog Ltd, followed by Rs 25 lakh imposed on Koda and Vijay Joshi. Special CBI judge Bharat Parashar sentenced Koda, former Coal Secretary HC Gupta, former Jharkhand Chief Secretary Ashok Kumar Basu and major shareholder of Visul Vijay to three-year imprisonment for their involvement in the multi-crore coal block allocation scam concerning the irregularities in allocation of Rajhara North coal block in Jharkhand in January, 2007 to Visul, even as it did not meet the criterion for the allocation.

Indians have no fear of law and of the consequences to them of breaking it. The investigative agencies are slow, and succumb to a variety of influences (including political influence to protect crony capitalists) and weaken their investigative process through inordinate delays and even presenting a weak case. The judiciary, too, is inexplicably lenient in its grant of adjournments; the judges come up through the ranks of lawyers and are wont to permit delays, thus benefiting the culprit and punishing the victims^[53].

President Ram Nath Kovind on Monday emphasised on the accountability of auditors in cases of white-collar crimes^[54]. Addressing the platinum jubilee celebrations of the Institute of Chartered Accountants of India (ICAI), Kovind said that when white-collar crimes happen, it would be relevant to ask if those responsible for auditing balance sheets have truly done their duty. "As professionals, it is your legitimate right to advise your clients on tax planning. However, there is a fine line between intelligent tax planning – and tax dodging and tax evasion. Chartered accountants are custodians of that fine line," Kovind said.

Conclusion

In a country like India where large-scale starvation; mass illiteracy and ignorance affect the life of the people, white collar crimes are bound to multiply in large proportions, so in my *opinion* control of these crimes is a crucial problem for criminal justice administration in this country. However, some of the remedial measures for combating white collar criminality may be stated as follows: --

- Creating public awareness against these crimes through the medium of press, platform, and other audio-visual aids. Intensive legal literacy programme may perhaps help in reducing the incidence of white-collar criminality to a considerable extent.
- Special tribunals should be constituted with power to award sentence of imprisonment up to ten years for white collar criminals.

The penalty for white collar crime which are a potential risk to human lives may even be extended to the imprisonment for life or even to death if the circumstances so demand.

- A separate chapter on white collar crimes and socio-

economic crimes should be incorporated in the Indian Penal Code by amending the Code so that white collar criminals who are convicted by the court do not escape punishment because of their high social status.

- White collar offenders should be dealt with sternly by prescribing stiffer punishments keeping in view the gravity of injury caused to society because of these crimes. The Supreme Court, in *M H Hoskot v. State of Maharashtra*^[55], in this context observed, "soft sentencing justice is gross injustice where many innocents are the potential victims"
- Above all, public vigilance seems to be the cornerstone of anti-white collar crime strategy. Unless white collar crimes become abhorrent to public mind, it will not be possible to contain this growing menace (to threaten). In order to attain this objective, there is need for strengthening of morals particularly, in the higher strata and among the public services. It is further necessary to evolve sound group-norms and service ethics based on the twin concepts of absolute honest and integrity for the sake of national welfare. This is possible through character building at grass-root level and inculcating a sense of real concern for the nation among youngsters so that they are prepared and trained for an upright living when they enter the public life.
- Finally, it must be stated that a developing country like India where population is fast escalating, economic offences are increasing by leaps and bound besides the traditional crimes. These are mostly associated with middle and upper class of society and have added new chapter to criminal jurisprudence.

References

1. Anthony Walsh, *criminology: the essentials* 234, 2011.
2. G. Nagarajan; Dr. J. Khaja Sheriff, *White Collar Crimes In India*, *International Journal of Social Science & Interdisciplinary Research* (May 6, 2023, 4:36 PM), <http://indianresearchjournals.com/pdf/IJSSIR/2012/September/16.pdf>.
3. Shivam Goel, *Corporate Manslaughter And Corporate Homicide: Scope For A New Legislation In India* 4 (Partridge Publishing India, 2015).
4. Sara Sun Beale, *A Response to the Critics of Corporate Criminal Liability*, 46 *Am. Crim. L. Rev.* 1481-1505 (2009).
5. Dr. Vijay Kumar Singh, *Corporate Power To Corporate Crimes: Understanding Corporate Criminal Liability In India*, 39 (1st Ed., 2013).
6. Eric Engle, *Extraterritorial Corporate Criminal Liability: A Remedy For Human Rights Violation?*, 20 *St. John's J. Legal Comment* 289-90 (2006).
7. Richard d. Hartley, *corporate crime* 6 (1st Ed., 2008).
8. Christopher d. Stone, *where the law ends: the social control of corporate behaviour* 1 (1st Ed., 1975).
9. William H. Jarvis, "Corporate Criminal Liability: Legal Agnosticism", 1 *W. L. Rev.* 10 (1961).
10. Daniela Holler Branco, —Towards a New Paradigm for Corporate Criminal Liability in Brazil: Lessons from Common Law Developments, Thesis submitted to College of Law, University of Saskatchewan (April 2006), (Apr. 14, 2018, 07:30 PM), <https://www.collectionscanada.gc.ca/obj/s4/f2/dsk3/SSU/TC-SSU04192006112943.pdf>.
11. Edward Diskant, —Comparative Corporate Criminal

- liability: Exploring the Uniquely American Doctrine Through Comparative criminal Procedure, 118 YALE L. J. 126, 129 (2008).
12. John C. Coffee, Jr., —Corporate Criminal Responsibility, Encyclopaedia of Crime and Justice, 253 (Sanford H. Kadish *et al.* eds., 1983).
 13. Vikramaditya Khanna, —Corporate Crime Legislation: A Political Economy Analysis, 82 WASH. U. L.Q. 95, 101 (2004).
 14. Stessens Guy, —Corporate criminal Liability: A Comparative Perspective, 43 I.C.L.Q., 495-498 (1994).
 15. Sara Sun Beale, —Is Corporate Criminal Liability Unique?, 44 AM Crim L. Rev, 1503-150 (2004).
 16. Albert W. Alschuler, —Two Ways to Think About the Punishment of Corporations, 46 Am. Crim. L. Rev. 1359, 1367(2009).
 17. Law Commission of India, 29th Report, 1966.
 18. Examples are Essential Commodities (Amendment) Act, 1993, The Prevention of Food Adulteration Act,
 19. 1954, The Prevention of Corruption Act, 1988, Foreign Exchange Regulation Act, 1947, Monopolies and
 20. Trade Restrictive Practices (Regulation) Act, 1969, Consumer Protection Act, 1986, etc.
 21. Article 39(b) and (c) of the Constitution of India.
 22. Sibani Panda, Analysis of Corporate Criminal Liability in India, LEX WARRIER (APR. 30, 2023, 12:04 PM), [HTTP://WWW.LEX-Warrier.In/2014/02/Analysis-Corporate-Criminal-Liability-India/](http://WWW.LEX-Warrier.In/2014/02/Analysis-Corporate-Criminal-Liability-India/).
 23. Frank and Lynch, Corporate Crime, Corporate Violence 12-13, cited in DR. Vijay Kumar Singh, Corporate Power To Corporate Crimes: Understanding Corporate Criminal Liability In India, 78 (1st Ed., 2013).
 24. Santhanam Committee Report. 1981; 251-53:133 ITR 239.
 25. Abhinandan Bassi, —Corporate criminal liability an analytical study with special reference to penal laws in India”, Thesis submitted to Rajiv Gandhi National University of Law, Punjab 16(Jan. 30, 2018, 1:54 PM), <http://shodhganga.inflibnet.ac.in/handle/10603/107447>.
 26. V. K. Aggarwal, Corporate Criminal Liability — The Issue Revisited In The Context Of Recent Supreme Court Decision, ICSI (Mar. 25, 2023, 7:41 PM), <http://www.icsi.edu/webmodules/Programmes/33NC/CORP.CRIMINALLIABILITY.pdf>.
 27. Law Commission of India, 47th Report, p. 83.
 28. Frank and Lynch, Corporate Crime, Corporate Violence 12-13, cited in DR. Vijay Kumar Singh, Corporate Power To Corporate Crimes: Understanding Corporate Criminal Liability In India, 78 (1st Ed., 2013).
 29. Eesha Mandal, Corporate Crimes definition, meaning, examples, Sociology Group (May 2, 2023, 10:16 AM), <http://www.sociologygroup.com/corporate-crimes-definition/>.
 30. John Braithwaite, Corporate Crime in the Pharmaceutical Industry (1984)) cited in DR. VIJAY Kumar Singh, Corporate Power To Corporate Crimes: Understanding Corporate Criminal Liability In India, 150 (1st Ed., 2013).
 31. Marshall b. Clinard and peter c. Yeager, corporate crime, 16 (1980:2005) cited in dr. Vijay kumar singh, corporate power to corporate crimes: understanding corporate criminal liability in india, 150 (1st Ed., 2013).
 32. This is not to say that all the privately run educational institutions are corrupt. Indeed, there are several private schools and colleges which have a reputation of being the ideal institutions.
 33. Aarati Tyagi, —Corporate Criminality-An Offshoot of Corporate Misgoveranance Thesis submitted to Acharya Nagarjuna University (June 2012), 142 (May 2, 2018, 4:38 PM), http://shodhganga.inflibnet.ac.in/bitstream/10603/126773/9/09_chapter%203.pdf.
 34. Laureen snider, the sociology of corporate crime: an obituary 169-296 cited in dr. Vijay kumar singh, corporate power to corporate crimes: understanding corporate criminal liability in india, 156 (1st Ed., 2013).
 35. N.R.M. Menon’s unpublished dissertation entitled, ‘A Socio-legal Study of White Collar Crime in India,’ 1968.
 36. Santhanam Committee Report, p. 253.
 37. See R.S. Nayak v. A.R. Antuley, AIR 1984 SC 684; P.V. Narasimha Rao v. State, AIR 1998 SC 1.
 38. Amanda pinto and martin evans, corporate criminal liability (2nd ed, 2008) cited in dr. Vijay kumar singh, corporate power to corporate crimes: understanding corporate criminal liability in india, 157 (1st Ed., 2013).
 39. Sanjeev Gupta, —Corporate Frauds in India: Nature, Consequences, and Regulation. Thesis submitted to Maharshi Dayanand University (2013), 36 (May 3, 2018, 12:16), http://shodhganga.inflibnet.ac.in/bitstream/10603/124688/10/10_chapter%202.pdf.
 40. Ms. Shweta Wadhvani and Dr. Hema Menon, Corporate Frauds: Emerging Issues and Preventive Strategies, MANUPATRA (May 6, 2018, 1:10 PM), http://docs.manupatra.in/newslines/articles/Upload/1D2B5971-22D4-4345-8B20-24BD9F9ACF77._Menon_51-62.pdf.
 41. Craig L. Greene, Focus on Employee Fraud, MCGOVERN & GREENE LLP (May 6, 2018, 1:18 PM), https://www.mcgovernandgreenellp.com/archives/archive_articles/Craig_Greene_Archives/Focus-Employee_FraudsInvest.html.
 42. Internal fraud: How to deter criminal employees, Kromann Reumert (May 6, 2023, 12:46 PM), <https://www.kromannreumert.com/Insights/2017/Internal-fraud-How-to-deter-criminal-employees>.
 43. Tracy I. Coenen, expert fraud investigation, 163-168 (1st ed., 2009).
 44. Edwin Sutherland—“Is White Collar Crime a Crime?” American Sociological Review, April 1945, pp. 132-137.
 45. Brian k. Payne, white-collar crime: a text/reader 2 (1st ed., 2011).
 46. DR. N. V. Paranjape, criminology and penology with victimology 126 (15th ed. 2011).
 47. R. Deb: Principles of Criminology, Criminal Law and Investigation, Vol. I (2nd Ed.) p. 11.
 48. DR. N. V. Paranjape, criminology and penology with victimology 126 (15th ed. 2011).
 49. Kam C Wong, From White-Collar Crime to Organizational Crime: An Intellectual History, Murdoch University Electronic Journal of Law, (May 6, 2023, 1:36 PM), <http://www5.austlii.edu.au/au/journals/MurUEJL/2005/14.html#n7>.
 50. Marshall b. Clinard, the black market: a study of white collar crime 127 (1952).

51. American Journal of Sociology, July 1950, pp.25-30 cited at RAM AHUJA, CRIMINOLOGY, 172 (2000).
52. David Dressier, Readings in Criminology and Penology, (Second Reprint, 1966), p. 91. Dated: 16-12-2017
53. The Hindu, Business Line, New Delhi, October 12, 2018. Available at <<https://www.thehindubusinessline.com/markets/white-collar-crimes-will-continue-to-happen-unless-there-is-fear-of-law/article25205360.ece>>
54. Indian Express, New Delhi, July 1, 2018. Available at <<https://indianexpress.com/article/india/ram-nath-kovind-icai-auditors-bank-fraud-pnb-loan-default-5241277/>>
55. AIR 1978 SC 1548.