

## WHITE COLLAR CRIME AND ITS JURISPRUDENCE IN INDIA

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### ABSTRACT

This study provides a comprehensive examination of past crimes that have taken place in India, along with the causes of such crimes. Researchers define herbivores as "individuals who commit crimes when their offenses are minor and limited to a certain administrative region." Meat eaters participate in white collar crime and are present in practically every industry. The growth of technology and education, which is protected by professionals who take advantage of legal loopholes and covertly supported by the government, has led to an increase in white-collar crime. The connections started banding together, committing white-collar crimes, and obtaining legal protection. As a result, some small workers have become white collar criminals.

India's high rate of white collar crime is rapidly permeating every aspect of the nation's society. A type of white-collar crime that is commonly debated in social, political, and economic arenas of society is corruption. Nevertheless, no significant action has been made to counter this threat. The goals of this essay are to define white-collar crime, examine its historical evolution, and offer potential remedies. It's about old. The criminal justice system did not exist in the ancient civilization. "Tooth for tooth, life for life" was innovative in the field of criminal justice. Public uproar also contributed to the proliferation of cheating. Scientific advancements are currently leading to the emergence of a new type of guilt known as cabin injury.

### OVERVIEW

In the 1930s, Edwin Sutherland, a criminologist and sociologist, came up with the term "white-collar crime." He created the term "persons of respectability" to characterize the types of crimes typically perpetrated by people who are thought to hold a high social status. Later on, Sutherland founded the State University of Indiana's Bloomington School of Criminology. Prior to Sutherland popularizing the idea of "white-collar crime," it was widely believed that those from the highest echelons of society were mostly incapable of committing such crimes. When Sutherland first wrote a book about this concept, it was so ingrained in American culture that some of the biggest corporations were successful in trying to have the book entirely buried.

The primary cause of white collar crime is opportunities for criminal activity. According to Hirsch and Gottfredson (1987), white collar crime is distinct from other common crimes in terms of breaking the law. Additionally, officials responses to white-collar crime differ from those to other forms of crime (Hirsch & Gottfredson, 1987). According to Edwin Sutherland, "wrongdoing committed throughout the course of employment by a guy of respectability and good economic wellbeing" is what cubicle misbehaviour is. Discussions on which specific violations will be considered clerical breaches have intensified since Sutherland used this phrase in a speech to the American Sociological Society in 1939. Overall and completely, wrongdoings that are peaceful. It was generally accepted that nonviolent transgressions for profit fell under this category.

The most well-known acts that are classified as legal wrongdoings are most likely those that contravene antitrust rules, natural law, and various forms of fraud. The fact that illegal tax evasion and open defiling are considered salaried offenses also limits the capacity of administration personnel to break the law in other ways. Despite the fact that the concept of white-collar crimes is always changing, there is no recognized criminology theory that takes them into account. Experts in criminology, law, and sociology all have opposing views.

It is true that members of the upper strata in our sick society are increasingly involved in anti-social and anti-human activities as part of their business, occupation, or profession, in addition to more prevalent crimes like assault, battery, robbery, dacoit, murder, rape, kidnapping, and other violent acts and omissions. As a result, every complaint or report against such a company, profession, or successful strategy usually goes unnoticed and unpunished, which favours lawbreakers who disobey the law and pollute the environment as paid wrongdoers everywhere.

### REVIEW OF LITERATURE

The topic of irregularities in business accounting has been extensively studied. Business fraud has existed for as long as the accounting system. As a result, there is a wealth of writing on these subjects. This section examines pertinent subjects related to recent frauds and scams in Indian company accounting. The numerous accounting scams that have occurred around the nation have been taken into account by Chander Mohan Gupta (2018) in his research. The authors of this article have pinpointed several common reasons behind the accounting scams that have happened in Indian industry recently, spanning from 1995 to 2022. They looked into the specifics and underlying causes of the biggest scams and frauds that were recently uncovered.

In order to determine whether fraud triangle elements are present and how severe they are, Vishnu S. Kumar and Dr. Biju T. (2012–2018) used

the fraud triangle to analyse various corporate scams. One of the most popular accounting models for describing fraud in both individual and corporate settings is the "fraud triangle."

American criminologist and sociologist Donald Cressey discussed his work on the fraud triangle, which was initially identified in the early 1950s, in his book *Other People's Money*. The three elements of the fraud triangle incentive/pressure, opportunity, and rationalization have all been extensively examined in the academic literature, usually in a variety of contexts and assuming that the deception was committed by a single person. Mayank Shrivastava investigated the most significant accounting frauds from 1947 to 1992 and the PRE-SEBI era. However, the period was viewed as somewhat weak in terms of the capital market because there was no authority that could regulate all this. He looks at the frauds that have happened, their causes, and most importantly the changes that SEBI has brought about in the business sector and how things changed once it became the main market regulator.

### ANALYSIS AND MODELING

#### White-Collar vs. Blue-Collar Offenses -

The variety of illegal activities that the criminal may engage in is what distinguishes white-collar crime from blue-collar crime. Because the perpetrators methods are less complex, blue-collar crimes like robberies and break-ins usually tend to be simpler. On the other hand, white-collar criminals are more frequently able to carry out intricate and sophisticated fraud schemes, such as when they work as bank loan officers.

#### White-collar crime types -

**1. Fraud:-** People can be defrauded of their money in a number of ways. Offering the victim a sizable sum of money say, \$10,000 in return for a smaller sum of money say, \$300 that the con artist would utilize is one of the most prevalent and basic frauds. White-Collar vs. Blue-Collar Offenses. The variety of illegal activities that the

criminal may engage in is what distinguishes white-collar crime from blue-collar crime. Because the perpetrators methods are less complex, blue-collar crimes like robberies and break-ins usually tend to be simpler.

**2. Insider trading:-** Insider trading is the practice of trading while possessing substantial, secret information that gives the trader an advantage in the financial markets. For example, an employee at an investment bank may know that Company A is preparing to purchase Company B. The employee may put money into Company B with the expectation that, once the acquisition was announced to the public, the stock price would skyrocket.

**3. Ponzi scheme:-** The first perpetrator of a Ponzi scheme, an investment fraud in which investors are promised extraordinarily large profits, was Charles Ponzi. It uses recently deposited funds from new investors to pay these returns to the original investors. When the scammer fails to get enough new clients to make payments he starts using that money for his own purpose and declares himself bankrupt or run away without giving there money back.

**4. Computer "hacking" and identity theft are two of the most prevalent cybercrimes:-** Identity fraud is one of the other crimes committed online. In the United States alone, identity theft damages are expected to surpass \$2 billion in 2019. With almost 73,000 cases reported, California was the state where citizens suffered the most Florida trailed far behind with 37,000 cases.

**5. Another name for larceny is embezzlement:-** Embezzlement is what termed as a theft violation. An employee stealing a few dollars from a cash drawer or a complex scheme to move millions of dollars from a company's accounts to the embezzler's accounts are both examples of embezzlement.

**6. The act of counterfeiting:-** To stop counterfeiting, we need to make our currency more vibrant and detailed. With today's PCs and state of the art laser printers, it was practically

impossible to recreate the old cash. The effectiveness of the government's initiatives in this field is up for question, though. Rumour has it that copies of the new \$100 note in extremely high quality were available within 24 hours after its original publication.

**7. Evasion of taxes:-** Criminals require assistance, such as tax evasion, when handling vast sums of money. It entails transferring the funds across several accounts before settling on legitimate enterprises. There, it is included in the income and is no longer linked to illegal conduct.

**8. Spying:-** Spying is generally defined as the unlawful collection of private or secret information, frequently from a business, government, or individual, with the intention of gaining financial or competitive advantage. This is often referred to as economic or corporate espionage.

The law pertaining to white collar crime (section IV) Black marketing and hoardings profiteering are two instances of white collar crimes that are common in Indian business and commerce. White collar crime is defined as violating any of the regulations established by the Indian government.

These statutes include, among others:-

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

White Collar Crime in Various Fields:-

1. In the medical and health sector:-

- Physicians fabricating false medical credentials.
  - Act as though the therapy will be extended to increase expenses. Physicians exposing a child to sexual discrimination in order to make money off of them.
  - In order to increase the expense of the bills, doctors prolong treatment periods.
  - Pharmacists are not allowed to sell samples of drugs.
2. In the legal field:-
- Falsifying documents - Threatening witnesses for the other side.
  - Violating ethical and legal requirements in order to profit
3. In the realm of education:-
- Getting large sums of money from students in exchange for donations so that they can be admitted.
  - Merit-based admission has been replaced with donations.

#### CAUSES OF THE INCREASE IN WHITE-COLLAR CRIMES

1. Competition:-

The main tactic employed in the market to counteract rivalry is "survival of the best." It shows that in a thriving society, people will always compete with one another and that only those who can best adjust to the situation will make it through. The same motivation is always behind white-collar crimes as well. To win, they don't mind committing crimes like forgery, fraud, and homosexual marriage. It is professionally compensated and promoted inside the organization for short-term, exceptional earnings. To maximize their performance in relation to others, some din's are even reluctant to proceed with repealing the existing legislation. The victims of these crimes suffer great losses, and the perpetrators think that the world is smaller and more hierarchical.

2. Technical:-

As technology has advanced, white-collar crimes have proliferated globally and are

also rising quickly in India. This problem has been exacerbated by the increasing use of personal computers and cell phones, which not only help generate new ideas but also provide people access to them from anywhere in the world.

3. Reasoning:-

It is challenging for traditional scholars to characterize and value the variety of wrongdoings. Because of this, offenders commit crimes and then persuade themselves that they are not against the law. Insider trading is considered illegal. Technical As technology has advanced, white-collar crimes have proliferated globally and are also rising quickly in India. This problem has been exacerbated by the increasing use of personal computers and cell phones, which not only help generate new ideas but also provide people access to them from anywhere in the world.

4. The office:-

In the job, people can behave badly as well as well. Non-metal indicators, such as poorly considered employment rewards or managerial indifference to ethics, may persuade people to act significantly differently when faced with an ethical dilemma. As a result, some people compromise their morals and give in to these temptations, which results in unlawful behaviour.

5. Access to Information:-

Criminals may choose to utilize the information for their own benefit since people may access private information on their computers and cell phones, such as passwords and bank account numbers. Numerous white-collar criminals may target affluent people or establishments where significant sums of money are frequently exchanged, such as casinos, financial institutions, and hotels. Therefore, hackers may easily fool biometric systems by exploiting retinal images, access codes, and

other data, then alter that data to suit their needs.

6. Anger:-

- Humans are inherently evil, according to Machiavelli, the father of modern political thought. According to him, a man may forget the loss of his fortune more easily and swiftly than his father's passing. This also applies to anyone who wants to do any kind of white-collar crime. If not, what would motivate a man of great social and financial position to commit murder? This vice is advantageous since it could inspire someone to work on non-monetary objectives. What are the first consequences on the business of white-collar crimes? White-collar crimes have a serious detrimental effect on a company. Furthermore, if the material is in the public domain, it may eventually force the company to close and cause long-term, hard-to-quantify harm to its reputation. The total profitability of the business can be directly and significantly impacted by losses sustained by the organization as a result of one deviant employee conspiring with or without an outsider.
- Effect on Customers:- Everyone enjoys purchasing products from companies that have a friendly, trade-friendly environment. Customers wish to avoid any legal problems at all costs. Therefore, anytime any firm is involved in such crime scenarios and investigations, it creates confusion in the client's thinking. Some customers might cease doing business with the company. People start looking for workable alternatives as a result.
- Social Outcome:- There are also substantial financial consequences associated with white-collar crimes.

Any kind of unlawful behaviour that causes a business to fail results in the loss of jobs at all levels, a drop in stock prices that lowers shareholder capital, and a fall in trust in the legal system. What strategies do white collar offenders employ? Crimes committed with the intention of gaining financial advantage for oneself are known as white collar crimes. Any non-violent crimes committed by a person from a high socioeconomic class that benefit them financially are considered white collar crimes. This covers offenses committed through bribery, cybercrime, and money laundering. Because of contemporary technology, cybercrimes are increasingly contributing to white collar crimes. This type of illegal action involves using computers to gather credit card numbers and personal information. It also involves complex efforts to locate private data and the development of viruses that could infect vulnerable computers, spread spam, or perform other tasks that could be exploited for financial gain.

- Bribery allows the criminal to supply funds.

**A FEW WHITE-COLLAR CRIMES THAT OCCURRED IN INDIA**

1. The fraud of Sukesh Chandrasekhar:-

Con artist Sukesh Chandrasekhar became well-known for his supposedly opulent lifestyle as a result of the countless frauds he perpetrated. Dropout Sukesh made use of a number of government officials, including Amit Shah, the current home minister. His name was also linked to Bollywood stars Jacqueline Fernandes and Nora Fatehi, whom he pampered with expensive cars, luxury handbags, and racehorses! Recent sources claim that Sukesh

helped AIADMK deputy general secretary TTV Dhinakaran secure a favourable position with the electoral commission. The Delhi Police Crime Branch first arrested Sukesh and Dhinakaran in 2017 in relation to the bribery case against the electoral commission; the investigation is still ongoing. While jailed, Sukesh allegedly scammed several innocent people out of at least 200 crore rupees.

2. The Satyam Scandal:- Unquestionably one of the biggest accounting scams in our nation, the Satyam issue was revealed in the most spectacular manner. In a 2009 Times of India testimony, B Ramalingam Raju of Satyam Computers acknowledged falsifying his books. Lego Desk claims that the 14,000 crore scam made the 2009 recession much worse. SEBI launched a crackdown on Raju and his friends, accusing them of financial fraud, insider trading, and other serious financial schemes. A Lego Desk article claims that SEBI ordered the guilty to pay 3000 crore rupees within 45 days and barred them from accessing the securities markets for 14 years.
3. The Case of Saradha Chit Fund:- After this deception was made public, hundreds of people from lower socioeconomic groups killed themselves. The Saradha Chit Fund, a Bengali chit fund, was a Ponzi scheme that earned the nickname "Bonzi." A Trade Brains investigation found that Sudipto Sen, the program's creator, lured rural investors into the plan with promises of enormous riches and a religious twist through "Saradaha" Sarada Devi was the spouse of Ramakrishna Paramhansa, one of Bengal's most revered saints. The organization raised an incredible 300 billion rupees from one million investors before collapsing. Additionally, some of the most credulous celebrities in the film

business publicly endorsed the group. Sen used the money to support local football teams, regional films, and several TV news programs, transferred funds were used by Sen, the money to support local football teams, regional films, and several TV news shows. Sen lavishly supported political figures in an effort to silence the grievances of affected investors. As Saradha moved forward with creating shell corporations to deflect SEBI's focus from its investigation, more than 200 businesses were created in the process. SEBI banned Sen and his associates from the securities market until all refunds were made, among other sanctions. Sen departed after confessing his wrongdoings to the CBI, and several FIRs were thereafter brought against him. CM Mamata Banerjee created a 70 million dollar relief fund for low-income depositors who felt wronged.

4. The Scam of Harshad Mehta:- The most well-known example of white-collar crime given is the Harshad Mehta Scam. Harshad Mehta, the most famous stockbroker and businessman in Bombay, is remembered in the movie "Scam 1992." Mehta was well-known in the trading community of Mumbai and was thought to have manipulated stock prices, which caused share prices to rise sharply. Lego Desk claims that Mehta's use of deceit generated somewhat more than 5000 crore rupees. Famous financial writer Sucheta Dalal eventually uncovered the scam as a result of her diligent investigation. But because Mehta took advantage of systemic vulnerabilities, his actions were more unethical than illegal. Notably, the SEBI updated market regulations.

#### FINAL RESULTS

India must lessen corruption and fraud in both the public and commercial sectors if it hopes to keep up its current economic track. As said

earlier, corruption and fraud restrict foreign companies from making investments in the country. The decline in foreign direct investment in 2011 and the withdrawal of funds from stock markets by global financial institutions are clear indicators of the detrimental effects of fraud and corruption.

As a result, the Indian government has to strengthen governance and impose harsh penalties on lawbreakers. The next stages are being outlined by the Comptroller and Auditor General, political parties must now have the guts to clear the air. To lower fraud, the private sector needs to put ethics first and put fraud prevention measures into place. The two industries need to collaborate in order to reduce the danger of fraud in India. White-collar crime control tactics have rationale, and the vagueness of society's reaction to this type of crime is connected to broader societal factors that contain both objective and subjective elements. The idea that there is less public concern about these behaviours when they are referred to as white collar crimes and, consequently, less support for harsh sanctions than in the cases of traditional street crimes has been proposed as a more subjective source of ambivalence in the social response to white collar crimes. Authors like Box have seen this as an additional barrier in their attempts to inform the public about the significance of not viewing the processes by which they are the victims of crimes as accidents or disasters, even though the public's ambivalence toward white collar crimes is higher than that of traditional crimes. The driving idea should therefore be that prevention is always better than treatment. The general public should stand up to protect the entire society from these greedy individuals who are progressively destroying the morals and deep qualities of the general public in order to pursue their own narrow personal circumstances, as the activities involved misdirecting the public's confidence and conviction.