



## White collar crimes in India

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### Abstract

White-collar crimes are peaceful offences committed mostly by corporations and public authorities and are connected to the business world. White-collar offences are those dedicated by those in positions of accountability inside an organisation. White-collar crimes can be conducted in a number of ways and for modest or huge quantities of money. White-collar crimes are distinct in two ways: despite the criminals' desire for power or sense of entitlement, they are not violent crimes, and they are also committed by people in higher levels of authority. The percentage of crime increases more quickly as society moves closer to modernism and as novel technological developments are made. White-collar crime has significantly increased, in particular. White collar crime is increasingly playing a significant role in India's underdevelopment, coupled with poverty, health issues, and other issues. This research paper will discuss white collar crime, causes, effects, legislation, cases conclusion.

**Keywords:** white collar, crime

### Introduction

White-collar crime is on the rise in India, endangering the nation's ability to prosper economically. These offences necessitate quick government action, both in the form of severe law and in ensuring that it is carried out as intended. The term "white collar crime" refers to any unlawful act, sequence of unlawful acts, or performance of unlawful act for the purpose of completing an unlawful objective, committed by any person using non-lethal, non-violent, or coercive means in order to obtain or retain money or property unlawfully, avoid paying taxes, or retain money or property unlawfully for improper business or personal gain. They commit these crimes as a result of their employment. These criminals usually possess a higher awareness of the people they deal with, technologies, their industry, specialties, and so forth. White-collar crime has considerably increased over time. These crimes are frequently committed in large corporations and sectors like trading activities, industry, wellness, and professional training.

India's fast development after the "First World War (1914–1919)" exacerbated existing social differences. The desire to enjoy monopoly and the intense competition increased unlawful behaviour. The seeds of white-collar criminality had already been planted by this point. These illicit activities gained notoriety when the nation was consumed with fighting wars and the liberation movement, endangering the development of the Indian economy. They now include healthcare fraud and cyber-attacks in addition to the conventional ones like bribes, forgery, anti-trust activities, taxation crimes, and breach of trust.

### Kinds of White Collar Crime in India

#### Bank Scam

Fraud is a crime carried out with the purpose of misleading and finding unfair advantage. Fraud against banks is referred to as bank fraud. It is carried out by dishonest businesses who give false promises. It also has something to do with the manipulation of financial instruments like bank

deposits, securities, and check-bouncing. It is the most prevalent form of corporate crime as well as white collar crime. Both the general population and the national government are harmed.

#### Bribery

Giving money or other commodities to someone in a high position in exchange for a favour is referred to as bribery. Bribery is, to put it simply, when one man offers money to another who is in a position of authority. In order to force him to do something or to stop him from doing anything, it is done. Bribery is a type of white collar crime where someone solicits a favour, payment, or another valuable item in exchange for completing another person's task. Bribery would occur, for instance, if an electoral official demanded wine before allowing someone to cast a ballot. According to "Section 171E of the Indian Penal Code, 1860," anyone found guilty of bribery will be sentenced to a term of imprisonment that may last up to a year, a fine, or a combination of the two. Additionally, public officials who participate in actions that constitute an offence under this section are subject to penalties under "Section 13 of the Prevention of Corruption Act, 1988."

#### Cyber Crime

The primary factor causing these types of crimes in India is cyber-crime. It is currently the most significant issue in the online community. Cyber-crime is a type of offense that includes "computer networks." The rate of technology related crime is rising quickly along with the technology's rapid growth. People who are knowledgeable in computer-related technology are involved in cybercrime. And utilising the internet, networks, and other technology sources, it is perpetrated on the victim to destroy his reputation or to cause him physical or mental harm. "The Information Technology Act, 2000" is the only piece of legislation that covers crimes related to cybercrime. Cybercrime poses a threat to individuals' security and financial standing as well as to nations. Cybercrime can cost the nation a lot of money.

It may endanger a person's privacy in addition to any financial loss. Privacy issues may arise if confidential information is disclosed. Cybercrime directed at women is also on the rise. Child pornography,

### **Money Laundering**

Money laundering is a type of offense when the source of the money is concealed. Criminals attempt to conceal the money's original owner and the location of its illegally acquired acquisition in this crime. The purpose of laundering is to disguise the fact that the funds were obtained illegally. Money laundering is the process of passing off illegal funds as legitimate funds.

### **Tax Evasion**

In order for the government to impose a lower tax rate, a person must knowingly fabricate his financial situation. A trust, a business, or an individual may all carry out this. It is a phoney way to avoid paying taxes to the government. Tax evasion and avoidance are crimes committed in an effort to pay less in taxes.

### **Counterfeiting**

This makes it easier to profit from shady business dealings and fool someone who thinks the claims being made to him are true and the imitation work is more valuable. The offence of utilising forging is generally related to moneys and currency.

### **Identity Theft**

Nowadays, one of the simplest crimes is identity theft. Technology advancements have made it relatively simple to access anyone's personal information. Identity theft is a crime in which a person gains illegal access to personal data like a person's name, address, phone number, etc. and uses that data to make a profit. To put it simply, identity theft occurs when someone uses the identity of another to perpetrate fraud or to make money illegally.

### **Causes of White Collar Crimes**

#### **Greediness**

Machiavelli, the founder of modern philosophy, was a firm believer that people are greedy by nature. According to a popular saying, a person will sooner or later forget about his father's passing than about losing his fortune. Regarding the commission of white collar crimes, the same is true.

#### **Necessity**

White collar crime is also committed to support one's family and one's own needs. However, the main desire of those with high social standing is to satisfy their ego.

#### **Easy, swift and prolong effect**

The pressures of industry, politics, and the rapidly expanding technology have given criminals access to fresh methods of committing white collar crimes.

#### **Modern technology**

One of the demands of modern technology is ease of doing business. In a sense, this expectation also applies to white-collar crimes, which have made it possible for them to reach out to more individuals and commit large-scale crimes without drawing the attention of the government.

### **Competition**

Due to this competition, criminal organisations and cartels are also expanding and developing new tactics.

### **Necessity**

White collar crime is also committed to support one's family and one's own needs. However, the main desire of those with high social standing is to satisfy their ego. The following factors contribute to the impunity of white collar criminals:

- Legislators and those responsible for enforcing the law come from the same social group as these professional offenders.
- Laws are written in a way that only benefits professional offenders.
- The courts has long been criticised for rendering judgements too slowly. Sometimes the accused has already passed away by the time the court pronounces the verdict.

### **Effects of white collar crime**

#### **Effect on the company**

White collar crime costs businesses a lot of money. These businesses subsequently increase the price of their product in an effort to recover the loss, which reduces the number of consumers who purchase that product. In other words, a commodity's price and demand are negatively related. Employee salaries have been reduced as a result of the company's loss. The corporation occasionally eliminated several employees' positions. It is difficult for the company's employees and investors to return their loans. Additionally, it becomes more challenging for people to get credit.

#### **Effect on the employees**

“White collar” crimes put workers in peril. As individuals grow more conscious of their working environment, they also consider if they are still secure. They start to worry about their safety and wonder if they can still trust the company.

#### **Effect on customers**

Customers are more concerned about whether the things they are using are safe or not. This ambiguity is a result of how quickly white collar crimes have been expanding.

#### **Effect on offenders**

Additionally, despite the rise in these crimes, they are typically not reported. Due to the fact that these crimes are carried out in public view, there are no eyewitnesses present. As a result, the criminals can carry out these crimes anonymously while utilising computers in a private or closed location. Offenders are frequently observed walking freely, endangering society.

### **White Collar Crime in Different Occupations**

#### **In Medical and Health**

- Doctors fabricating bogus medical certificates.
- Pretend to prolong the course of treatment in order to raise costs.
- Doctors subjecting a youngster to sex prejudice in order to profit financially from the patient.
- Doctors extending appointments to add more money to their invoices. # Doctors selling sample medications that pharmacists are not permitted to sell.

### In Legal Profession

- Fabrication of false papers
- Threatening the other party's witnesses
- Breaking ethical rules of the legal profession for monetary gain

### In Education

- Donations are used in place of merit-based admission, with large quantities of money being collected by students under the guise of donations.

### Reports on white collar crime

Numerous commissions were established to investigate white collar crimes, establish guidelines and procedures to curtail them, and eventually eradicate them.

### The Report on the Commission on the Prevention of Corruption, 1964

The Central Vigilance Commission was established in 1964 as a result of the suggestions made by "the Committee on Prevention of Corruption," which was led by "Shri K. Santhanam." Today, "the Central Vigilance Commission," which is unrelated to any administrative power, is the top entity for vigilance. Its role is to control all vigilance carried out by the Central Government and to combat corruption in government offices. When organising, carrying out, and reviewing their vigilance activity, this organisation asks its counsel.

### Reports on Administrative Reforms Commission

- In order to prevent unauthorised and superfluous spending by political parties, the report added a new clause saying that partial support by the state is permitted in elections.
- It proposed changing "Section 8 of the Representation of the People Act, 1951" to bar anyone under investigation for serious or egregious crimes or corruption from voting.
- It was suggested that each House of the Parliament have a "Ethics Commissioner" position. The Speaker or the Chairman would set the rules for this office, requiring it to abide by the "code of ethics, advice the body as needed, and keep records of its activities."

### Das Commission Report, 1964

- According to the Commission, "the government should be authorised to reveal examples of corruption to the media in order to contribute in the fight against corruption in the nation, and the media should have their own Code of Conduct and self-regulating system to avoid engaging in wrongdoing."
- The Commission made a crucial decision that the office's head should be charged with maintaining proactive monitoring against corruption.
- There are further requirements that the Commission laid before the Government, aiding it in its fight against corruption and other wrongdoings by those in higher positions of authority.

### Law Commission 47<sup>th</sup> Report

The Law Commission stated in its 47<sup>th</sup> report that a business cannot be punished with pain since it lacks a physical embodiment. Because a business lacks a mind that can be charged with guilty intent, new punishments should

be developed to hold them accountable for their unlawful and wrongdoing actions. The Commission concluded that the corporation's reputation would suffer, which would be the true penalty. Moreover, they should be called a disgrace. According to the commission, the corporation should be penalised in addition to the directors or managers. The public ought to be able to connect the corporation's name with the offence. "The Indian Penal Code, 1860" should have the following clauses, according to the Commission:

- The court will have the authority to impose a fine on the offender in any instance where the corporation committed the offence and the penalty is either a fine or both a fine and incarceration.
- The court will only have the authority to impose fines on such offenders in every instance when the offender is a company and the penalty for the offence is either imprisonment or any other punishment in addition to a fine.
- A corporation in this section refers to an incorporated firm or other type of body corporate. Additionally, it would encompass businesses and other groups of people.

### The Report by Santhanam Committee

The Law Commission's 29<sup>th</sup> report, published in 1972, stated that the "Santhanam Committee" was the first organisation to identify the severity of the crimes perpetrated by persons of high social standards. The Santhanam Committee discussed the causes of the high incidence of "white collar crimes in India" in its report on the prevention of corruption. The development of scientific temperament and technology innovation has been cited as the main causes of the rise in white collar crimes. Only a small group of the elite, who together form the monopoly, control these enormous numbers of people with advanced disposition. The committee expressed its worry about the serious harm that these crimes could do to public morals. Since white collar crimes are so complicated and few individuals are aware of them, only professionals can identify them and prevent themselves from being a victim.

### Legislation against White Collar Crime

Numerous laws exist that can be used to identify white collar crime. The government has introduced the following laws to ensure that those who commit white collar crimes are punished:

1. The Companies Act, 1960
2. The Income Tax Act, 1961
3. Indian Penal Code, 1860
4. The Commodities Act, 1955
5. The Prevention of Corruption Act, 1988
6. The Negotiable Instrument Act, 1881
7. The Prevention of Money laundering Act, 2002
8. The Information Technology Act, 2005
9. The Imports and Exports (control) Act, 1950
10. The Special Court (Trial of offences relation to Transactions in Securities) Act, 1992
11. The Central Vigilance Commission Act, 2003

### Judicial Cases of White collar crime

In *Anosh Ekka v. Central Bureau of Investigation*, after becoming the minister for three years, Anosh Ekka amassed a sizable quantity of movable and immovable properties in his name and the names of his family. He was then charged

with money laundering. The Supreme Court concluded that the defendants had stolen and laundered a sizable sum of public money. He tampered with the evidence against him and delayed the verdict. He was also charged with trying to cheat the judicial system and abusing the legal system.

In *Arun Kumar Mishra v. Directorate of Enforcement*, PNB lost a sizable sum of money as a result of five people opening bogus accounts there and making personal advantages while doing so. The money laundering case was dropped since the offence did not fall under any provisions of "the Prevention of Corruption Act." "Article 20(1) of the Indian Constitution" states that ex-post facto laws are unenforceable. According to the cited Article, the right to not be tried under a law that was in effect when the crime was committed is a fundamental one. The court did state, however, that the Enforcement Directorate may file a fresh lawsuit against the petitioner in accordance with the law in place at the time if money laundering evidence has been presented against him.

In *Harshad S. Mehta v. Central Bureau of Investigation*, White-collar crime in India first surfaced in 1988, and since then, it has been continuously rising. A great example of the "pump-and-dump" strategy used in white-collar crime is the Harshad Mehta case. He was referred to as the "Sultan of Dalal Street" and made money by deceiving and manipulating the stock prices of various businesses. Due to the artificial infusion of funds into the stock markets, the price of these shares or other assets rose sharply and quickly. The day the fake was exposed, the stock market fell by 0.1 million. Nothing like this has ever occurred in the history of the stock market.

In *Abhay Singh Chautala v. C.B.I.*, in the present case, two appellants were charged with violating "Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988," as well as "Section 109 of the Indian Penal Code, 1860," in separate trials. In the Legislative Assembly, both defendants were accused of acquiring an excessive amount of wealth relative to their salaries. When the CBI started its inquiry, it was found that both the appellants and their father had amassed sizable holdings. According to the High Court, "the appellant had claimed that the accused were occupying an entirely different office or positions than they actually were at the time. Thus, the penalty imposed in accordance with Section 19 of the Prevention of Corruption Act, 1988."

### Conclusion

White collar crime poses serious risks to India's economy and general well-being that cannot be understated. For the majority of emerging nations, white collar crime is a curse. The rate of rising white collar crimes can be decreased in large part thanks to the media. The majority of white collar crimes are considered to go unreported. Moreover, these crimes are also perpetrated by low-paid accomplices, even though the mastermind may be wealthy and have a better social rank in his line of work. White collar crimes are frequently perpetrated as a result of peer pressure or are influenced by the corporate culture. These crimes are done everywhere, including in educational institutions and the medical field. Online fraud charges are growing alarmingly quickly as well. Due to these crimes in general and corruption in particular, India, a developing country, has struggled to guide its economy toward prosperity. The investigating officials require training so that they can learn the ability to track down these criminals because doing

so would otherwise be a challenging, time-consuming task. Although white collar crimes are not specifically defined in the law, there are numerous laws that hint that they exist. These crimes have seen a sharp increase in recent years due to the rise of new technology and developments in a variety of industries and commercial sectors, among others. We are well aware that the Indian judiciary is currently handling more than 3 crore cases. It would be exceedingly challenging in this situation to resolve the white collar crime cases as quickly as feasible.

### Suggestions

- Punishment should aim to change the offender and prevent them from committing the same crime again. As a result, the legislation must be strict and impose severe penalties.
- To help people (criminals) change, the penalty and sentence need to be enhanced.
- With the aid of the press, media, and other platforms, it is necessary to raise awareness of these crimes among the general public.
- Special tribunals having the authority to impose punishment with a sentence of up to 10 years, akin to Fast Track courts, should be established. Fast track courts and tribunals must be set up in the nation in order to handle instances of white collar crimes more quickly.

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