



## The crimes in suits- white collar crimes

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### Abstract

White Collar crimes are the crimes which are done for financial gains they have been metaphorized as silent, nonviolent and organized crimes. The offender deviously and dexterously commits the offence, with the advancement of the technology these crimes are becoming common as the ones who are technologically unfriendly easily gets trapped in the net and lose their hard earned money. White Collar crimes are now no more restricted to a certain ranks and areas they are expanding its arena to even health care, cybercrimes, sports sector, food sector becoming a serious concern globally. Money Laundering, embezzlement, frauds, insider trading, corruption are some of the White Collar crimes.

**Keywords:** white collar crimes, technologically unfriendly becomes easy target, non- violent crimes, fatal to the economy, committed in disguise without weapons

### Introduction

Crime is an act or omission which constitutes an offence and is punishable under the law. White Collar crimes are committed for financial gains the over expectations and greed of the people drive them towards such crimes, it is evident that white collar jobs are always reputational but White Collar crimes are lethal to the country's economy and devastating for the victims, greed and over aspirations are the motivation behind such crimes. White Collar crimes have low perceptibility at initial stage because of its nature, bankers, pseudointellectuals, directors of companies, entrepreneurs, businessmen sometimes easily target the people and the government and give shape to such crimes. In some of the families holidaying in the foreign destinations has become an issue of show off and superiority thus to fulfil their desires committing any type of white collar crime is not a big deal for them by keeping aside their ethics morals and cultural values, offenders have least respect and sympathy towards elder and make them scapegoat of their devious plans by committing crimes against them.

Edwin Hardin Sutherland in 1939 defined White Collar Crimes as "crimes committed by a person of high social status in the course of their occupation".

When a group of people commit crimes in course of business quietly and silently targeting the innocent victims, banks, businessmen, business firms, organizations and even government resulting in huge financial loss and conspiring for personal gains with sole motive of enrichment such crimes are called as White Collar crimes. These days White Collar Crimes are becoming a big menace to the society and almost every country of the world is trying to get rid of it, in 2010 the crime branch arrested 108 offenders involved in different types of White collar and corporate crimes. In one of the business magazines of India the Business Standards cited in its article on "Changing dynamics of White Collar Crimes in India" CBI found 6553 cases of White collar crimes out of which only 517 were reported. The offenders disguise themselves as people of high intellect and sitting on a high position in a closed room they silently take a leap pf faith by committing these types of crimes seldom do they

realise how mortal these crimes are for economy of any country. Enron scandal, WorldCom scandal and Adelphia are regarded as the biggest scandals ever.

### Nature and Scope of White Collar Crimes

With the advancement in technology, commerce, banking sector, cyber space and different websites white collar crimes are becoming common the offenders mark their target/victim and accordingly makes the plans of extracting money from them, sharp mind, communication skills, friendly approach are the biggest camouflage technique of the offender where no one can doubt about their personality and for such offenders it's the easiest ways to earn swiftly in disguise without much hard work. According to Sutherland these crimes are committed by people of high status and involves mensrea. In some of the organisations the offender and the victims never come face to face so this does not lead to any type of emotional bonding and offenders work without any hesitation and guilt. White Collar Crimes have become a serious concern and many offenders are roaming freely as they are well versed with the social and financial conditions of the place they are working with so they have a layout for scams and corruption. The offenders are aware of the schemes like Corporate Social Responsibility where the money transactions are done for some social upliftment and good cause, here they grab the opportunity of committing misappropriation of property or breach of trust and fill their pockets. The agencies like CBI, FBI, RAW have been incorporated by the government where the experts detect crimes but the need of the hour is genuine implementation of strict laws, with severe deterrent punishments as mostly civil and administrative laws encourage the culprits to take risk because of lesser punishments.

The White Collar crimes affects the financial position of the country, and creates distrust amongst the investors leaving an impression of failure and distrust of the company such things within no time loses its investors, injures the society and gives a tag of failure to the organization as a result the innocents suffers because of the selfish deeds of the others proper administered laws can prove helpful in curbing the commission of such silent and non-violent crimes.

### Consequences of White Collar crimes

In White Collar crimes there is violation of law without violent action, and have long lasting effects in traditional/blue collar crimes the offender and the victim come face to face but the scenario is different in White collar crimes often the victim and the offenders does not come face to face or might not see each other in life time. As every human being is different with different traits and temperaments so are the effects visible in them, the victims of White collar and corporate crimes show different types of consequences some of them are short lives and some continue to be lifelong.

**Effects on the victims:** stress, anger, anxiety, insomnia, behavioural issues, sleep disorders distrust, low confidence, constant lamenting, low self-esteem, try to shift to better place, ill effects on mental and physical health, humiliation, mocking by people

**Effects on the customers:** suspicion for money safety, doubt the credibility of the organisation, try to shift the money to government banks, does not want to invest in private sector, make or break the image of the bank or company.

**Effects on the society:** investors and agents feel humiliated, sceptical about investments, withdraw their savings from banks, the investors are in juxta position about the credibility of the banks, companies, institutions and prefer investing in some safer place even at low rate of interest.

**Effects on offenders:** enrichment, become selfish, not ashamed, encouraged to choose new target in certain cases where the offenders especially the agents who get commission by their employers for adding as many as other members if caught by victims such type of agents are assaulted, grievously hurt, mocked by the society and in extreme cases these types of agents even go till the extent of committing suicide in order to avoid the above types of situations.

### Classification of Corporate and White Collar crimes

The White Collar Crimes are always committed in well planned ways where money is the only motivational force, the offender can go to any extent crossing the limits, these offences are not done to take revenge but only for enrichment, show off and creating an image of person of well to do family.

### According to Sutherland White collar and corporate crimes consist of

- corruption
- forgery
- misappropriation of property
- breach of trust
- e-breach of trust
- blackmailing
- bribery
- counterfeiting

### Clinard and Quinney categorise White collar and Corporate crimes into

- forgery

- fraud
- ATM frauds
- cyber crimes
- money laundering
- tax evasion
- kickbacks
- theft
- insider trading
- blackmailing
- embezzlement

### August Bequal categorise White Collar and Corporate crimes into the following

- bribery
- e security scams
- insurance frauds
- tax frauds
- money laundering
- cyber crimes/scams

Some other prevalent *White Collar crimes* which are witnessed these days can be categorized into the following

- Pilfering
- Chisling
- Swindles
- Ping ponging
- Gang visits
- Food adulteration scams
- Weight and measuring scams
- Scams in foreign exchange market
- Offshore investigating scams
- Credit card scams
- Insurance scams
- Environmental frauds

### Vicarious liability in White Collar and Corporate Crimes

John Breathwaite, metaphorized Corporate Crimes as “the conduct of corporations or employees acting on behalf of a corporation which is described and punishable by law”.

Personal gains and enrichment leads to White Collar crimes but the organisation can be held responsible for the acts of the employees serving in its employment believing the organisation has the deepest pocket. The rule of vicarious liability is implemented here making the master responsible for the acts of his servant as it is always believed that the master is always rich and can pay for the acts of his servants in his employment, maxims of Latin origin defines vicarious liability clearly. The maxim *respondeat superior* means ‘a principal must answer for the acts of his subordinates’ and the second maxim *qui facit per alium facit per se* means ‘he who employs another person to do something, does it himself’. The above maxims keeps the master in the same position as if he had committed the wrong himself making him answerable for the acts of his servant, embellishment is the motive of the perpetrators by camouflaging themselves as obedient, sincere well wishers towards their organisation they secretly do their work in enclosed cabins. The persons on the high position or the superior side like master, director or manager are always responsible for the acts or any types

of wrongs of the servant or employee as it is believed that the liability is based upon certain relationships and the person sitting on pivotal positions are always responsible for the employees' deeds.

### **Judicial attitude towards White Collar Crimes**

The White Collar crimes is a global phenomenon, now crusade against the White Collar crimes has begun globally, these crimes are so silent, systematic and weaponless that the victims realise about them much late such crimes endanger the people associated with it, be it the employees, the society and the country. The countries are trying their best to eradicate this menace from society and some have realised that this target can be achieved by strict laws and stringent punishments. As every country has its own system of judicial setup they are trying to get rid of such crimes with best possible efforts and punishments keeping in view the culture, traditions and ethics in mind.

### **White Collar Crimes and Laws of America**

As mentioned earlier White Collar crimes is a global phenomenon which has affected almost all the countries and United States of America is no exception, the USA government passed many regulatory laws keeping in view to control and curb different types of Corporate and White Collar crimes many new categories were added in the list of the above crimes considering them immoral and illegal. The Federal government of USA was determined to curb any types of white collar crimes and preventing price fixing and monopolies so they passed Sherman Antitrust Act of 1890. Beside this several agencies and regulatory bodies are working day in and day out in planned ways to curb illegal and immoral activities which are leading to White Collar Crimes. The government works in a systematic manner keeping ethics in mind at the initial stage the offenders are treated with humility at the first step the offenders are given warning recalls, thereafter awarded injunctions followed by monetary penalties and in the last place criminal penalties.

After the Enron Scandal case of 2001 the USA government made the punishments stricter and harsher. This case is a perfect example of biggest corporate fraud, sentencing the offender 24 years 4 months imprisonment as its shareholders lost \$74 billion dollars in pension schemes.

The USA government incorporated the Foreign Corrupt Practices Act of 1977 to prohibits the payment of bribes in order to obtain business contracts beside this various rules and regulations are implemented and incorporated by the Federal and State government regulatory agencies.

Sarbanes Oxley (SOX) Act 2002. Is also one of the most important act by USA government to trace the culprits of Corporate crime and White Collar crimes, the act clearly mentions the punishments for any type of category falling in the above crime it has been observed the act has proved successful in curbing the White collar and Corporate crimes throughout the United States of America.

### **Corporate Crimes and Laws of China**

The Republic of China is not behind in incorporating laws on White Collar Crimes these laws are strict laws and a guilty can be punished with death penalty. Crimes like swindling, misappropriation of property, ponzi scams, insurance scams, grafting, chiseling and many more fall in the category of White collar crimes and a big menace in the corporate world. Grafting is considered as a serious offence

in China with different punishments. A person engaged in grafting for less than 5000 Yuan is punished with imprisonment of two years or criminal detention, for grafting for more than 50,000 Yuan but less than 100,000 Yuan offender shall be punished for more than 5 years and government confiscating persons properties, for grafting of amount more than 100,000 yuan, the property of the wrongdoer is confiscated and in serious cases a person awarded death penalty.

### **White Collar Crimes and the Laws of Thailand**

White Collar crimes in Thailand fall in the category of criminal offences, corporate frauds, false claims, bribery, counterfeiting, bank frauds are some of the White Collar crimes. Thailand witnessed huge economic and financial crisis known as Tom Yam Kung crisis its consequences led to fleeing and withdrawal of foreign companies from Thailand resulting in collapse of Thai bhat. Many financial companies collapsed because of the economic crisis leaving the King, citizens and the government helpless and soon the crisis spread to Southeast Asia.

The financial crisis of 1997 was an alarming signal to the Thai government many new laws were incorporated with strict punishments in order to save the country. According to new Thai Law the corporations involving in corporate crimes will face judicial dissolution known as "corporate death penalty", such corporation will be forced to close down its business or dissolve or cease to exist, the defaulters would be fined heavily and sentenced according to the gravity of the offence, guilty foreigner shall be fined and deported to his native land, and in serious offences the person is to be punished according to Thai Legal procedure and may even get death penalty.

### **White Collar Crimes and Laws of India**

White Collar Crimes in Indian are rapidly increasing the reason can be greed and enrichment without hard work, with the advancement of commerce and technology in India almost in every sector the above crimes of different nature are becoming common.

Santhanam committee in its 29<sup>th</sup> law commission report made the people aware about the threats of white-collar crimes in India. There are a number of Acts to prevent the occurrence of these crimes, some of these are as follows:-

The Indian Penal Code 1860

Negotiable instrument Act 1881

The Companies Act 1955

Foreign Exchange Act 1974

Prevention of corruption Act 1988

Prevention of money laundering Act 2002

Central Vigilance Commission Act 2003

The Information Technology Act 2005

The Companies Act of 2013

Political support and affiliation is one of the biggest reasons for White Collar Crimes, the offenders are well aware about their release in few months so they do not hesitate in going to jail for some duration on being apprehended. The civil and administrative nature of such offences is also somewhere responsible for such crimes.

There is no dearth of talent in India but dearth in jobs are misleading the youth as some of them are misusing their talented and potential in wrong side. Desire to earn more without hard work is involving them in immoral and illegal activities, the educated youth with technical education are

not hesitant in earning in lumpsums by creating false IDs, fake websites, doing cellular frauds opening fake bank accounts, fake credit cards and much more. Reserve Bank of India in its report mentioned about 921 registered cases of credit and debit card frauds.

The Government of India wants to curb the White Collar Crimes with full might and mane by incorporating and introducing many regulatory legislations, by introducing such regulatory legislations the government aims at keeping a check on those who try to enrich themselves by cheating, corruption and other corporate frauds. Beside laws various committees have been framed to inspect and examine the reasons to know the root causes of Corporate and White Collar crimes.

White Collar crimes are witnessed almost daily in medical profession, insurance sector, welfare activities like CSR, engineering profession, banking sector, cyberfield, legal profession. The Hawala scam, a scandal of 4999 crore during the 1990's was one of the biggest scams of India as it shook the country from its core, Mehta accumulated enormous wealth by cheating Bombay Stock Exchange and producing fake bank receipts. In 1992 he was arrested and charged with 27 charges and spent nine years in prison under the securities scam of 1992. In another case Mr. Ketan Parekh a Mumbai based stockbroker and owner of Madhavpura Cooperatives bank was arrested for rigging price artificially of the chosen securities and involved in manipulation of securities it was a great scam of stock market during 1998-2001. In one of the cases of blackmailing Vijay Shekhar Sharma the founder of Paytm was cheated and black mailed by Sonia Dhawan his personal secretary who wanted to extort a huge amount from him. There in one of the cases of corporate fraud Sterling Biotech a Vadodra based company dealing with Gelatin production, was involved in an 8,000 Crore debt and fraud case. Nitin Sandsera and Chetankumar Sandsera the owners and real brothers misused their political connections for enrichment by committing fraud they had a debt of Rs 8000 crores once the bank became strict and tightened its noose to pay the loans the Sandesara brothers fled the country and in 2019 declared fugitives.

### Conclusion

White collar crimes are though weaponless but its wounds have long lasting effects on the victims whether physical, psychological or financial as well they affect the country's economy. These crimes are metaphorized as crimes in suits as the offenders are from rich well to do families sitting on high positions projecting themselves as a skilled professional. These offenders easily fools the victims by devious plans, leaving the victim in mental agony. These crimes if detected besmirches the image of the organisation but the innocents whose hard earned money is lost are left with remorse. In many such crimes the victims and the offenders do not confront each other such offenders are unaware of the feelings and mental state of the victims and in over confidence they take a leap of faith of committing White Collar and corporate crimes. It is high time for the government to take such crimes seriously, delusion about non-importance of such crimes can be the biggest mistake where the culprit gets encouraged to mark a new target for his needs and greed. Public awareness programs, advertisements, skits can prove very helpful in avoiding these non-violent, silent and systematic crimes and saving

the persons from becoming scapegoats. Including White collar crimes and the Corporate Crimes in civil category worsens the situation as it stands on the threshold of pandemonium state and the offender is sure of lesser punishments leaving the victim aggrieved in doldrums. These crimes harm the people financially and also breaks the economy of the country, it is high time that the governments should break the ice by implementing strict laws and stringent punishments for such crimes and taking the victim out of the woods.

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