



White-collar crime in modern era

Ram Singh¹, Dr. Simran Jeet Kour Gill²

¹ Research Scholar, CT University, Ludhiana, Punjab, India

² Principal School of Law, CT University, Ludhiana, Punjab, India

Abstract

The article touches upon the problem of white-collar criminality and presents a contemporary view of the phenomenon. The concept of white-collar crime, first introduced by Edwin H. Sutherland in 1939, immediately became the driving force behind the discussion undertaken by criminologists and sociologists of that time. Since then, many studies have been conducted in order to answer the question about who actually is a “white collar”— why do respectable, well-situated individuals decide to enter the path of crime? It is significant that the crime of white collars has never really been systematized in the Polish legal system (and most of European legal systems), in contrast to economic types of crime. The author compares recent literature, presents characteristics of white-collar criminals and comes to the conclusion that in this specific group of criminals the ties between the perpetrator and the community in which they live are very weak. Finally, the article touches on a problem of possible beneficial consequences of attempting to investigate the scale of crimes committed by white collars.

Keywords: White-collar crime, power, criminals

Introduction

“The practitioners of evil, hoarders, the profiteers, the black marketers, and speculators are the worst enemy of our society. They have to be dealt with sternly. However well placed important and influential they maybe, if we acquiesce in wrongdoing, people will lose faith in us.”

Meaning of white collar crime

This notion was laid down for the first time in the field of criminology by Prof. Edwin Sutherland in 1941. He defined white collar crime as “crime committed by persons of respectability and high social status in course of their occupation”. Examples of it include fraudulent advertisements, infringement of patents, publication of falsified balance sheet of business, passing of goods, concealment of defects in the commodity for sale etc. These white collar crimes by nature are such that the injury or the damage caused as a consequence of them is so widely diffused in the large body of citizens that their enormity as regards personage victim is almost trifling. Hartung defines a white-collar offense as a violation of law regulating business, which is committed for a firm by the firm or its agents in the conduct of its business.

Types of white collar crime in India

bank fraud

To engage in an act or pattern of activity where the purpose is to defraud a bank of funds.

Blackmail

A demand for money or other consideration under threat to do bodily harm, to injure property, to accuse of a crime, or to expose secrets.

Bribery

When money, goods, services, information or anything else of value is offered with intent to influence the actions,

opinions, or decisions of the taker. You may be charged with bribery hither you offer the bribe or accept it.

Cellular phone fraud

The unauthorized use, tampering, or manipulation of a cellular phone or service. This can be accomplished by either use of a stolen phone, or where an actor signs up for service under false identification or where the actor clones a valid electronic serial number (ESN) by using an ESN reader and reprograms another cellular phone with a valid ESN number.

Computer fraud

Where computer hackers steal information sources contained on computers such as: bank information, credit cards, and proprietary information.

Tax evasion

When a perpetrator of good social standing tries to evade taxes by illegal means, tax evasion takes place. For example, they can conceal owning properties, illegally transfer money or avoid the proper filing of tax forms to avoid taxes.

Counterfeiting of currency

The Rupee needs to be safeguarded from fake/counterfeit money, which many criminals tend to circulate. Therefore, most currencies have an elaborate and detailed design to combat counterfeiting. The main goal is to make these original currencies hard to copy, even with the most advanced laser technology.

Money laundering

Money laundering is one of the most common white-collar crimes. It involves the funnelling of illicit money to legitimate businesses. Affluent criminals who deal with bundles of cash often go for money laundering. This is because cash is hard to track and easy to conceal.

Embezzlement

Embezzlement is a type of theft under which an employee tends to misuse assets that an employer entrusts. Unlike larceny, an embezzler owns the asset legally but uses them for unlawful purposes.

Insider trading

This is trading a company's securities by any individual who has access to non-public information about the company.

Reasons for growth of white collar crimes in India

- White collar crimes are committed out of greed. The people who usually commit these crimes are financially secure.
- Financial or physical duress.
- White collar crimes are estimated to cost society many times more than crimes such as robbery and burglary. The amount of death caused by corporate mishap, such as inadequate pharmaceutical testing, far outnumbers those caused by murder.
- The emergence of cutting-edge technology, growing businesses, and political pressures has opened up new avenues for these criminal organizations to prosper.
- This increase is due to a booming economy and technological advancement such as the Internet and fast money transfer systems. Law enforcement is sometimes reluctant to pursue these cases because they are so hard to track and investigate.
- It is very difficult to detect as white-collar crimes always committed in privacy of an office or home and usually there is no eyewitness.
- But naturally a question arises that if we have specific legislations to trace out White Collar Criminality then why these offenders go unpunished. Main reasons for which these
 - white Collar criminals or occupational criminals go unpunished are
 1. Legislators and the law implementers belong to the same group or class to which these occupational criminals belong
 2. Less police effort
 3. Favorable laws
 4. Less impact on individuals.

Examples of white-collar crime

Given below are some famous examples of white-collar crimes in India

Harshad Mehta scam

The Bull, Harshad Mehta was a popular figure in the Bombay Stock Exchange during the 1990s. He used to take huge loans from banks and buy scrips paying very high prices. This led to the creation of a false market.

By misusing his reputation as the Bull to manipulate stock prices, he caused a rise in share prices. He also misused money from banks to invest in the stock market. This act became his nemesis as it fell under money laundering. In this way, he made Rs.5000 crore until journalist Sucheta Dalal exposed his scam. After the Harshad Mehta Scam came to light, the Indian stock market experienced its worst crash. After this incident, SEBI brought in various changes in their rules and regulations to prevent such scams.

Saradha chit funds

The Ponzi scheme by Saradha Group, an umbrella group of 200+ companies, resulted in the Sharada scam, a major financial scandal. The group of companies ran a Chit fund scheme, which collected Rs. 200 billion from depositors, They further promised to return their investment in the form of cash or real estate. CBI took over this case from the Supreme Court as its narrative included international money laundering and the involvement of major political parties.

Ketan Parekh security scam

Parekh was a trainee in Harshad Mehta's Grow More Company when he started his career. Ketan Parekh was accused of stock manipulation and circular trading during 1999-2001. He used to borrow lump sum money from banks like Madhavpura Mercantile Cooperative Bank and Global Trust Bank.

Furthermore, he invested this amount in a host of K-10 stocks. When this scandal came to light, the scandal amount was reported to be Rs. 1520 crore. He stayed in prison for a year. The Bombay Stock Exchange banned him till 2017. After the Harshad Mehta Scandal, the Ketan Parekh scam continues to haunt the Bombay Stock Exchange. Parekh was not just a backstage player. He was also engaged in insider and circular trading.

Punjab national bank scam

The head of this scandal was Nirav Modi, India's 85th richest man and a renowned jewellery maker.

Nirav Modi and companies conspired with Punjab National Bank's officials to get letters of undertakings to help fund buyers with credit from an overseas bank. Investigators discovered two officials of PNB issued these financial instruments illegally to Modi's firms.

As a result, Punjab National Bank faced a loss of \$1.8 billion. The PNB Scam is still one of the biggest frauds in the history of India's banking sector.

How to identify a white-collar crime?

It is hard to tell when the next white-collar criminal activity will occur. However, you can keep yourself alert by knowing the signs. Here are a few tips to help you identify white-collar crime and save your assets.

Data Investigation

Monitoring audits and account records will help you find and manage loopholes in the data on time. Errors like missing data or incorrect entries must be taken seriously by firms.

Monitor the Signs

Management must keep a note of frequent incorrect data entries, missing reports or changing the behaviour of personnel. Missing entries or other accounting flaws can signify fraud in action.

Workplace Empowerment

Top and middle-tier management must be fully aware of the company policies to monitor signs of white-collar crimes. They can be held responsible if their subordinates commit a heinous crime.

White collar crime in Medical Profession

White collar crime in Legal Profession

The instances of fabricating false evidence, engaging professional witness, violating ethical standards of legal profession and dilatory tactics in collusion with the ministerial staff of the courts are some of the common practices which are, truly speaking, the white-collar crimes quite often practiced by the legal practitioners.

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White collar crime in the Engineering Profession.

White collar crime in Education.

Legislation against White Collar Crime in India

There are several provisions that exist for identifying white collar crime. Government in order to ensure that the criminal committing white collar crime be punished has brought in the following legislations

- a. The Companies Act, 1960
- b. The Income Tax Act, 1961
- c. Indian Penal Code, 1860
- d. The Commodities Act, 1955
- e. The Prevention of Corruption Act, 1988
- f. The Negotiable Instrument Act, 1881
- g. The Prevention of Money laundering Act, 2002
- h. The Information Technology Act, 2005
- i. The Imports and Exports (control) Act, 1950
- j. The Special Court (Trial of offences relation to Transactions in Securities) Act, 1992
- k. The Central Vigilance Commission Act, 2003

Penalties for White Collar Crimes

Sentencing in white collar crime in India

▪ **Punishment for Fraud**

Section 447 of the Companies Act, 2013 provides punishment against the commission of fraud. It states that in case a person is found guilty of an offence of fraud he would be imprisoned for a period not less than 6 months and which extend to 10 years. And he will also be subject to fine which should not in any case be less than the amount involved in fraud and which may extend to 3 times the amount involved in the fraud. In case the fraud has been committed against the interest of the general public than the term of imprisonment would not be less than 3 years.

▪ **Punishment for False Statement**

Section 448 of the Companies Act, 2013 states that: if a person deliberately makes a false statement, knowing it to be false or deliberately omits any material fact, knowing it to be material

than he would be held liable for his wrongful act. This false statement can be made either through return, report, certificate, financial statement, prospectus, statement or any other documents required for the purpose mentioned under this Act or any rules made under it.

▪ **Punishment for Furnishing False Evidence**

Section 449 of the Companies Act, 2013 provides for punishment for furnishing false evidence. It states that if any person gives false evidence in a court of law:

Either upon an examination on oath or solemn affirmation; or When any company is about to dissolve or otherwise also in case of any matter arising under this Act, in any affidavit, deposition or solemn affirmation,

He shall be punished with imprisonment and fine both. The imprisonment will not be less than 3 years and may extend to 7 years and fine may extend to 10 lakh rupees

▪ **Punishment when no specific punishment or penalty has been provided**

Section 450 of the Companies Act, 2013 states that in case a punishment or penalty for a crime, which has been committed

either by an officer of a company or by any other person who

contravenes any of the provisions of this act, then under this section he would be penalized with a fine which may extend to 10 lakh rupees.

▪ **Punishment when the default has been repeated**

Section 451 of the Companies Act, 2013 lays down that, when a company or any officer of that company commits an offence for which he has already been penalized and has also faced imprisonment, in case commits the same offence again within a period of 3 years, than that company and every one of those officers involved in the commission of the offence for the second time shall be punished with twice the amount of fine, in addition to the term of imprisonment provided in

the act for that offence. But, in case the offence was committed after a period of 3 years of commission of the offence for the first time then this rule would not be applicable.

Appointment of Adjudicating Officers

Section 454 of the Companies Act, 2013 says that the Central Government, by an order stated in the official gazette, has the power to appoint an adjudicating officer who will have the right to adjudicate penalty under the provisions of this act. The Central Government will also decide the jurisdiction for the officers.

The adjudicating officer can impose a penalty on the company or its officers on the grounds of noncompliance with the given provision under the Act. In case an officer who has been penalised by the adjudicating officer is dissatisfied with his action, he could file an appeal to the regional director would be having jurisdiction in that matter.

What is the Difference between Blue Collar Crime and White-Collar Crime?

The basic difference between white and blue-collar crime stems from the impact that it leaves.

As stated earlier, white-collar crime is non-violent and financially driven. On the other hand, blue-collar crime is much more violent. Criminal activities like sexual assault, robbery, murder, illicit gambling and prostitution are blue-collar crimes.

There are no physical impacts or explicitly available evidence, so white-collar crimes are hard to track. In contrast, police find it easy to track blue-collar criminals. Unlike white-collar criminals who belong to the affluent

class, blue-collar criminals usually belong to the low social strata.

As they belong to the influential class, white-collar criminals can easily evade the laws binding society. They tend to use their power to escape. Feeding on the economic flow of a nation, white-collar criminals disrupt society more than their blue-collar counterparts.

Conclusion

White collar crimes have two surprising features, first, that they are non-violent crimes, though the criminals have the tendency to gain control or have a sense of entitlement, and, second, that they are committed by people in the higher profession.

However, these crimes are also committed by poorly paid underlings, although the mastermind behind the commission of such crime could be a rich person enjoying a higher social status in his occupation. white collar crimes are often committed because of peer pressure or are dependent on the culture of the company.

As our society is growing towards modernity and the world is experiencing new technological advancement, the rate of crime is also increasing at a faster rate. Particularly the growth in white collar crimes has been enormous. From the medical profession to educational institutions, these crimes are being committed everywhere.

The cases of online fraud are also increasing at an alarming rate. India, as a developing nation, has faced difficulties in leading its economy towards growth because of these crimes in general and corruption in particular.

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