



White collar crime in India

Sitaram

Department of Law, Central University of South Bihar, Bihar, India

Abstract

White collar crime is special types of crime, which is done by the person of the high reputation in the society and working place. This crime is different Frome traditional Crime (i.e. Blue collar crime). The person who committed white collar crime is effect the majority of people of the society or states either directly or indirectly. The Actus Reus plays an important role for committing white collar crime. In India the white collar crime develop since mid of 20th century. The punishment for white collar crime is up to the life imprisonment in some cases or fine or both.

Keywords: white collar crime, Mens Rea, Actus Reus, blue collar crime and corporate sectors etc

Introduction

White collar crimes are those crimes which are committed by people of high reputation in the society. In 21st century the growth of white collar crime is unexpected in India. Mahatma Gandhi says that the need of people can be fulfilled but the greed of people cannot be fulfilled. These crimes are committed for the fulfilment of their greed. In modern times white collar crime is rooted in all sectors in Indian. White collar crimes are also called socio-economic crimes because it largely affects the society and economic conditions of our country. These crimes are non-violent crimes which is different from the traditional crimes (Blue Collar crime). It includes several things likes; bribery, embezzlement, tax-evasion, fraud, forgery, violations of trust by corporations, individuals etc. These crimes are committed in large and complex organisations and committed by people with proper understanding of disciplines of finance, management, engineering, medicine, information technology and many more.

Use of the term “white collar crime” to refer to some category of illegal, or at least deviant, conduct is now a common feature of our linguistic landscape ^[1]. Sociologists and criminologists, though disagreeing among themselves about exactly what the term means, have been talking about white collar crime for more than sixty years and thus it shows the relevance of white collar crime ^[2]. There are many persons involved in hoarding, black-marketing, adulteration, tax-evasion are some of the common white collar crimes committed by business world and professionals. Thus we can say that White Collar Crime is a number of miscellaneous nonviolent crimes lumped together as white-collar crimes ^[3]. There is no fixed definition of white collar crime, although it usually includes bribery, embezzlement, fraud, forgery and violations of trust committed by corporations or individuals engaged in commerce ^[4]. Historically, in the U.S. many white collar crimes have received lenient punishment form a criminal justice system that considered white collar crimes to be less serious than more violent crimes. Today, the trend is for stricter punishment of white-collar crimes in recognition of the financial damage they inflict on society. These crimes are difficult to detect because of their neglect at school,

college, home and other social institutions where lot of people build or engaged in some other work. A person or grope of persons commit crimes without the fear of loss of prestige or status. These crimes are basically the outcome of the competitive economy of mid-twentieth century.

▪ Definition of white collar crime by Edwin Sutherlands

Edwin Sutherland’s Definition, It was in 1939 when for the first time Edwin Sutherland, an American sociologist, and defined white collar crimes, he described it to be crimes committed by a person of high social status and respectability who commits such crimes during the course of their occupation ^[5].

The definition criticised by Coleman and Moynihan

As per the opinion of the Coleman and Moynihan the Edwin Sutherland’s not be defined following terms, like:

- It has not laid down any criteria for who these ‘persons of responsibility and status’ would be.
- Whit types of person come the definition of ‘high social statuses’. It was like a phrase in law could be different from its general definition.
- Sutherland’s definition did not cover the socio-economic condition of the person into consideration. It only showed the dependency of white collar crimes on its type and the circumstances in which it was committed.
- However, Sutherland’s definition also not covers Mens Rea, i.e. guilty mind.

Historical background of white collar crime

White collar crimes develop from 19th century but at the end of 20th century the collar crime more develop in the world. In country like India white collar crime more developed in the end of 20th century or we can say that the stating of 21st century, because the globalisation in India develop in such time. It simply means the white cooler crime was developing in India with the developing of Globalisation in India. But some of the sociologist and criminologist say that white collar crime were develop within sixty years. In white collar crime the criminal having more idea bought such

crime because it is deferent Frome traditional crime. In some country the punishment in white collar crime is still expect much lower sentences than other types of criminals. According to Edwin Hardin Sutherland in white collar crime the high reputation of society of people having been involved, due to involvement of such person the loss is also more happen in society.

The assessment of the offences committed in the corporate world began to change in light of the theories of sociologist and criminologist Edwin Hardin Sutherland, who not only established the criminological term 'white-collar crime' in 1939, but also made clear that crimes were not exclusively committed by lower-class offenders^[6]. Sutherland, who had among other things previously worked on juvenile delinquents in ghettos of recent immigrants, pointed to certain parallels such as the influence of cultural milieus^[7]. This concept violated existing prejudices that high-ranking persons would not or only in highly exceptionally circumstances commit crimes and that economic crimes were due to 'merely technical violations', which 'involve no moral culpability'^[8]. Sutherland, who is considered one of the most influential criminologists of the twentieth century, vehemently contradicted widespread views that criminality was caused by poverty or biological and psychological factors^[9]. He stated that the total damages of white-collar crimes were several times higher than those of all other crimes combined. He also spoke out against the relative leniency for perpetrators of economic crimes compared to those of 'normal' crimes^[10].

Whit collar crime in India

After the advancement of technology White collar crime has become a global phenomenon in India. In recent decades white collar crime has increased a lot because of the industrial growth and fast developing economy. At a time White collar crime has become a global phenomenon with the advancement of commerce and technology sector. The all most every country including India having grip of such crime in all sectors especially in government sectors is more. There has been unprecedented growth of a new variety of computer dominated white collar crimes which are commonly called as cybercrimes.

White collar crime committed in certain professions

There are many professions which require some technical expertise and skilled of person of such filed. And when such person committed any type of Fraud with such organisation is collard white collar crime.

Medical profession

In India having more poverty and less education, but high population. So, due to high population person consult with medical professionals more and more. But some medical professionals work in such profession without having proper degree of such profession for his own benefits. During his profession, professionals advertise his own private medical clinic shop, and some time he suggests highly costly medicine to the person and must purchase such medicine to the proper medical shop. This type of crime is also come under the definition of white collar crime. Some doctor advice such patient to the private clinic or the private

hospital due to less medical facilities in the government hospitals. In the famous case of *Parmanand katara vs. union of India*^[11]; court held that right to medical care is the fundamental right of individual and it is the duty of Medical practitioner to give proper treatment without proper way.

• Engineering profession

In this profession of white collar crime engineer, contractor, leaders, etc. are involved. For example when any constriction of road tender pass by the government then during the time of making the road the low class of material used by the contractor and when enquiry will be started by the engineers the he approved due to taking high amount of money, such type of crime is known as white collar crime by engineers. Due to such crime the road damage within a year. The low quality of material not only damages the people movement but also effect the national economy.

• Legal profession

Legal profession in India is oldest and one of the noble profession of the country. But by the passage of time this profession lost its real quality. So, now a day in India these professions are not looked with much respect these days. There are several reasons for this. First the lower behave with clients are changed from some years; second some lowers given more impotence to his own profit then respect of clients benefits etc. But the main aim of this profession is to protect his clients by hook or (by) crook. Generally the professional crooks and criminal gangs have their own trusted lawyer who arranged things and keeps himself ready with bail bound to avoid arrest of the gangsters^[12]. But under this beautiful profession there are number of lawyers got high respect in within the court room or out of court room or in society due to this beautiful profession.

• Educational Institutions

Educatons are the need of child but this profession are not also out of the range of white collar crime. There are so many private schools where the white collar crime will happen by the authority of such school India. In the government school the authority of such school also committed such crime after collecting fund by the government on the name of such student who are either not exist on the earth or on the name of other school of students. So we cannot say that only private schools of organisation are involved in such crime but the governmental schools are also involved in such crime. But some government school (government school in Delhi, India) having good evenomng of education in respect of some other private schools. The staffs of government schools also not got payment on time, and some other facilities in the school so it's the reason why white collar crime will happen in educational institution.

Difference between white collar crime and blue collar crime

The term 'blue collar crime' came into existence by an Americans who performed manual labours sometime in the 1920s but the concept of such crime is very old in the world. But the term White collar crimes have been come into

existence after 1943 in the world. The basic difference between 'blue collar crimes', and 'white collar crimes' was laid down by the Supreme Court of India in the case of *State of Gujarat v. Mohanlal Jitmalji Porwal and Anr* ^[13]. Court observed that when any person committed the crime of murder of other person in the heat of movement is called blue collar crime and when any person committed financial losses or economic offences of any organisation or institution with a proper planning is called white collar crime. The some other basic difference between blue collar crime and white collar crime are followings:-

- Blue collar crimes refer to people who work physically, using their hands, whereas white collar crimes people using their own knowledgeable works, who use their knowledge to commit crimes.
- The concept of Blue collar crimes are a traditional crimes that have been committed since ages, the concept of white collar crimes are recently developed or develop Frome 20th century, it's a new species of crime.
- For the Blue collar crime the Mens Rea and Actus Reus both are required, but for White Collar crime Actus Reus is more required in comparison of Mens Rea.
- In Blue collar crime, the person affects other individual person of the society but in the cases of white collar crime the person effect the large grope of people or a large society.
- The person committed Blue collar crime may not having higher respect in the society of but the person committed white collar crime having high respect in society or having responsibility in the working place (as per Edwin Sutherlands).
- In case of blue collar crimes, person having come to face to face in injured person in generally, but in white collar crime person not come in front of injured person at a tile of committing crime generally.

The white collar crime committed by the people is more danger in respect of Blue collar crime committed by person because the person committed white collar crime effect the majority of people of society but the person committed Blue collar crime effect the individual people or individual people of family. For example; when any director of Company committed theft of 50 crosses Frome his own working Company, then due to such theft the loss happen to the Company and also loss happen to the shareholder of company indirectly, that means the majority of persons will effect due to such crime. In other hand when MR. A committed an offence of murder of MR. B then due to such murder MR. B of Family suffer loss not whole society or village of MR.B. So I can say that white collar crime are more danger in respect of Blue collar Crime.

Conclusions and Suggestions

The crime which is committed in corporate sectors generally comes under the definition of white-collar crime. Today, corporate criminal liability is a subject of concern for a wide range of groups campaigning on issues including human rights, environment, development and labour. Corporate crimes committed on all continents across a range of

industrial activities in various sectors (e.g. chemicals, forestry, oil, mining, genetic engineering, nuclear, military, fishing, etc.) clearly point towards the need for greater control, monitoring and accountability of corporate activity in a globalised economy. Corporate criminal liability is complementary to individual liability. The present liability regime that makes both corporate and individual prosecutions available to regulatory authorities has undeniable advantages over one that does not. Where crime arises from intra-organisational defects, the dismissal or discipline of a few individuals is clearly an inadequate response. Further, where individual liability is difficult to determine, prosecution of the corporation is an attractive alternative. There are many other situations where the prosecution of the corporation may be the only way to allocate responsibility for white-collar crime. Where both a corporation and its officers can be prosecuted, the prosecution of one over the other, or both, is a matter that is largely left to the discretion of the prosecuting authority. The prosecution's choice should be aimed at achieving the effective regulation of corporate activities, as well as the general objectives of sentencing. The confluence of justified public outrage at unchecked greed by corporate crooks, new sweeping legal tools, and aggressive prosecutions has had many societal advantages. But this recent increased scrutiny of corporate malfeasance has also served to bring to light a fissure in the current legal system. Corporate criminal liability has been stretched past the breaking point where it no longer serves the purposes of the criminal laws. It is time for further reform; this time giving renewed clarity and focus to the goals of criminal corporate liability and the prosecutor's role in pursuing corporate fraud. Far from giving corporations a shield to commit fraud, a system that ties criminal liability to the lack of an effective compliance program will do what the practical limitations on a prosecutor's time and resources could never permit: create greater incentives for boardrooms around the country to devise, implement, and monitor compliance measures. Conversely, by placing the burden on the government to prove that a company's program was inadequate as a prerequisite to criminal corporate liability, this reform will provide a systemic check on prosecutors who seek to institute such actions in the future, helping to ensure that they do so only where the company should be justifiably responsible for the criminal conduct of its employees. The precepts that ground this article's proposal have been endorsed by the Supreme Court in civil cases and have proved workable. The incorporation of these civil corporate liability parameters into the criminal context is both warranted and overdue.

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