

Some Criminology and Socio-Legal Study of White Collar Crime: A Critical Study

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Abstract – White Collar Crime is a socio- economic offence which is generally committed by people of high status or elite class of people in the society. It is done with an intention to receive financial gains by means of committing wrongful activities. Hence, it is a socio- economic offence, it disturbs the economy of a nation where it is committed. It has the impact on the stock markets, international trade, foreign exchange, demand and supply of goods and services etc. In India, there are various laws which has an intention to prevent the occurrence of white collar crimes and tries to punishes the offenders either with imprisonment or fines or both as prescribed in the provisions of Act. Although India as various Act and legal provisions under IPC which deals white collar crimes and its punishment but then also India has witnessed some high profile white collar crimes (in form of scams or scandals) which shocked the nation and disturbs the roots of Indian Economy. Thus, the article tries to give a bird eye view on the criminology of white collar crimes in India. The article also tries to an give an light on various scams and scandals which took place in India. The article also focuses on various act and its legislative intent to prevent white collar crime in India.

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INTRODUCTION

White collar crimes occur in large and complex organizations. These offences are committed by people with sophisticated understanding of disciplines of finance, management, engineering, medicine, organizational theory, information technology etc. The harm caused by white collar crimes is, in most cases, palpable. For example tax evasion lead to reduce revenue for the treasury, bribery lead to biased governmental decision making, inside trading lead to loss of investments in investors. There is moral complexity and uncertainty in white collar crimes which is not visible other offences. The identification of victims is very hard and victims are unaware of victimization. It is common knowledge that certain profession offer lucrative opportunities for criminal acts and unethical practices which hardly attract public attentions; there have been crooks and unethical persons in business, various professions and even in public life. They tend to unscrupulous because of their neglect at school, home, other social institutions, their greediness, profit making mania, or want to reach on top by short cut. These deviants have scent regard for honesty and other ethical values. Therefore, they carry on their illegal activities with impunity without fear of loss of prestige or status. The crimes of this nature is called, "White Collar Crimes". They are essentially an outcome of competitive economy of mid-twentieth century. Today, a criminal considers the world as his field of operation. He commits especially in his own field, profession, business, trade and this kind of

persons are not from any criminal background or with hardened arms and ammunitions, they do crimes through their privileged position, The widespread political, social, economic and technological changes as well as variation in legislation, procedures and policies in different countries on mutual assistance in criminal matters have allowed this white collar white collar crime groups to become increasingly active in the international arena. These kind of criminal groups arena taking full advantage of globalization of world markets, dismantling of trade barriers, and the liberalized migration policies, high-tech communicated equipments and sophisticated electronic techniques to enhance their deviant activities. White collar criminals are engaged in such felonious activities such as, fake employment placement rackets, black marketing, medical deviant activities, tax evasion, cyber-crime, and credit card fraud and procedure large profit and create the incentive to "legitimate" the ill-gotten gains through money laundering and many more.

As white collar crime is also known as socio-economic crime because it has direct effect on our society and our economy just as development in sciences, moral and social theories have ushered changes in the law of crimes, the restructuring of society, whether on account of new political thought or socio-economic imbalances, has also materially affected criminal law. Variations in criminal law are not always the result of a single factor; quite often they may be the product of the

cumulative effect of many new developments. The development in sciences coupled with new notions of morality and new theories of sociology may sometimes join hands to force a change in criminal law. Likewise these two may combine with the restructuring of society to effect alterations in law of crimes. The new philosophy of communism and a shift in the laissez faire have in no less measure been responsible for are thinking in criminal law. We have seen that of late the state activity has multiplied to a great extent. State is no longer a police state and is rather looked upon as a welfare state has contributed in large measure to increase in the state activity. It has opened new vistas for state activity. These changes have had their effect on the penal laws. Laissez faire economy has been increasingly yielding place to socialist economy and socialistic pattern of society has come to be accepted, tacitly or expressly, as the cherished goal of many countries. State in consequence is no longer a silent spectator to the happenings in and around it. The nefarious activities of many new categories of anti-social elements have also not gone unnoticed and altogether unchecked by the state.

White collar crimes occur in large and complex organizations. These offenses are committed by people with a sophisticated understanding of disciplines of finance, management, engineering, medicine, organizational theory, information technology etc. The harm caused by white collar crimes is, in most cases, palpable. For example, tax evasion leads to reduce revenue for the treasury, bribery lead to biased governmental decision making, inside trading lead to loss of investments in investors. There are moral complexity and uncertainty in white collar crimes which is not visibly other offenses. The identification of victims is very difficult, and victims are unaware of victimization. It is common knowledge that certain profession offers lucrative opportunities for criminal acts and unethical practices which hardly attract public attention; there have been crooks and unethical persons in business, various professions and even in public life. They tend to unscrupulous because of their neglect at school, home, other social institutions, their greediness, profit-making mania, or want to reach on top by a short cut. These deviants have scant regard for honesty and other ethical values. Therefore, they carry on their illegal activities with impunity without fear of loss of prestige or status. The crimes of this nature are called, "White Collar Crimes". They are essentially an outcome of the competitive economy of the mid-twentieth century. Today, a criminal considers the world as his field of operation. He commits especially in his field, profession, business, trade and this kind of persons are not from any criminal background or with hardened arms and ammunition, they do crimes through their privileged position, The widespread political, social, economic and technological changes as well as variation in legislation, procedures and policies in different countries on mutual assistance in criminal matters

have allowed this white collar white collar crime groups to become increasingly active in the international arena. These kinds of criminal groups arena taking full advantage of the globalization of world markets, dismantling of trade barriers, and the liberalized migration policies, high-tech communicated equipment, and sophisticated electronic techniques to enhance their deviant activities. White collar criminals are engaged in 2such felonious activities such as fake employment placement rackets, black marketing, medical deviant activities, tax evasion, cybercrime, credit card fraud and procedure large profit and create the incentive to "legitimate" the ill-gotten gains through money laundering and many more.

White Collar Crimes are the crimes committed by a person of high social status and respectability during his occupation. It is a crime that is committed by salaried professional workers or persons in business and that usually involves a form of financial theft or fraud. Sociologist Edwin Sutherland in 1939 defined the term "White Collar Crime". These crimes are non-violent crimes committed by business people through deceptive activities who can access large amounts of money for financial gain. The common feature of all this criminality is that the same which is born out of greed, advance and capacity; and committed during trade, industry, commerce, business and profession of upper and middle classes. These crimes have adversely affected the social and economic fabric of the state and the community alike and have been planned development for the future a very difficult job. Sutherland has called these crimes, "white collar crime", while Sayre has described them, "public welfare offenses", there are others who call these crimes "regulatory offenses" and yet others "crime of strict liability", while many others have called it as "socio-economic crimes also". The genesis of socio-economic crimes/white collar crime has almost the same throughout the world and it would be found that socio-economic criminality is in a way the product of industrial revolution, although renaissance and reformation also had contributed to the emergence of these crimes in no small measure.

SUTHERLAND'S DEFINITION OF WHITE COLLAR CRIME

Professor Sutherland presented his concept of "white collar crime" in his address to the American Sociological Society in 1949. According to him, when a person of respectability and high social-status in course of his legitimate occupation commits an act which is approximately a crime, it is a white collar crime. But, later on he added a refinement to his own definition and gave a modified definition of white collar crime defining white collar criminals as "a person of upper socio – economic class who violates the criminal law in the

course of occupational or professional activities” According to Sutherland, white collar crimes are increasing due to three main reasons:- the judges, legislators and commission – members belong to the same social class to which white collar crime belong’ the trend is of not punishing the offenders, unorganized and in effective resentment of exploitation by white collar criminals.

Sutherland’ definition of white collar crime has evoked criticism from many jurists. Coleman and Moynihan has criticized and pointed out that there is no accurate and definite criteria for determining persons who can be defined as ‘person of respectability and status’. They also have said that the element of “high status” as used in the definition of white collar crime leads to confusion.

And, thus the work of Sutherland doesn’t give the crystal clear definition of white collar crime. Even some critics have suggested that such crimes should be called as occupational crimes instead of white collar crimes because the element in the definition of white collar crime is not socio- economic status of individuals, but rather the type of crime and the circumstances of its commission.

CONTRIBUTING FACTORS OF WHITE COLLAR CRIMES

The changing socio- economic concept of the society coupled with an increase in wealth and prosperity has furnished opportunity for such crimes in India .The modern scientific and technological developments and the monopolistic trends in trade and business world have led to enormous increase in white collar crimes. In the past few decades there has been unprecedented growth in a new variety of computer dominated white collar crime which are commonly called ad cyber- crimes. Cyber- crimes have a became a matter of global concern and a challenge for the law enforcement agencies at a global level.

The main reasons of white collar crime are:-

Legislators and the law implementers belong to the same group or class to which the occupational criminals belongs.

Less effort from law and administrations, favorable laws, less impact on individuals.

The rise of white- collar criminality in many countries has coincided with the progress made in those countries in the economic and industrial fields.²⁹It is very shocking and hardening to know that the process of white collar crime are divided into aspects – (i) direct and (ii) indirect and both of these two are connected with production and distribution of wealth.

ANTI-WHITE COLLAR CRIME LEGISLATIONS - A CHECKLIST

1. Central Excise and salt Act, 1944
2. Companies Act, 1956
3. Drugs and Cosmetics Act, 1940
4. Emblems and Names (Prevention of Improper Use) Act, 1950
5. Essential Commodities Act, 1955
6. Foreign Corrupt Practices Act
7. Foreign Exchange Regulations
8. Forward contracts (Regulation Act, 1952).
9. Immoral Traffic (Prevention) Act, 1956 Imports & Exports (Control) Act, 1950
10. Income Tax Act, 1961
11. Indian Medical Central Council Act, 1970
12. Indian Medical Council Act, 1954
13. Indian Penal Code, 1860
14. Indian Telegraph Act, 1885
15. Narcotic Drugs & Psychotropic substances Act, 1985
16. OECD Anti-Bribery Convention
17. Patents and Designs Act, 1965
18. Prevention of Corruption Act, 1988 Prevention of Food Adulteration Act, 1954
19. Special court (Trial of offences relating to Transactions in securities) Rules, 1992
20. The Ancient Monuments and Archaeological sites and Remains Act, 1958
21. The Ancient Monuments Preservation Act, 1904
22. The Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983
23. The Anti-Corruption laws (Amendment) Act, 1964
24. The Anti-Corruption laws (Amendment) Act, 1967

25. The antiquities and Art Treasures Act, 1972

The dangers and mischief postured by White Collar Crimes to the prosperity of Indians and the monetary improvement of this nation can't be disparaged. The White collar Crimes is the bane of most creating nations particularly India. It is driving cause of its being worked on with its associative impacts of neediness, filthiness and ailment.

White Collar Crimes flourishes with feeble establishments, awful authority and awful administration; something desperately should be done to nip in bud the expanding occurrence of White collar Crimes before the economy fall. These White Collar Criminal exercises since of widespread debasement in our workplaces and each walk of life are not prone to be discarded so soon.

Until and unless every one of our laws is legitimately authorized in their letters and Spirit by the law upholding offices and authorities worried about full trustworthiness and uprightness. Despite the fact that the counter debasement law and have examined in the last section of my theory. It is this law which needs a lot of its legitimate requirement particularly against the individuals who are only occasionally arraigned ought to be rebuffed to the most extreme. So additionally every one of the laws which and have investigated in different sections require their appropriate authorization by every one of the individuals who are in the ointment of undertakings.

LAW AND LEGAL THEORY

From the point of view of law and legitimate hypothesis, be that as it may, the expression "world class abnormality" is profoundly tricky. The train of criminal law is characterized by what is criminal. An extensive variety of basically essential procedural inquiries turns on whether lead charged is violative of the criminal law. To supplant the idea of cushy wrongdoing with the idea of degenerate conduct is in this manner to obscure a qualification that, at any rate in legitimate talk, is foundational. Besides, not exclusively is there freak conduct that isn't criminalized, there is likewise criminal movement that isn't for the most part viewed as degenerate.

For instance, a great arrangement of administrative wrongdoing includes supposed *malum prohibitum* lead, which is wrongful just, or basically, in goodness of its being prohibited. And there are different types of direct that may well be viewed as degenerate in one social setting (e.g., courtside at Wimbledon), yet not in another (say, the exchanging floor of the Chicago Board of Trade). A last issue with substituting the expression "world class aberrance" for "cubicle wrongdoing" is that much salaried wrongdoing isn't conferred by elites by any means. For instance, numerous individuals would consider insider exchanging to be the quintessential desk offense.

To allude to a wrongdoing as "office" is to attract thoughtfulness regarding the attributes of the individual (or substance) that submitted it. To be sure, it was the characteristics of the guilty party, instead of those of the offense, that were the primary focal point of Sutherland's investigate. Sutherland looked to scrutinize the then-common hypothesis that related wrongdoing with the exercises of the lower classes and accentuated neediness as its key reason. He contended that in light of the fact that there is a noteworthy class of wrongdoings that are carried out by people of riches, "respectability," and societal position, neediness can't be seen as the sole, or fundamental, reason for crime. And, indeed, late cases including any semblance of super-well off affirmed cushy lawbreakers, for example, Martha Stewart, Kenneth Lay, Bernard Ebbers, Richard Scrushy, and Dennis Kozlowski appear to show reality of such an attestation.

From the point of view of the criminal law, notwithstanding, such an approach is by and by dangerous. Profoundly established equivalent security compose standards disallow us from recognizing among guilty parties based on riches, occupation, race, sexual orientation, ethnicity, or other individual characteristics no doubt, there are unique resistance decides that apply to specific sorts of legislative performing artists.

THE PROBLEM OF CONTROLLING WHITE-COLLAR CRIME

Taken together, the qualities of professional wrongdoing—true blue access, spatial detachment, and appearance of authenticity—raise exceptional issues for its control by the criminal equity framework. The most eminent issue is that of discovery. Most normal road wrongdoings are distinguished by their casualties, who would then be able to report the episode to the police. Be that as it may, on account of cubicle wrongdoing, casualties might be completely uninformed that they have been deceived. Consequently, no wrongdoing may ever be accounted for to the police. Since revelation is hazardous, it is hard to gauge the size of the cubicle wrongdoing issue and consequently to settle on choices with respect to how to allot assets toward its control.

A moment control issue raised by office wrongdoing includes allotting obligation regarding the offense. Numerous desk violations happen in hierarchical or corporate settings and are the aftereffect of aggregate moves made by gatherings of individuals. In these cases, it is frequently hard to distinguish the individual or people who ought to be considered responsible for the unlawful action. Since it may not be clear who is in charge of a specific offense, prosecutors frequently are hesitant to convey such cases to trial.

Identified with the issues of location and responsibility is the trouble of securing feelings in court. Since cubicle white collar crime are frequently intricate and inserted in genuine business schedules, it can be troublesome for prosecutors to demonstrate past a sensible uncertainty that an individual is blameworthy of an offense. The significant hindrance is demonstrating that the guilty party intentionally proposed to disregard the law.

For instance, in the medicinal services misrepresentation illustration talked about over, the doctor presents a false claim for repayment for administrations rendered. Regardless of whether it can be demonstrated that the case isn't exact, the doctor may at present have the capacity to contend effectively in court that he or she didn't mean to present a false case. Or maybe, the false claim was essentially a slip-up or mischance and not a deliberate demonstration. The refusal of criminal plan is an exceptionally regular component of desk trials.

CONCLUSION

White collar crimes are a big global concern and is increasing at an alarming rate. Various studies have proved that the financial loss to the society from white collar crime is much more than the other crimes. India is a developing country and white collar crimes are not only a detriment to the economic growth of the country but also spoils the image of our country. It can be easily understood that to eliminate white collar crime is not easy at all because it has been into existence from many centuries, however, we along with government and legal entities should try to reduce such crimes.

The advancement of science and technology in last few decades has created a new form of crime which is known as "white collar crime". It is a socio-economic offence due to which economy suffers a lot. The person who commits these types of crime is called socio-economic offenders. The term white collar is not defined in criminal law but although certain form of white collar crime is defined in Indian Penal Code. These forms of crime have closed linked with white collar crime. The provision of white collar crime also deals with the punishment and fine associated with the nature of crime. In past years many scam has been witnessed by India in form of white collar crimes.

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