

# Constitutional and Legal Provisions to Control White Collar Crimes in India

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**Abstract – White Collar Crimes are to be considered as a worldwide wonder to which India is no exemption. White Collar Crimes rose in India with the approach of the British colonization amid the time of Industrial Capitalism. Preceding that, occasions of men working with the District treasury stealing with the cash held under safe guardianship or influencing rehearsed among the authorities were found. Along these lines, the White Collar Crimes were kept as far as possible. In this manner, the general population enjoying the White Collar Crimes at that point can said to be simple 'grass eaters' when contrasted with the general population in the advanced occasions having reached the phase of 'meat-eaters'. Researcher has concentrated to investigate the Constitutional Provisions and different Laws identified with control the White Collar Crimes; these crimes are hurtful for the economy of the nation. The object of the investigation is to test present laws and to discover the lacunae, to contrast our laws and created nations and to expel the insufficiency in our laws. The analyst has featured the Role of different Committees and Agencies to get the Corruption and investigated the association of Cyber Criminals in cases of Corruption and in a roundabout way or specifically such crimes are advancing the degenerate exercises influencing economy of India. Thus, the opportunity has already come and gone to make individuals mindful of the results all things considered and usual way of doing things of perpetrating White Collar Crimes.**

**Keywords: White Collar Crimes, Constitutional Provisions, United Nation Convention against Corruption (UNCAC), Writs, Comptroller and Auditor General of India (CAG), landmark Corruption cases, Committee on Public Accounts, Anti-Corruption Bureau, Central Bureau of Investigation, Ombudsman, Cyber Crimes, actus reum and mens rea.**

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## INTRODUCTION

India is a substantial nation with a populace of over a billion people. It is the second most crowded nation on the planet after China. It is one of the quickest developing economies on the planet and is drawing in tremendous ventures from created nations. Regardless of the sound development lists, a huge populace still lives in destitution and does not approach essential sanitation medicinal services and instruction. The nation's advancement is truly hampered by all inescapable White Collar Crime. It is keeping the advantages of improvement from reaching the denied segments of society. Removing White Collar Crime today is a noteworthy test before Indian Society. The administrators of India have dependably been aware of this issue. The British ordered the primary arranged law.

The Indian Penal Code, in 1860 had a part managing offenses submitted by public hireling including of degenerate practices. Later a unique bit of enactment was ordered i.e. The Prevention of Corruption Act, 1947, to bargain explicitly with the

issue of corruption in public life. Alterations were produced using time to time to keep pace with the evolving times. Later on in 1988, it was supplanted by an increasingly far reaching and expansive bit of enactment i.e. The Prevention Corruption Act, 1988. Aside from this Act, India is a signatory to the United Nation Convention against Corruption (UNCAC). It has marked removal and common legitimate Assistance Treaties in Criminal Matters with various nations to guarantee shared collaboration in issues relating to investigation of corruption and other criminal cases. Co-activity is looked for from different nations under these treaties through the instrument of letters Rogatory (LRs) It is beneficial to have the White Collar Crime incorporated the corruption as well as other sort of offenses, for example, nourishment debasement, misappropriation, avoidance of assessments, tax evasion and so on.. The fundamental laws and legitimate provisions i.e. the provisions of The India Constitution, 1950 and the Indian Penal Code, 1860 manages the issue of White Collar Crimes. The Prevention of Corruption Act, 1988 and so forth exists in India yet at the same time these

legitimate provisions are neglecting to check the White Collar Crimes.

### Constitutional Provisions of Writs to control White Collar Crimes in India

Under Article 32 and 226 of Indian Constitution writs are given and in addition the arrangement for filling Public Interest Litigation (PIL) is given to protect the rights against the demonstrations abusing any sort of right. Every one of these writs are having their very own effect and power in various fields, and really these are only "Powers in Hands of Judiciary to control the Administrative attentiveness." Basically there is Five Writs Known as privilege writs too which are as per the following:

- i) *Habeas Corpus*
- ii) *Mandamus*
- iii) *Prohibition*
- iv) *Certiorari*
- v) *Quo-warranto*

**Writ of Habeas Corpus:** The writ of Habeas corpus is a standout amongst the most antiquated writs known to the custom-based law of England. The Latin expressions 'Habeas corpus' methods 'have the body'. This is a writ in the idea of a request calling upon the individual who has kept another to create the last under the watchful eye of the court, so as to tell the court on what ground he has been bound and to set him free if there is no legitimate legitimization for the detainment. A writ of Habeas Corpus issued by the Supreme Court or by High Court must be obeyed by the individual to whom it is issued. A wilful insubordination by the individual to whom it is issued would add up to disdain of Court and would be culpable with connection of property and even detainment of the contemnor. The writ of Habeas corpus gives an incite and successful cure against unlawful limitations. The key point is to accommodate a quick legal survey of supposed unlawful detainment.

Writ of Mandamus: Mandamus implies a 'Direction', it is a request issued by a Court to a Public specialist requesting that it play out a Public obligation forced upon it by the Constitution or by some other law. Mandamus is a legal cure which is in type of a request from a better court than any Government, Court, Corporation or Public expert to do or to abstain from doing some explicit demonstration which that body is obliged under law to do or avoid doing, all things considered and which is in the idea of a public obligation and in specific cases of Statutory obligation.

Writ of Prohibition: A writ of restriction is a Judicial Writ. It very well may be issued against a legal or semi legal expert, when such specialist surpasses its purview or endeavors to practice ward not vested in it. At the point when a Subordinate Court or a second rate Tribunal hears an issue over which it has no locale, the High Court or Supreme Court can keep it from usurping purview and keep it inside its jurisdictional limits.

Writ of Certiorari: 'Certiorari' signifies 'to ensure'. It is so named as in its unique Latin shape it required 'the judges of any sub-par Court of record to guarantee the record of any issue in that court with everything contacting the equivalent and to send it to the King's Court to be inspected'. It is a request issued by the High Court to a mediocre Court or any expert practicing legal or semi legal capacities to explore and choose the legitimacy and legitimacy of the requests gone by it.

Writ of Quo-Warranto: 'Quo-Warranto' actually signifies 'what is your position'. It is a legal cure against an occupier or usurper of a free substantive public office, establishment or freedom. By issuing this writ the individual concerned called upon to show to the Court by what expert he holds the workplace, establishment or freedom. In the event that the holder has no expert to hold the workplace he can be removed from its pleasure. Then again, this writ likewise shields the holder or public office from being denied of that to which he may have a right. With the assistance of these writs managerial bodies can be pressurized, to perform and release their Constitutional and lawful obligations and commitment.

Job of Comptroller and Auditor General of India (CAG) to advance corruption free Governance CAG advances responsibility, straightforwardness and great administration through excellent inspecting and bookkeeping and give free confirmation to our partners, the lawmaking body, the official and the public that public assets are being utilized effectively and for the planned reason. India speaks to what we seek to end up; we endeavor to be a worldwide innovator in initiator of national and international accepted procedures in public division reviewing and bookkeeping and perceived for autonomous, dependable, adjusted and convenient investigating public back and administration. The Comptroller and Auditor General of India is a specialist, built up by the Constitution of India, who reviews all receipts and use of the Government of India and the State Governments including those of bodies and experts substantially financed by the Government. The Comptroller and Auditor General is additionally the outer auditor of Government - possessed Companies. The Reports of the Comptroller and Auditor General are contemplated by the Public Accounts Committees, which are Special Committees in the Parliament of India and the

State lawmaking body. The Comptroller and Auditor General of India is likewise the leader of the Indian Audit and Accounts Service, which has more than 58,000 workers the nation over. The Constitution of India, 1950 (Article 148) accommodates an autonomous office to the Comptroller and Auditor General of India. He is the head of Indian review and Accounts Departments. His obligation is to maintain the Constitution of India and laws of the Parliament in the field of money related organization. Reviews of Government accounts (counting the accounts of the State Governments) in India is depended to the Comptroller and Auditor General of India who is enabled to review all consumption from the incomes of the Union or State Governments, regardless of whether brought about inside India or outside, explicitly reviews incorporate.

- a) Transaction identifying with obligations, stores, settlements, exchanging and producing.
- b) Profit and misfortune accounts and monetary records maintained under the control of the president or Governors.
- c) Receipt and stock accounts.

The associations subject to the review of the Comptroller and Auditor General of India are

- a) All the Union and State Government offices and officers including the Indian Railways and posts and Telecommunications.
- b) About 1500 Public Commercial Enterprises controlled by the Union and State Governments, i.e. Government Companies and Corporation.
- c) Around 400 Non-Commercial Autonomous Bodies and Authorities possessed or controlled by the Union or the States.
- d) Over 4400 specialists and bodies substantially financed from Union or State incomes.

The Comptroller and Auditor General of India is the leader of the Indian Audit and accounts Department and infers his constitutional remaining as the Auditor of the Union and State Governments from Articles 149 to 151 of the Constitution. The obligations powers and states of administration of the comptroller and auditor general are set down in the Controller and Auditor General's (Duties, Powers and Conditions of Services) Act, 1971.

- i) Receipts and consumption of the Union and the State Governments represented in the particular solidified assets.

- ii) Transaction identifying with the possibility reserves (created for use in crisis conditions) and the public accounts. (Utilized essentially for credits, stores and settlements)
- iii) Trading, assembling, benefit and misfortune accounts and monetary records and other backup accounts kept in any Government Department.
- iv) Accounts of stores and stock kept in Government associations, Government organizations and Government partnerships whose Statute accommodate review by the Comptroller and Auditor General.
- v) Authorities and bodies substantially financed from the united assets of the Union and the States.
- vi) Anybody of power despite the fact that not substantially financed from the merged store at demand of the President or the Governor.
- vii) Accounts of bodies and specialists getting advances and allows from the Government for explicit reason.

#### **Some landmark Corruption cases unearthed by CAG**

1. **Hasan Ali's Income Tax Evasion:** Hasan Ali's salary duplicated in 6 years to Rs.54,268 Cr. Salary of Pune-based stud cultivate proprietor Hasan Ali Khan duplicated by more than multiple times in six years from Rs529 Crore to 54,268 Crore in 2006-07, uncovers Comptroller and Auditor General report tabled in Parliament today. Khan, who is by and by in guardianship of the Enforcement Directorate, has not documented returns for quite a while notwithstanding procuring Crore, comptroller and Auditor General said. His assessable pay, as indicated by the appraisal made by Income Tax Authorities, hopped from Rs.528.9 Crore in 2001-02 to Rs.5404.7 Crore in 2002-03. Thereafter, it took off to Rs.54,268.6 Crore in 2006-07. The report additionally said that Hasan Ali did not record pay government forms for five evaluation years 2000 to 2007; he documented the assessment forms for these years in May 2007 after Income Tax Notice following hunt activities. The Comptroller and Auditor General additionally said "While figuring his expense risk for the Assessment years, The Income Tax Department collected enthusiasm of Rs.706.1 Crore rather than Rs.4,056 Crore for default in installment of development impose." The report said in

2008-09 out of Rs.2 needs Crore that stayed uncollected "One gathering to be specific Hasan Ali alone represented Rs.71,874 Crore of uncollected interest."

Mr. Suresh Kalmadi was delegated as Chairman of Common riches recreations in India. He was responsible for the republic diversions sorting out committee getting ready for province amusements to be held in Delhi, I

2. **Ward Games 2010 Corruption in India:** according to reports, he has enjoyed most outright corruption, nepotism and theft of assets. There are gross misappropriation of assets and monetary blundering charges leveled against him. He is supposedly have gotten redesigned an arena for 900, Crore, enlisting treadmill for machines 18 does not have a piece, purchasing bathroom tissues for Rs.200 per roll, procuring an Umbrella for Rs.3500 and so on.
3. **Lodging Society Scam:** The Adarsh Housing Society is an agreeable society in the city of Mumbai in India. It was held for the war widows and veterans of the Kargil War. In 2010, the Indian media conveyed to public the supposed infringement of principles at different periods of development in the Adarsh Society. Questions were brought on the way up in which lofts in the building were dispensed to bureaucrats, government officials and armed force staff who had nothing to do with Kargil War and the manner by which clearances were acquired for the development of the working of the Adarsh Society. The Adarsh Society skyscraper was developed in the Colaba region of Mumbai, which is viewed as a touchy beach front area by the Indian Defense powers and houses different Indian Defense foundations. The general public is additionally asserted to have disregarded the Indian condition service rules. Activists like Medha Patkar had been endeavoring to reveal the issues since somewhere around 2004. It had prompted resignation of the then Chief Minister, Ashok Chavan. A few request have been requested by the military and the Government to test into the inconsistencies. A portion of the present tenants of the pads in the Adarsh co-agent society building have offered to empty their pads at the most punctual, denying charges that they were assigned pads since they affected or helped, in some way, the development of the general public by abusing the guidelines, investigation report isn't submitted in this trick.
4. **2G Spectrum Scam:** Telecommunications Mr. A. Raja, presently being prevalently

known as SPECTRUM Raja has turned into a popular identity medium-term. The Spectrum Scandal which has cost the administration more than rupees 1 lakh Crore should be the greatest trick the nation has ever observed. The Ministry of Telecommunications held by Raja was in control for the allotment of Spectrum to the organizations which offer cell phone benefits in the nation. In the year 2008, second Generation (2G) Spectrum for GSM specialist organizations was distributed to the private players. There were a great deal of contentions in the manner in which Spectrum designation occurred by 2008 itself, presently the priest's office is being attacked by the CBI for further investigation. Be that as it may, there were unimportant 50 lakh endorsers in the year 2001 contrasted with 37.5 Crore cell phone clients before the finish of March 2008; there has been an exponential development in the Mobile Market which is known to us all. The way that the market has developed significantly in the middle of 2001 and 2008 is certain. In the year 2001 the administration was boring the duty to sustain the versatile administrations showcase, in this manner the Spectrum permit was not unloaded at that point. Indeed, even the private players in the business would not have anticipated such a giant development in the versatile administrations showcase. The Government was then in a situation to spur and pull in private players to work in the versatile administrations space. In any case, that isn't the situation in 2008. Both residential and also MNC players consider putting resources into Telecommunications to a great degree beneficial. In this kind of a situation if the administration chooses to settle a similar value, following indistinguishable technique from it did in the year 2001 then it would be a purposeful endeavor to put too little a cost for the 2G range.

#### Job of Central Vigilance Commission in controlling Corruption

The Central Vigilance Commission set up by the Government of India to prompt and guide Central government organizations, and in addition it additionally have unique capacity to investigation of grievances of corruption, proficient unfortunate behavior, abuse of intensity by authoritative bodies. The Government of India has approved the Central Vigilance Commission as the "Assigned Agency" to get composed protestations for discloser on any charge of corruption or abuse of office and suggest proper activity. It is a summit body set up by Government of India February

1964, on suggestion of committee on counteractive action of corruption, headed by Shri. K. Santhanam and Mr. Nettoror Srinivasa Rau were chosen as first Chief Vigilance Commissioner of India. The Central Vigilance Commission has the status of a self-ruling body, free of control from any official expert, accused of checking all carefulness action under Central Government of India and prompting different experts in Central Government association in arranging, executing, getting and transforming their cautiousness work. The arrangement of the grumblings taken by the Central Vigilance Commission is as per the following:

- a) Nature of Complaint: The objections identifying with issue in conveyance of public administrations or causes where national are pestered by public authority likely with the desires for Bribe. A large number of them might be in nature of complaint yet the simple reason for complaint might be a desire for fix.
- b) Complaints demonstrating precise and uncontrolled corruption in different government exercises, which may require nitty gritty investigation and examination.
- c) Complaint against specific authorities or specific exchange which don't influence the native everywhere and which can be managed in standard way.
- d) Complaints relating to State Government, which don't fall under the commission Jurisdiction.
- e) Complaints containing general, non-check or non-carefulness matters.

Job of Committee on Public Accounts: The Rules of techniques and direct of Business in Lok Sabha accommodates the Constitution of Public Accounts Committee. The elements of the Committee, as cherished in Rule 308(1) of the Rules of Procedure and Conduct of Business in Lok Sabha, incorporate examination of accounts demonstrating the allocation of entireties conceded by Parliament for the use of the Government of India, the yearly back accounts of the Government and such different accounts laid before the House as the Committee may think fit. In investigating the Appropriation Accounts of the Government of India and the Report of The Comptroller and Auditor General of India consequently, the Committee needs to fulfill:

- (a) That the cash appeared in the accounts as having been dispensed were lawfully accessible for, a pertinent to, the administration or reason to which they have been connected or charged;

- (b) That the consumption adjusts to the specialist which administers it;
- (c) That each re-assignment has been made as per the Provisions made for this sake under standards encircled by skillful expert.

It will likewise be the obligation of the Committee:—

- (a) To inspect the announcement of accounts demonstrating the pay and Expenditure of state organizations, exchanging and fabricating plans, concerns and ventures together with the monetary records and explanations of benefit and misfortune accounts which the President may have required to be arranged or are set up under the provisions of the statutory guidelines managing the financing of a specific company, exchanging or producing plan or concern or venture and the report of the Comptroller and Auditor General subsequently.
- (b) To look at the announcement of accounts demonstrating the salary and use of self-governing and trick self-ruling bodies, the review of which might be led by the Comptroller and Auditor General of India either under the headings of the President or by a resolution of Parliament; and
- (c) To consider the report of the Comptroller and Auditor General in Cases where the President may have expected him to lead a review of any receipts or to look at the accounts of stores and stocks.

On the off chance that any cash has been spent on any administration amid a money related year in abundance of the sum conceded by the House for that reason the Committee will analyze with reference to the certainties of each case the conditions prompting such an overabundance and make such proposal as it might regard fit. Lok Sabha, having casted a ballot huge entireties of the citizens' cash does, in light of a legitimate concern for the citizens, expect at the appointed time a point by point record of how the funds have been spent. It must fulfill itself that the funds so casted a ballot were coordinated to the planned purposes and were spent wisely and monetarily. The Comptroller and Aud

#### **Provisions in Indian Penal Code, 1860 to prevent and to control Corruption**

The laws to forestall Corruption in India were first established in the Indian Penal Code (Sec. 161 - 171) in 1860 by the British Government of India. These provisions forbids a public worker from taking anything (in real money or kind) other than his/her lawful compensation for doing any

demonstration which he/she is under a commitment to do or not to do. Afterward, the Indian Parliament additionally instituted the counteractive action of Corruption Acts. To begin with, in 1947 and again in 1988, to reinforce the law of Prevention of Corruption by making it somewhat more specific and stringent. In the new Act, the base required discipline has been recommended and furthermore the discipline (detainment) has been improved from 3 years to 5 years. Be that as it may, regardless of an extremely strict lawful routine the corruption in India is increasing step by step and there is no indication of it gaining under power by the new principle and the apparatuses created under them. The provisions of the Indian Penal Code were sufficient to control the corruption till they were permitted to control it. At the point when the degenerate authorities and government workers were under a feeling that in the event that they will participate in degenerate practices the law will manage them entirely and there will be no resistance for them the corruption was under Control. In any case, in 1952, Section 165-A was included Indian Penal Code, 1860 that made the abetting of corruption an explicit offense and it gave an instrument in the hands of degenerate authorities to outline the protest of a degenerate practice with its abetment and got him rebuffed by abusing the administration hardware. Presently even the individual who is constrained to pay the pay off to an authority for completing his work won't set out to make a protest in dread of getting himself accused of the abetment of the wrongdoing. The English Government of India was better worried about the counteractive action of corruption yet our very own administration, for the sake of keeping the abuse of anti-corruption from making a grumbling against a public authority because of the dread of getting himself accused of the offense of abetment of corruption. This has encouraged the already degenerate government authorities to get engaged with the wrongdoing absent much dread and has contributed in the development of uncontrolled corruption in the nation.

**Some specific offences under Indian Penal Code, 1860 related to Corruption**

- (i) Bribery as gave in S. 171-B IPC, culpable under S. 171-E IPC,
- (ii) Adulteration of sustenance or drink expected available to be purchased is likewise offense considered under Section 272 of the IPC,
- (iii) Sale of harmful sustenance or Drink is an offense portrayed under Section 273 of IPC,
- (iv) Adulteration of medications is additionally an offense in IPC under Section 274,
- (v) Sale of corrupted medications is entirely precluded under Section 275 of IPC

- (vi) Sale of medication as an alternate medication or arrangement is an offense as given under Section 276 of IPC
- (vii) Dishonest misappropriation of property is an offense under Section 403 of I.P.C. portrayed as a component of corruption and White Collar Crime.
- (viii) Criminal Breach of Trust is an offense under Section 405 which comprises breach of trust which is a piece of criminal offense.
- (ix) Punishment for criminal breach of Trust endorsed under Section 406 of IPC
- (x) Criminal Breach of Trust via transporter and so on is talked about in Section 407 of IPC
- (xi) Criminal Breach of Trust by agent or worker is an offense considered under Section 408 of I.P.C.
- (xii) Criminal breach of Trust by Public Servant or by investor, shipper or specialist is an offense under IPC examined under Section 409
- (xiii) The offense of bamboozling talked about as under Section 415 of IPC
- (xiv) The offense of bamboozling and deceptively actuating conveyance of property is an offense endorsed under Section 420 of IPC

**Code of, Criminal Procedure 1973**

Criminal Procedure Code 1973 together with Mutual legitimate Assistance Treaties (MLAT) in Criminal Matters and Extradition Treaties accommodates the strengthening of the Investigation Agencies as under:-

Area 166 An and 166B of the Criminal Procedure Code, 1973 enable the Crime Investigation Agencies of India to influence solicitations to different nations and in addition to engage demands from different nations to render help with the investigation of wrongdoing enrolled in the individual nations. Such letters of demand are prevalently known as letters Rogatory. Such letters Rogatory are executed based on Mutual Legal Assistance Treaties and Extradition Treaties India has marked with different nations. Till date India has Mutual legitimate Assistance Treaties in Criminal issue with 20 Countries and Extradition Treaties with 25 nations. The common lawful help Treaties perpetually has a part on resources recuperation and having the equivalent with

different nations, International co-task is looked for based on certification of correspondence.

### **Counteractive action of Corruption Act, 1988**

The counteractive action of Corruption Act, 1988 (hereafter alluded to as PCA) came into power on ninth September, 1988 by canceling of the anticipation of Corruption Act, 1947. The Criminal Law Amendment Act, 1952 and Sec. 161 to 165(A) of the Indian Penal Code, 1860 with alterations, extended the extent of the meaning of the articulation 'Public Servant' and corrected the Criminal Law Amendment Ordinance, 1944, The PCA, 1988, along these lines augmented the inclusion, reinforced the provisions and made them increasingly compelling. Area 7 recommends the discipline for a Public Servant taking satisfaction other than lawful compensation, whereas Section 9 endorses discipline for taking delight, all together, by degenerate or illicit intends to impact Public Servant. Area 5 of PCA, 1988 gives the arrangement of extraordinary judge to take discernment of the offenses recommended in the PCA, Section 11 PCA, 1988 endorses discipline for Public Servant acquiring profitable thing without thought from individual worried in continuing or business executed by such Public Servant, Section 13 endorses discipline for Criminal Misconduct by Public Servant, Section 15 endorses discipline for endeavor to carry out offenses.

### **The Prevention of Food Adulteration Act, 1954**

The Ministry of Health and Family Welfare is in charge of guaranteeing safe nourishment to the shoppers, keeping this in view, an enactment called 'Counteractive action of Food Adulteration Act, 1954' was established. The goal visualized in this enactment was to guarantee unadulterated and healthy nourishment to the shoppers additionally to anticipate misrepresentation or trickery. The Act has been altered thrice in 1964, 1976 and in 1986 with the target of stopping the provisos and making the disciplines progressively stringent and enabling shoppers and intentional association to assume an increasingly viable job in its execution. The subject of the avoidance of Food Adulteration is in the simultaneous rundown of constitution. Be that as it may, in general, the requirement of the Act is finished by the State Government. The Central Government principally assumes a warning job in its execution other than completing different statutory capacities/obligations allocated to it under the different provisions of the Act. The laws managing the nature of sustenance have been in power in the nation since 1899. Until 1954, a few States defined their own nourishment laws. In any case, there was a significant difference in the guidelines and particulars of the sustenance, which meddled with between common exchange. The Central Advisory Board selected by the Government of India in and the nourishment Adulteration committee delegated in

1943, surveyed the subject of Food Adulteration and prescribed for Central Legislation. The Government for making such enactment as the subjects of sustenance and Drugs Adulteration are incorporated into the simultaneous rundown. The legislature of India, consequently, sanctioned a Central Legislation called counteractive action of nourishment Adulteration (PFA) in the year 1954 which happened from 15 June, 1955. The Act canceled all laws, existing around then in the State concerning sustenance debasement. In India a three level framework is in vogue for guaranteeing nourishment quality and sustenance wellbeing. They are as per the following:

- Government of India
- State Government
- Local Bodies

The avoidance of Food Adulteration Act is Central Legislation. Guidelines and Standards encircled under the Act are consistently pertinent all through the nation. Segment 5 denies import of specific articles of sustenance endorsed, Section 7 forbids the produce, deal, and so forth of specific articles of nourishment, Section 16 recommends the punishments for the offences endorsed the Act, Section 17 of Act talks about offences by organizations, Section 18 recommends for the relinquishment of the article of nourishment article to the State Government in regard of which repudiation has been submitted.

### **Fundamental Commodities Act, 1955**

Another sort of white collar wrongdoing is accumulating and dark showcasing of the basic Commodities through which hoarders and dark – Marketers are acquiring gigantic sum by such winning is blood of poor masses. To control this danger the Essential wares Act was established in the year 1955; The Essential Commodities Act, 1955 was ordered to guarantee the simple accessibility of fundamental items to purchasers and to shield them from abuse by corrupt dealers. The Act accommodates the direction and control of generation, conveyance and estimating of wares which are proclaimed as basic for keeping up or increasing supplies or for anchoring their impartial dispersion and accessibility at reasonable costs. Practicing powers under the Act, different Ministries/Departments of the Central Government and under the designated forces, the State Governments/UT Administrations have issued orders for managing creation, dispersion, estimating and different parts of exchanging admiration of the items pronounced as fundamental. The authorization/usage of the provisions of the Essential Commodities Act, 1955 lies with the State Governments and UT Administrations. According to the choices of the

Conference of Chief Ministers hung on 21 May 2001, a Group of Ministers and Chief Ministers had been comprised which prescribed that the administrative component under the Essential Commodities Act, 1955 ought to be eliminated. In like manner, the confinements like permitting prerequisite, stock points of confinement and development limitations have been expelled from every rural ware. Wheat, heartbeats and palatable oils, eatable oilseeds and rice being exemptions, where States have been allowed to force some impermanent confinements so as to contain cost increase of these items. The rundown of basic wares has been surveyed every once in a while with reference to the creation and supply of these items and in the light of financial progression in interview with the concerned Ministries/ Departments overseeing these products. The Central Government is reliably following the strategy of expelling every pointless confinement on development of merchandise over the State limits as a major aspect of the procedure of globalization at the same time with the pruning of the rundown of fundamental wares under the said Act to advance shopper intrigue and unhindered commerce. The quantity of fundamental wares which remained at 70 in the year 1989 has been conveyed down to 7 at present through such occasional surveys. In similarity with the arrangement of the Government towards financial advancement, Department of Consumer Affairs is focused on the improvement of horticulture and exchange by evacuating superfluous controls and limitations to accomplish a solitary Indian Common Market the nation over for both fabricated and farming produce and to energize linkage among agribusiness and industry. With this article in view, this Department presented the Essential Commodities (Amendment) Bill, 2005 in the Parliament in the winter session of 2005 to empower the Central Government to prune the rundown of fundamental items to the base by erasing every single such ware which have no pertinence with regards to display enhanced interest and supply position and to encourage organized commerce and business. Just those wares considered fundamental to ensure the enthusiasm of the agriculturists and the extensive segment of the general population "beneath the neediness line" are proposed to be held under the Essential Commodities Act, 1955. The Prevention of Black-promoting and Maintenance of Supplies of Essential Commodities Act, 1980 is being actualized by the State Governments/UT Administrations for the counteractive action of dishonest exchange rehearses like accumulating and dark advertising. The Act enables the Central and State Governments to confine people whose exercises are observed to be biased to the support of provisions of items fundamental to the network. Confinements are made by the States/UTs in particular cases to anticipate storing and dark promoting of the fundamental products. According to reports got from the State Governments, 119 confinement orders were issued under the Act amid the year 2007. The Central Government and the

State Governments likewise have the ability to adjust or repudiate the detainment orders. The portrayals made by or for the benefit of the people requested for detainment are considered and chosen by the Central Government. With regards to phenomenal ascent in costs of some fundamental items in the mid of 2006, there had been wide spread worry from different corners for finding a way to relieve the rising pattern of costs of basic wares. Portrayals from the Chief Ministers of Punjab and Delhi and furthermore from the Governments of Andhra Pradesh, Rajasthan and Maharashtra were gotten for rebuilding of forces under the Essential Commodities Act, 1955 for undertaking de-storing activities in perspective of the supposition that there is theoretical keeping down of stocks especially

### **The Customs Act, 1962**

The Central Board of Direct Taxes and the Central Board of Excise and Customs are its income eyes governments expect assets to release their diverse commitments. The issue of capturing avoidance and evasion of Taxes and additionally development of dark cash is as old as the stones. The issue has expected gigantic extents and advancement. The oft cited exhortation of Kautilya it's that charges ought to be gathered as easily as the honey bee sucks the nectar from the bloom. The Kachhit Sarga of Valmiki's Ramayana contains a comparative counsel. The perfect of the state ought to be to so lead its undertakings, without causing bothers or provocation in implementing the law. The Constitution appoints in like manner. Flawlessness is an endless mission. On the off chance that through the way toward rebuilding the central Board of Excise and Customs, extra assets could be raised, simultaneously capturing avoidance and shirking, it is positively a healthy goal. The forces to seek presumed people entering or leaving India have been talked about in Section 100 of Customs Act, 1962, whereas the ability to look speculated people in different cases have been given in Section 100 of the Act, reallocation of inappropriately imported products have been given in Section 101 of the Act, punishment for ill-advised importation of merchandise has been given under Section 112 of the Act.

### **Provisions Relating to Income Tax Act, 1961**

Coordinate Tax enactment are one of the critical modes which empowers the State to discharge the goals of both social and monetary equity as likewise settling the expense of rendering public administrations with respect to the state, financial request as articulated to some extent IV (i.e. of Directive standards of State approach) of the Constitution of India. The accentuation is moving dynamically to intentional consistence of assessment laws; however it will be a pointless activity, in cases it isn't supported by solid discouragement it against duty dodgers so they



don't run with exemption. There are three Modes worked in the financial enactment for empowering charge consistence:

- a) Charge of intrigue
- b) Imposition of Penalty
- c) Launching of arraignment against assessment delinquents

While charging of intrigue is compensatory on character, the burden of punishment and foundation of indictment procedures go about as solid prevention against potential expense delinquents. Section XVII and XXI of Income Tax Act, 1961 contain different provisions engaging a salary impose specialist to exact punishment in the event of specific defaults.

**Punishments and Prosecutions:**

- i) Section 140 A(3) of the Act manages Failure to pay entire or any piece of Income-Tax and/or enthusiasm for agreement with the provisions of Section 140A(1)
- ii) Section 221 (1) of the Act manages Default in making installment of duty inside endorsed time.
- iii) Section 271(1) (b) of the Act manages Failure to conform to a notice under Section 142(1) or 143(2) or with a bearing issued under Section 142(2A), if there is disappointment fine Rs.10,000/- for every disappointment.
- iv) Section 271(A) of the Act manages Failure to keep or keep up books of record, archives and so on as required under segment 44AA fine Rs.25,000.
- v) Section 271 AAA of the Act manages undisclosed pay on account of hunt, fine 10% of undisclosed pay of determined earlier year.
- vi) Section 271 B of the Act manages Failure to get accounts evaluated under area 44AB or outfit such report as a required under Section 44AB. Fine ½ % of the aggregate deals turnover, or gross-receipts.
- vii) Section 271 BA of the Act manages Failure to submit report under segment 92E, Fine Rs.1, 00, 000/- .
- viii) Section 2 HF of the Act manages Failure to outfit return of pay as required by Section 139(1) before the finish of important appraisal year fine Rs.5, 000/- .

- ix) Section 271 FA of the Act manages Failure to outfit yearly data return inside endorsed time under Section 285 BA (1) Fine Rs.100/- for consistently amid the disappointment proceeds.
- x) Section 271 FB of the Act manages Failure to outfit return of Fringe benefits fine, Rs.100/- every day amid which the disappointment proceeds.
- xi) Section 271 G of the Act manages Failure to outfit data or reports under Section 92D, Fine 2% of estimation of the international exchange for every disappointment.
- xii) Section 271 (1) (An) of the Act manages Failure to answer any question put to the individual (who is will undoubtedly express reality of any issue contacting the subject to his evaluation) by a pay Tax specialist. Fine Rs.10, 000/- for each blame.
- xiii) Section 272 1(b) of the Act manages Failure to sign any announcement made by an individual in course of pay impose continuing fine Rs.10,000/- each default.
- xiv) Section 272 A(1)(C) of the Act manages Failure to conform to summons issued under area 131(1) to go to office to give proof and deliver books of record or different reports for Rs.10,000/- for each default.
- xv) Section 272A (2) of the Act manages Failure to agree to a notice issued under segment 94, to pull out of discontinuance of business/calling under Section 176(3); to outfit returns/articulation referenced in Section 133, 206, 206 C or Section 134 (or of any passage in such enlist or to enable duplicates of such enlist to be taken); to outfit return of salary under Section 139(4A) or 139(4C) or to convey in due time an affirmation referenced in area 197A or 206 C(1A); to outfit an endorsement and required in segment 203 or 206C; to deduct any cover government expense under segment 226, to outfit explanation as required by segment 192 (2c); to convey a duplicate of quarterly proclamation or TDS/TCS Section 200(3)/206 C (3); to convey quarterly return under Section 206A. Fine Rs. 100 for consistently amid which default proceeds.

**The Foreign Exchange Management Act, 1999**

Go between or touts, who take tremendous commissions for expediting bargains relating to buys from remote providers, regularly move such

cash in outside monetary standards, asserting it to be the returns of some business abroad. This Act engages the Directorate of Enforcement, India to research and arraign such people under the said demonstration.

### The Prevention of Money Laundering Act, 2002

Numerous public workers can hold their evil gotten riches in outside nations, which they therefore exchange to their country through illegal tax avoidance, masking them as assets, obviously from a legitimate source. This Act enables the Directorate of Enforcement, India, and Financial Intelligence Unit, India, the two offices of the Government of India, to examine and arraign such people under the said Act.

### Anti-Corruption Bureau of States

These police organizations of the States are implied for the most part to research corruption cases inside the States under the Corruption Act. They are in charge of the aversion, location and investigation of corruption wrongdoing just and are not occupied with directing other police obligations, for example, taking care of conventional crimes and peace. Subsequent to researching a wrongdoing, they record the investigation reports in an official courtroom to dispatch arraignment.

### Central Bureau of Investigation

The CBI is an examining office set up by the Government of India to research wrongdoing, particularly corruption cases, in Union Territories, which are specifically directed by the Government of India. Over some stretch of time, it has turned into the head corruption investigation organization in the nation. It appreciates high validity among the general population of India. Accordingly even the States additionally allude delicate and vast scale corruption cases to the CBI for investigation. The High Courts of different States and the Supreme Court of the nation have controls under the Indian Constitution to depend investigation of any wrongdoing to the CBI for investigation. The CBI has its very own preparation institute. It gives preparing to its very own work force as well as composes in-benefit instructional classes for the examiners and investigators of the State organizations. The State offices admire the CBI as a specialist office for direction in issues identifying with investigation and indictment of corruption cases. The co-activity between the two arrangements of organizations is exceptionally agreeable.

### Provisions under Administrative Law

'Ombudsman' signifies 'a representative specialist, officer, or chief'. As indicated by Garner, Ombudsman is an officer of parliament, having as his essential capacity, the obligation of going about as

an operator for parliament, to safeguard natives against maltreatment or abuse of authoritative power by the official. In India Local a few states have Lokayukta.

### Significance of Ombudsman

'Ombudsman is certifiably not a super-head to whom an individual can claim when he is disappointed with the optional choice of a public authority with the expectation that he may acquire a progressively positive choice. His essential capacities are to research charges of maladministration'.

### Forces and Duties of Ombudsman

The Ombudsman asks and examines into grievances made by national against maltreatment of optional power, maladministration or managerial wastefulness and takes proper activities. For that reason, wide powers are presented on him. He approaches departmental records. The complainant isn't required to lead any proof before the Ombudsman to demonstrate his case. It is the capacity and obligation of the Ombudsman to fulfill him regardless of whether the grievance was advocated. He can even act suo-maxim. He can concede alleviation to the wronged individual as not at all like the forces of a common court, his forces are not restricted.<sup>14</sup>

### Status of Ombudsman

Generally, the Ombudsman is a judge or a legal advisor or a high officer and his character, notoriety, and respectability are above board. He is designated by parliament and subsequently he isn't an officer in the authoritative progression. He is above gathering political and is in a situation to think and choose equitably. There is no obstruction even by parliament in the release of his obligations. He makes an answer to parliament and sets out reactions of residents against the organization. He additionally makes his own suggestions to dispose of the reason for dissensions. Wide publicity is given to those reports. Every one of his reports likewise distributed in the national paper. In this way, to put it plainly, he is the 'Guard dog' or 'Public Safety Valve against male organization, and the 'defender of the little man'. Indian Parliament so far has not authorized any Act however a proposition to establish an organization of Ombudsman (Local) was made by the Administrative changes Commission as right on time as in 1967. A few states nonetheless, have authorized rules and designated Lokayukta.

<sup>14</sup> C.K.Takwani, The Administrative law, Universal Publication, 2006, Page No.346

## CYBER CRIMES

The discussion seethes whether cybercrime can be placed in straight coat recipe of white collar wrongdoing. White Collar Crimes happen in vast and complex associations. These offenses are submitted by individuals with complex comprehension of back, the board, building, medication, hierarchical hypothesis, data innovation and so forth. The Federal Bureau of Investigation has selected to approach White-Collar Crime regarding the offense. The Bureau has characterized white-collar wrongdoing as "... those illicit demonstrations which are char-acterized by misleading, covering, or infringement of trust and which are not needy upon the application or threat of physical power or brutality. People and associations submit these demonstrations to acquire cash, property, or administrations; to maintain a strategic distance from the installment or loss of cash or benefits; or to anchor individual or business advantage." Here, the accentuation has all the earmarks of being on the separation between utilization or generally of threat of physical power or savagery. Unmistakably, in all cases of cybercrimes, there isn't even an endeavor to utilize physical power of brutality. Indeed, one of the solid helpers for cyber hoodlums is that they don't have to hold a weapon at somebody's head nor swash a sword at another's throat. A few specialists have reprimanded characterizing white-collar wrongdoing as far as kind of offense since this definition stresses the idea of the demonstrations as opposed to the foundation of the wrongdoer. Inside the FBI definition, there is no notice of the sort of occupation or the financial position of the "white-collar" wrongdoer.

Another school of thought is that cybercrimes can't be carried out except if you are proficient and capable and such people more often than not have a decent remaining in the general public which factor fits cybercrimes into the order of white collar crimes as brought about by Prof Sutherland. Since all people who are skillful cyber technologists need a high remaining in the public arena, Sutherlands definitions comes up short. Be that as it may, in the event that you see Prof Sutherland's definition as being metaphorical where the expression "decency and high economic wellbeing" is expected to cover the individuals who are fit for utilizing aptitudes and learning as a reason for carrying out crimes, cybercrimes readily fit into the characterization of white collar crimes.

Passing by the most prominent use of white collar crimes that is drawn from what the FBI needed to express, all cybercrimes fulfill the three components contained in that - duplicity, camouflage and infringement of trust and thus they readily fit the bill to be white collar crimes. Individuals perpetrate PC crimes for various reasons may just in interest, accidently or malignantly. Small section of wrongdoers can be placed in section of white collar

wrongdoing to prosecute them. Their objective and business as usual is altogether different from regular white collar hoodlums.

## MENS REA IN CYBER CRIMES

Cybercrime can take numerous shapes and can happen almost whenever or wherever. Lawbreakers perpetrating cybercrime utilize various strategies, contingent upon their range of abilities and their objective. This ought not be astounding: cybercrime is, all things considered, basically 'wrongdoing' with some kind of 'PC' or 'cyber' viewpoint.

- Cybercrime has outperformed illicit medication dealing as a criminal cash producer.
- Every 3 seconds a personality is stolen.
- Without security, your unprotected PC can end up tainted inside four minutes of associating with the Internet.

Cybercrime can cover a wide scope of assaults. Understanding this wide variety in sorts of cybercrime is imperative as various kinds of cybercrime require distinctive ways to deal with enhancing your PC security. Two components exist in all crimes: actus reus and mens rea. The term actus reus characterizes the activity of a wrongdoing while mens rea characterizes the psychological state. The mens rea prerequisite is the central part of generally crimes. Specifically, mens rea portrays the explicit mental state required to carry out specific crimes. Individuals carry out PC crimes for various reasons. The media has depicted programmers as the significant PC lawbreakers. In so generalizing, be that as it may, the qualifications between sorts of programmers are lost. Conventional programmers are pariahs who generally keep up programmer morals. As untouchables, they don't have approval to get to a specific framework. These programmers get to frameworks generally just wondering and to learn, not for monetary benefit. Customary programmers don't mean to harm PC frameworks. Then again, benefit drives another type of PC offenders. They are generally insiders who misuse their approved access to PC frameworks. These crooks unlawfully enter PC frameworks with aim to cause harm. In contrast to conventional outside programmers, insiders generally have pernicious goal and look for monetary benefit. Of course, they cause real misfortunes for business and government. Regardless of whether not well proposed or not, the Private Sector loses about \$ 550 Million every year as a result of PC hoodlums.

## CONCLUSION

50 years after Sutherland gave the term White-Collar Crime, it procured fragile living creature and blood and developed into a kind of wrongdoing which left criminologists, sociologists confounded alike. Sutherland's definition mirrored the social milieu around then, yet with changing occasions this term gained dynamic stature. With section of time the definition was adjusted due to extending extent of crimes. What influences a White-Collar Crime to comprise an alternate class in itself has been managed intricately by different criminologists. What separates White Collar Crime from Normal Crimes? How the law authorization organizations reacts this sort of wrongdoing is additionally of most extreme significance for our comprehension of White Collar Crime. Level of blameworthy personality in White-Collar Crimes has been a bone of dispute yet with the death of Sarbanes-Oxley Act, 2002 in USA, which was customized to manage white-collar crimes, mens rea has accelerated. In the previous couple of years, the treatment of white-collar offenders in the American Criminal Justice System has changed definitely. Verifiably saw as harmless crimes, judges have as of late condemned white-collar culprits to comparative jail time as savage criminals. It stays to be seen whether these intense sentences will really discourage would be white-collar culprits. What is known, notwithstanding, is that there is an uplifted public mindfulness and affectability to these crimes? Reactions from the political circle, legitimate circle, and the public everywhere speak to a general public tired of corporate unquenchability and need equity to be done to these men who misuse their situation to increase unreasonable preferred standpoint yet at expense of guiltless unfortunate casualties. Numerous questions exist with regards to condemning White-Collar Criminals. It is obscure whether these prominent sentences will turn out to be a fruitful impediment. It is additionally obscure whether these couple of feelings will be seen later on for instance of over-criminalization driven by feelings and not the law. The reason for the pattern is additionally obscure, in spite of the fact that the hypotheses are various. Conceivable sources incorporate the media, lawmakers, society everywhere, and the corporate officers themselves, who were so charmed with the possibility of accomplishment that they went excessively far. Whatever the reason, and whatever the life span of the pattern of harsher sentences for white-collar wrongdoing, the inquiry still remains whether it is legitimate for corporate officers to get and serve indistinguishable sentences from attackers, street pharmacists, and killers. How the hoodlums of supposed white-collar crimes ought to be rebuffed is another inferno of battling thoughts. Regardless of whether it ought to be reformative or retributive? What ought to be the quantum of discipline and in mode is folded with vulnerability. With free enterprise economies which have faith in truism of free

enterprise and turnover at any value, the significance of administrative expert obtains more importance than any other time in recent memory. With falcon eye and tough examination of corporate houses, white collar wrongdoing can be nipped in bud. The idea of White-Collar wrongdoing is in the nascent stages in India. The Satyam Scandal uncovered the horrid idea of White-collar crimes, the lacunae of the lawmaking body and the authoritative hardware. The need of great importance is an intense and all around created Statute, something like the Sarbanes Oxley Act, 2002 in USA, which can expound on the issue of White-Collar Crime and rebuff the guilty parties. A need is likewise felt by couple of essayists that the Public mindfulness about White-Collar Crimes ought to be increased, so as to make the general nationals mindful that there is another class of crimes which can possibly harm the general public, like that of the customary crimes. For the best possible regulation of equity in White-collar crimes, judges are required to be prepared in this area, as the High court's and lower courts need such judges who are cognisant.

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16. See Leo Katz, *Bad Acts and Guilty Minds* 81 (1987) (stating that two elements exist in criminal offenses); James Marshall, *Intention in Law and Society* 6 (1968) (stating that intent and act must concur for crime); Martin R. Gardner, *The Mens Rea Enigma: Observations on the Role of Motive in the Criminal Law Past and Present*, 1993 Utah L. Rev. 635, 637 (1993) (indicating that *mens rea* fails to capture all mental activity for criminal culpability and that *actus reus* is needed). Generally, *actus reus* refers to the physical element of criminal offense.
17. See Katz, at 81 (describing *actus reus* as physical element of crime and *mens rea* as mental element of crime); see also Gardner, at 641-84 (tracing development of *mens rea* from earliest ancient Hebrew law and early English common law to modern Model Penal Code); Kenneth W. Simons, *Rethinking Mental States*, 72 B.U. L. Rev. 463, 469-70 (1992) (discussing innovative categorization of Model Penal Code). The current concept of *mens rea* has evolved throughout history. See Gardner, at 641-84 (discussing common law evolution of *mens rea* requirement in crime and punishment). Early Christian ethics emphasized moral guilt. See id. at 654-55. Therefore, *mens rea* embodied the notion that only the "guilty minds" should be punished. See id. (stating that behavior cannot be judged without attention to state of mind). The courts have used an array of words, such as "malicious," "willful," or "fraudulent" to describe the evil motive. See *Morissette v. United States*, 342 U.S. 246, 252 (1952) (acknowledging that courts used unscientific terms to describe evil purpose or mental culpability).
18. See Vergari & Shue, at 361-63 (explaining terms "hackers," "phreakers," and "phrackers"; discussing youth of some criminals); Dierks, at 314-21 (detailing different hacker cases and asserting that insiders cause more damage); see also Clarke, at 206-13, 219-23 (discussing hackers, CrimINets, and CyberPerps).
19. See Dierks, at 314-21 (detailing media's focus on different hacker cases); Raskin & Schaldach-Paiva, at 542 (stating that young computer hackers have received most press coverage).
20. See Dierks, at 320-21 (explaining hacker ethics and harmlessness of many hackers). Hacker ethics include the interest in exploring the Internet and creating a perfect system by correcting the Internet's flaws. See Clarke, at 206-07. Most hackers place high value on sharing information freely. See Dorothy E. Denning, *Concerning Hackers Who Break into Computer Systems*, P 20 (visited Nov. 30, 1997) <http://guru.cosc.georgetown.edu/denning/hackers/Hackers-NCSC.txt>. However, hackers view malicious break-ins such as breaking into hospital systems as morally wrong. See id. P 36-37.
21. See S. Rep. No. 104-357, at 9 (1996) (referring to outsiders without authorization as hackers).
22. See Denning, P 23. In fact, the creators of Apple and Microsoft developed much of their knowledge by hacking. See David F. Geneson, *Recent Developments in the Investigation and Prosecution of Computer Crime*, 301 PLI/Pat 45, 61 (1990) (claiming that Steve Jobs and Steve Wozniak, creators of Apple, and Bill Gates, creator of Microsoft, learned by hacking).

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