

White Collar Crime: A Major Threat to Indian Economy

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Abstract

White-collar crime has emerged as one of the most significant threats to the Indian economy in the modern era. Unlike conventional crimes, white-collar crimes are committed by individuals, professionals, corporations, and public officials in positions of trust and authority for financial gain. These crimes include fraud, corruption, embezzlement, money laundering, tax evasion, cybercrime, insider trading, and corporate misconduct. The rapid growth of globalization, technological advancement, and complex financial systems has increased opportunities for such illegal activities. White-collar crimes adversely affect economic stability by causing substantial financial losses, reducing government revenue, discouraging foreign investment, and undermining public confidence in institutions. In India, several high-profile financial scandals and banking frauds have highlighted the vulnerability of regulatory mechanisms and corporate governance frameworks. Furthermore, the hidden nature of these crimes makes their detection and prosecution challenging. This study examines the various forms of white-collar crime in India, analyzes their impact on economic development, and evaluates the effectiveness of existing legal and regulatory measures. The paper also suggests stronger enforcement mechanisms, greater transparency, technological surveillance, and public awareness as essential strategies to combat white-collar crime and safeguard the nation's economic interests.

Keywords: White-Collar Crime, Indian Economy, Financial Fraud, Corruption, Money Laundering, Corporate Crime, Tax Evasion, Cybercrime, Economic Development, Regulatory Framework

1. Introduction

White collar crime is generally defined as crime done by educated individuals from upper social strata while engaged in their line of work. It can be described as an offence committed by a member of the affluent and reputable class of society. These crimes differ from typical ones that involve a fundamental breach of trust through the use of unethical business tactics that are motivated by the desire to prosper financially. In simple words it can be described as non-violent crime committed for financial gain. It is reasonable to state that India is unable to withstand the rising level of exceptional growth that is driving white-collar crimes because of how quickly the world is developing technologically and commercially.¹ Because it leads innocent, credulous people to lose money, these crimes affect society more than other

¹ Subodh Asthana, *White Collar Crimes: A detailed study of its types and its detrimental effects*, IPLEADERS (2019), <https://blog.ipleaders.in/white-collar-crimes/> (last visited Jan 13, 2023).

types of crimes do. White collar crimes, alongside with poverty, poor health, and other factors, are gradually contributing to India's stagnation as a developing nation and the rising prevalence of white collar crimes endangers its ability to thrive economically. Government must act immediately to prevent these crimes by enacting severe legislation and ensuring that they are properly applied.²

2. Historical Background

For the first time the term “White Collar Crime” was given by Criminologist and Sociologist Edwin H. Sutherland based on ‘Criminaloid Concept’ in the year 1939. According to his definition these crimes are “crimes executed by those who enjoy a high social status, a solid reputation, and respect in their work field”.³ The five aspects of this definition are:

- i. It is a crime
- ii. Such is committed by an important person of the company
- iii. Who has a strong social standing within the organization
- iv. And has committed it in the course of his profession
- v. Which includes violation of trust

3. White Collar Crimes in India

In India white-collar crimes are on the rise, and there are multiple factors contributing to this surge, including greed, public ignorance, a lack of stringent regulations and laws, a dearth of accountability, peer pressure, flaws in the legal system, advancements in technology and industry, etc. Since India is a developing country, such crimes become a major element for its underdevelopment posing a serious threat for its economic development. Fraudsters now more than ever before engage in deviant or exploitative behavior because they are motivated by ambition and financial gain. Some of the new trends are as follows:⁴

- i. New methods for rewards and kickbacks
- ii. Since the very future of the nation is voluntarily entering the criminal network, the dropping average age of fraudsters may be the biggest cause for concern.
- iii. Using social media networks or instant messaging instead of emails is one example of software expansion to dodge identification.

Reasons for the growth of White Collar Crimes

1. Competition

The basic strategy for regulating competition in the marketplace is called "survival of the fittest" i.e. in order to succeed there will always be a competition between people and those who adapt to such conditions will emerge victorious. People, especially belonging to lower socio-economic classes, commit crimes in order to survive when they are paid less.

2. Technology

² *Id.*

³ Sofiabambri, *WHITE COLLAR CRIMES IN INDIA*, SBHAMBRIADVOCATES (2021), <https://www.sbhambriadvocates.com/post/white-collar-crimes-in-india> (last visited Jan 13, 2023).

⁴ White-Collar-Crime-Survey-2019.pdf, 11, <https://www.indianbarassociation.org/wp-content/uploads/2020/01/White-Collar-Crime-Survey-2019.pdf> (last visited Jan 15, 2023).

White-collar crime has become a worldwide problem with the advent of technology and it is expanding rapidly in India as well. The widespread use of personal computers and Smartphone has made this situation worse because they not only lead to the creation of new ideas but also provide individuals living anywhere in the world with limitless opportunity to do these crimes.

3. Lack of Awareness

White collar crimes are different from other types of crimes in nature and that's the reason majority of the population are unaware of it. Since victims of these crimes often fail to understand the exact concept of such offence that is committed, hence they are unaware as whom to approach and lodge complaint against.

4. Greed

Machiavelli, who is regarded as the founder of modern political philosophy, was certain that people are selfish by nature. According to him a man can easily forget his father's death than the loss of his inheritance.⁵

5. Access to Information

The fact that people may access sensitive information such as bank details, investment information, passwords, etc. on their Smartphone and laptops can tempt criminals to utilize the information for their own gain. Such white-collar criminals may target wealthy individuals or institutions like banks, casinos, and financial firms where a large amount of money is easily transferred.

4. Types of White Collar Crimes

1) Bank fraud

Fraud is a crime committed with the intent to deceive and gain an unfair competitive advantage. Bank frauds are financial scams made through false representations by fraudulent companies. It is the most prominent form of corporate crime as well as a white-collar crime. Since banks and the general public share a bond of trust, bank fraud has an impact on the entire population which is harmful to both the people & the country's administration.⁶ Given the incapacity of Indian law enforcement to effectively investigate and prosecute fraudsters and the mounting social pressure to become wealthy immediately, fraud continues to be a perpetual threat to business.

2) Cyber-Crime

Among all the white-collar crimes in India, Cybercrime has drastically increased and has become a major concern for the law enforcement agency. A type of crime that involves "network services" is referred to as "cybercrime." India's financial and economic sectors, energy and telecommunications, transportation, trade industry, etc. are all threatened by cybercrime.

⁵ Sofiabambri, *supra* note 3.

⁶ Adv Pooja Gupta, *White collar crime in Indian Law*, LAWS STUDY (2022), <https://lawsstudy.com/white-collar-crime-in-indian-law/> (last visited Jan 13, 2023).

Cybercrime is a threat to national security, personal safety, and financial stability. It could jeopardize a person's privacy in addition to causing significant losses.⁷

3) Money Laundering

Money laundering is the practice of misrepresenting the origin of money received from unlawful sources and transferring them to legitimate ones in order to avoid being prosecuted, convicted, and having the proceeds of the crime seized.⁸ To put it simply money laundering is the act of making illegal money lawful. Money is invested using the money laundering method in such a way that even the investigating authorities are unable to figure out the primary source of the wealth.

4) Tax Evasion

Tax evasion, also known as tax fraud, is the failure to pay taxes willingly. It signifies hiding money illegally acquired in order to lessen one's tax obligation and provide the perception of low income to the tax authorities. According to a research by the State of Tax Justice, private tax evasion and global corporate tax abuse cost India more than \$10.3 billion (about Rs 75,000 crore) in lost taxes each year. Based on the report, India loses \$10.3 billion in taxes annually due to international tax fraud, or 0.41 percent of its \$3 trillion GDP.⁹

5) Insider Trading

Insider trading is the practice of trading in a company's securities while using secret knowledge (unpublished price-sensitive information). Insider trading is prohibited by the Securities Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, and is regarded as a breach of the fiduciary duty that corporate officers have to their shareholders. In order to ensure that securities are traded and transferred fairly in the market, limitations on insider trading were created. It is problematic to claim that nations have entirely eradicated the insider trading issue, nevertheless.¹⁰

5. Causes of White Collar Crime in India

Being the second largest populated country, India not only faces the challenge of mass administration but also faces certain diverse problems such as starvation, illiteracy, health issues etc. The primary purposes for committing white-collar crimes are the desire for social control, the fear and anxiety of losing one's social position, a lack of social conscience and integrity, weak and ineffective internal controls of organizations and departments, the desire for wealth and financial gain, and an economy with

⁷ *Id.*

⁸ What is Money Laundering? Definition of Money Laundering, Money Laundering Meaning, THE ECONOMIC TIMES, <https://economictimes.indiatimes.com/definition/money-laundering> (last visited Jan 15, 2023).

⁹ Tax evasion: India losing over \$10.3 billion every year, BUSINESS TODAY (2020), <https://www.businesstoday.in/latest/economy-politics/story/india-losing-103-bn-every-year-due-to-tax-abuse-by-mnecs-evasion-279314-2020-11-21> (last visited Jan 15, 2023).

¹⁰ Shoronya Banerjee, *Insider trading in India : regulations and controlling authority*, IPLEADERS (2021), <https://blog.ipleaders.in/insider-trading-in-india-regulations-and-controlling-authority/> (last visited Jan 15, 2023).

an ineffective and unproductive corporate culture.¹¹ Various other causes for growth of white collar crime are:

- I. People who are financially secure and commit crimes in order to fulfill their desires are recognized as white collar criminals. The majority of the time, human avarice inspires these acts.
- II. The majority of the population is under financial and physical strain as a result of poverty. People are so desperate for money that they are readily persuaded by lies that are made to them.
- III. Most experts concur that white-collar crimes are caused by a combination of reasons, including a lack of accountability, opportunities for wrongdoing, peer support, greed, legal loopholes, a lack of reporting, and persistent competitiveness.
- IV. With the advent of technology, rapid growth of industries and business, the offenders find easier and swifter ways to commit such crimes.

6. Effects of White Collar Crimes

I. Effect on Society

White-collar crimes have significant negative impacts on a company. Losses incurred by the company as a result of one dishonest employee working in collusion with or without an outsider can have a significant adverse impact on the company's overall profitability.

II. Effect on customers

When a company has friendly trading environment everyone choose to purchase their products and customers, in general, avoid getting into trouble with the legal authority. Therefore, it leads to uncertainty in the customer's mind when any business is involved in any such crime scenarios and investigations and as a result they look for better alternative options.

III. Effect on society

The effect white collar crime has on the society is detrimental. It acts as guide to the future generation to commit these crimes so that they can acquire money easily through various ways. These crimes have a high financial impact on the society as well.

7. Cases of White Collar Crime In India

A. Harshad Mehta Securities Fraud

White-collar crime in India first emerged in 1988, and since then, it has been continuously rising. A great example of the "pump-and-dump" strategy used in white-collar crime is the Harshad Mehta case. He had the reputation of being the "sultan of Dalal Street" and many investors followed him blindly. He created a fake market by borrowing a significant sum of money from the bank and purchasing the scrip's at high price, thus taking advantage of his position to manipulate some scrip's stock prices for his own benefit. The incident sparked when he exploited

¹¹ Aneel Sagar, *The Concept of White-Collar Crime: Nature, Causes, Political and Legal Aspects in Accountability and Way Forward*, JOURNAL OF POLITICAL STUDIES 149 (2019).

bank funds fraudulently to raise capital to invest in the stock market. Such misappropriation of money falls within the ambit of money laundering, where he earned approximately 5000 crores. The Indian stock market had never experienced a crash as large as this one.¹²

B. Satyam Scam: biggest corporate accounting fraud

A confession letter written by B. Ramalingam Raju, founder and chairman of Satyam Computers Services Limited, and published in Times of India on January 7, 2009, revealed the scheme of manipulation books of accounts by amplifying the assets and understating the liabilities. Accounts books were fabricated in order to defraud shareholders and investors. The total cost of the fraud was over 14,000 crore, and it is believed to have played a significant role in the 2009 recession. SEBI ordered the accused to pay an amount of 3000 crores within a period of 45 days and further excluded them from entering the security markets in any manner for 14 years.¹³

C. SEBI Vs. Burman Plantation and Others

Before the Allahabad High Court, the learned SEBI counsel argued that the company is being wrongfully accused since it was unable to pay its debts, including investment payments. When the question as to the advertisement by the company was raised, the counsel said that the advertisement was given in 2003 while the order was passed in 2004, when was not in a state to payback its debts. Additionally, there was no mention of the entire amount of money that the financial experts estimated. By amending the laws in accordance with SEBI Act section 24(1), the governing bodies were forced to increase the punishment from one year to ten years and increase the fine, which may now amount to 25 crores.¹⁴

D. Abhay Singh Chautala Vs. C.B.I

In this case a charge sheet was filed against two appellants for the commission of an offence under Section 13(1) (e) and 13(2) of the Prevention of Corruption Act, 1988 and Section 109 of the Indian Penal Code, 1860 in distinct trials. Both of the accused were alleged to have accumulated excessive wealth compared to their income while they were members of the Legislative Assembly. The father of the appellant had acquired huge properties, and the same was applicable of the appellants, when the Central Bureau of Probe (CBI) began its investigation. According to the High Court, a completely different office(s) was given by the appellant for the accused other than the one they were actually holding. As a result, it was determined that the penalty under Section 19 of the Prevention of Corruption Act of 1988 lacked validity.¹⁵

8. Legislation Against White Collar Crime In India

¹² Harshad s. Mehta & Ors. Vs. the state of Maharashtra; appeal (Crl.) 319-320 of 1996.

¹³ A-Study-on-White-Collar-Crimes-in-India.pdf, <https://www.lawaudience.com/wp-content/uploads/2022/04/A-Study-on-White-Collar-Crimes-in-India.pdf> (last visited Jan 16, 2023).

¹⁴ (2010) SCC 69.

¹⁵ Sofiabambri, *supra* note 3.

There are various legislations in India identifying white collar crime such as:

- i. The Companies Act, 2013
- ii. The Income Tax Act, 1961
- iii. The Prevention of Corruption Act, 1988
- iv. The Prevention of Money Laundering Act, 2002
- v. Information Technology Act, 2002.

9. Sentencing And Penalties For White Collar Crimes In India

a. Punishment for Fraud

According to Section 447 of the Companies Act 2013, if a person is found guilty of an offence of fraud then he shall be imprisoned for a minimum term of 6 months which may extend to 10 years. Moreover, he will be liable to a fine that must, under any circumstances, be less than the amount involved in the fraud and that may even go up to three times that amount. If the fraud was done against the general public's interests, the sentence would not be less than three years.

b. Punishment for False Statements

According to Section 448 of the Companies Act, if any person knowingly makes any false statement or omits any material fact and he knew such statement was false or such omitted fact was material, then shall be held liable. A return, report, certificate, financial statement, prospectus, statement, or any other document needed for the purpose specified in this Act or any rules adopted under it may contain a false statement.

c. Punishment for giving false evidence

Section 449 of the Companies Act prescribes punishment for giving false evidence, where if any person gives false evidence:

- i. either after an examination under oath or a solemn affirmation;
- ii. In any affidavit, deposition, or solemn affirmation, whenever any company is likely to dissolve or whenever any other situation arising under this Act,

Then he shall be punished with a minimum of 3 years imprisonment and a maximum of 7 years along with 10 lakh rupees.

d. When no specific punishment or penalty is provided

According to Section 450 of the Companies Act of 2013, if a punishment or penalty for a crime has been committed by an official of a company or by any other person who violates any of the requirements of this act, he would be penalised with a fine that might exceed 10 lakh rupees.

e. Punishment when the default has been repeated

According to section 451 of the companies Act, when a company or one of its officers commits an offence that is punishable by a fine or by imprisonment, and the same offence is committed twice or more within a three-year period, the company and each of its officers who is in default

are subject to a fine that is twice as much as the original offense's fine, in addition to any applicable prison time.¹⁶

10. Steps To Check White Collar Crimes In India

There is a big difference between presence of law and its enforcement. Alone laws can't anything unless properly enforced. In recent years, the fight against financial fraud and malpractice has been much more severe. It is crucial that the government act appropriately in the face of such a situation. The actions that can be taken to stop the emergence of white collar crimes involve:

- Investigating agencies such as CBI, ED, IT Department etc. by using strong regulating policies need to be strengthened and should be monitored about their works
- Since the commission of these crimes are on a rampant speed, the investigating officials should be trained accordingly to cope up with recent technologies.
- If purpose is to eradicate its existence from the grassroots level, then strict laws must be implemented immediately. Shorter imprisonment period and lesser amount of fine motivate offenders to commit these.
- To raise awareness of white collar crimes, the print and electronic media should be used properly.
- A separate body to look into the matter of crimes and criminality may be established by the government.

11. Conclusion

The Social and Economic development of India is highly affected by these crimes since they act as a bane to the whole world. Being a non-violent crime it is often ignored but seldom people understand that, these crimes affect the society equally as a normal crime does. The rate of crime is increasing more quickly as our society moves closer to modernity and the world experiences new technical advancements. In particular, there has been a significant rise in white collar crimes. The government needs to implement strict laws to lessen the commission of these crimes and the people of the country must be made aware either through education or any other means regarding such crimes so that in future they can avoid such troubles if the time for such comes.

¹⁶ IBC Laws Editor, *Section 451 of the Companies Act, 2013: Punishment in case of repeated default*, IBC LAWS (2013), <https://ibclaw.in/section-451-of-the-companies-act-2013-punishment-in-case-of-repeated-default/> (last visited Jan 17, 2023).