

WHITE COLLAR CRIME

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Abstract

We as a citizen of a developing country especially saw so many changes in the context of law because that is our need with every change in our surrounding's. Due to many changes in political, economic, social and legal procedures, things get complicated especially in matters of White Collar Crimes because persons who are doing this start taking advantage of these changes. Professor Edwin H. Sutherland the famous criminologist said one thing very correctly.

"White Collar Crimes are committed by a person of respectability and high social status in course of their occupation".¹

There is always pre-decided parameters for civil society but there are some criminal activities present in our society that are especially destroying our monetary areas slowly and steadily. White Collar Crimes which is spreading rapidly in our country like fire and destroying things speedily.

Keywords: Occupational Crime; White Collar Crime; Compensation; Corporate Structure; Corporate Culture.

1.0 Introduction

In this world of crimes, these are that crime which gives a different negative impact on society. People often think that affecting someone physically is only a crime but, they don't know there are some crimes which even impact more badly in someone lives that even physical crime looks small in front of it.

We live in a world where people always looking for new opportunities to get success ahead in life but everyone wants success in a short time which makes them start using wrong ways and White-Collar Crimes is one step towards it which makes it easier to hide their crimes in the name of doing Business or Investments.²

In earlier times white collar crimes were not that much prevailed in society but over the period of time, it became one of the main ways to do crime easily in society. In ancient times people

¹ White Collar Crime; Edwin Sutherland (1949).

² P. Gottschalk, L. Gunnesdal, White-Collar Crime in the Shadow Economy, https://www.researchgate.net/deref/https%3A%2F%2Fdoi.org%2F10.1007%2F978-3-319-75292-1_1.

mostly do these crimes at a small level but over the period of time, people start using different methods to earn money because they want to earn money as soon as possible even if they need to do take few wrong steps for that. People are often mistaken that if they are using few wrong steps to achieve something then it is alright because according to them ultimately they are just going business.

In a country like India where even for the smallest work you need to go through long procedures, their people don't want to be part of these long procedures than they start using shortcuts to get things done. These white collar crimes are considered as a trust-breaking concept in society, where besides their trust in people also lost their monetary values.

According to some agencies who are handling criminal cases in upcoming times White Collar Crimes are going to become one of the most dangerous crimes for society. Over the time it has become more difficult to catch criminals related to these crimes because over the period they are going to be more efficient in doing these crimes and they even knew how to come out of these situations. Several different types of research' done time to time to understand these crimes and criminal related and maximum times' only one answer popped out that persons who are related to these either wanted some social status in society or want to have a huge amount of money for themselves But, there are some issues arise while doing researches related to these crimes that victims are not ready to discuss their experiences because somewhere the people who do all this with them are their people and here the question arises on their trust at the same time which makes them uncomfortable while discussing these matters.”³

White Collar Crimes are one of the most prevailing and speedily developed crimes in our society because there is the worst part of these crimes that people who are doing these crimes don't even consider themselves as criminals according to them they are just earning money by just taking a different path. Not even once do they think that they are doing something wrong with other people. They are doing all this for their financial gain only. Somewhere everyone knows about these crimes but at the same time, these crimes become such an integral part of our daily lives that we became used to them and now we are in that state where it didn't bother us that we are doing anything wrong. There are different types of white collar crimes that came under this list like Insider Trading, Insurance fraud, Tax Evasion and securities fraud etc. There is no end to these types of crimes where they are going to end once they started. We can't say where we are going to end once we get involved. Some white collar crimes are of such nature that we can't even measure in money the damage they did to someone's life. The financial matter is the area where these crimes affect the victim.

We need to understand that this crime done behind curtains is not that easy to the caught real culprit and at the same time taking action. In maximum cases, so many people are involved in this crime from the lower level up to the higher level and to understand these we need to look at some common White Collar Crimes. Even though there are different methods used by a criminal

³ National White Collar Crime Center, White Collar Crime Research Consortium WCCRC: http://www.nw3c.org/research/white_collar_crime_consortium.cfm .

while doing these types of crime but, still there is some very common crime done in our surroundings which are common those are given below:

- Corporate Fraud
- Embezzlement
- Ponzo Schemes
- Extortion
- Bankruptcy Funds

- **CORPORATE FRAUD**

This fraud is especially related to the Securities Exchange Board of India where companies do fraud by doing Insider Trading, Falsification of Financial Information and Tax Evasion.⁴ Companies do this to show that they are not doing well or to avoid paying more tax they use these different techniques so that they don't need to pay more tax to the government and in the matter of SEBI to get more benefits from them they do things like Insider Trading to get things done according to their need. Maximum times these frauds were done by the two or more people working for the same corporation. It is not easy to do these crimes by one person only; their position incorporation gives them the benefit of doing these crimes smoothly.⁵

- **EMBEZZLEMENT**

In this type of crime, an employee especially does things for his benefit by using company funds either in the wrong manner or for personal use. For Example by transferring company funds into a personal account and showing more expenses to the company and useless quality products for the requirement of the company⁶.

- **PONZO SCHEMES**

These types of frauds are not that effective but if did smartly then for a longer period a person can misuse someone else fund. In this scammer give wrong beliefs to the investors about heavy returns and for a particular time use old investors fund to pay them but they get caught when new investors stop coming and they lost both sides.

- **EXTORTION**

Forcefully asking someone to pay a particular amount in the name of protection money or blackmail someone to get money from them. This is the most common crime done around us and also sometimes includes physical harm.

- **BANKRUPTCY FUNDS**

The most common and safest way of doing these types of crimes where people used this bankruptcy as a saving tool to get themselves saved from paying back money which they took as

⁴ Fraud Watchers: <http://www.fraudwatchers.org/> .

⁵ Daily news; may 2018

⁶ Corporate Crime; Prakash Talvar

a loan. They make themselves free from any kind of legal procedure by showing that they are left with no money and they remain with nothing.

Besides all this, other white collar crimes are also done but do not always include money like:

- Copyright Infringement
- Identity Theft.

Both are covered in the definition of a crime even though they didn't involve physical harm and also include minimum monetary harm but, these crimes are such that they affect a person's life inside out. Especially in matters of Identity Theft because here person lost everything because even it is your own identity but still it is not at all easy to get that back easily. In the matter of Copyright Infringements someone using your hard work to earn money and at the same time somewhere it is affecting your identity also. An Artist put so much effort and hard work to create something and if someone else starts using it is their then that person not only affecting in monetary terms but also somewhere affect victim mentally also.⁷

Both these crimes involve a different level of criminal activity which slowly but at a large scale affect the victim. It is not wrong to say that these crimes are dangerous because first, you can't tell directly who the actual person behind this crime is and, in some matters, even this is not clear who is the actual victim. Who affected at a large scale that measurement is difficult to calculate. There is no parameter in that context and that's why giving proper judgments in these crimes becomes difficult for courts also. Even though everything is mentioned properly regarding these crime methods and punishment related to that but still some areas are untouched and also in these crimes maximum times a new method is used to affect the victim.

So, every time the person who is doing investigation and giving judgment need to go through from the start and tried to understand the actual situation properly. These crimes happened on such a large scale that now they even happened on a minor scale also and it is next to impossible to understand.

In other words, we can say that this White Collar Crime is a non-violent crime where the primary motive is harming the victim in monetary terms. The word White Collar is used to tell indirectly that mostly these crimes are done by a person sitting in a good position and somewhere they are taking advantage of their positions to get benefits by doing or taking the wrong path. After this term the mind setup of society regarding upper-class people that they can never be part of any criminal activity all doubts get cleared that even they can be involved in these criminal activities. Some major cases happened in our country under White Collar Crime." Harshad⁸ Mehta Securities Fraud" is one of the biggest scams that happened in our country which is itself shows us what we are looking at first is not always true. In this case, our country's experienced the biggest market crash ever experienced by the Indian Stock Market.

⁷ U.S. Department of the Treasury: <http://www.treasury.gov/Pages/default.aspx>

⁸ Harshad Mehta vs. CBI, 1992

Another major White Collar Crime which happened in our country is the “Satyam Scandal”⁹ there is a very special point in case is it never get caught if the founder of the organization Mr B Ramlingam Raju himself confessed the fraud done by them by doing manipulation in their accounts books which gives the wrong impression to their investors about their progress and after looking at their fake accounts book investors invest their money at large scale.¹⁰

These crimes give us an overview that at how much large scale these crimes could be done sometimes in these crimes even after calculating the actual loss of victim still we are not in a condition to recover even the smallest amount of losses. White Collar Crimes maximum times are done by people who for society are respectable in their eyes which we earlier discussed but, sometimes there are those people more involved who do these crimes behind the curtains on the name of other people which is more dangerous because it is than not easy to catch them that easily.

It becomes difficult to decide who is more wrong in the case where lots of people are involved at every stage.

Our Judiciary System always tries to give justice to each one in every matter and If we talked about our court’s decisions in these matters then maximum times decision came on time but recovering losses of the victim are always create a question. After all, it is next to impossible to recover all monetary losses and here a question arises that what steps law needs to take in this kind of matter because every investor is not in a position to bear losses especially in fraud matters where there is no hope of returning of their investment amount. Our Government & Law both are always trying to overcome these crimes but somewhere they are also not able to get through it due to many changes may be but we need to work on that because somewhere these crimes always create hurdles in the progress of our country because when these crimes are done at a large scale then it directly affects share market of our country.

We as a developing country which cannot always afford these types of crimes all the time because still, the people who are sitting in a good position don’t need to worry only those small investors who make they are earning on basis of these investments are affected at large scale.

Our banks who provide loans to these people also get affect overall our country’s whole monetary system which is connected directly or indirectly with each other get affected which not only affect that time but it is a continuous process that takes a large time to get recovered.¹¹

2.0 CASE LAWS

- **ABHINAV GUPTA VS. STATE OF HARYANA**

⁹ *Venture Global Engineering vs. Stayam Computer Services Ltd*, 2010

¹⁰ *The Hindu*; April 09 (2015);(edition)

¹¹ *Contemporary Crime In India*; Dr. Ramesh H Makwana

In this case, Honorable Justice Gives respondents are directed to consider the candidature of the petitioners for admission to bachelor of engineer course according to their merit and admit them against the available vacant seats.

• **AYODHYA PRASAD MISHRA VS. STATE OF U.P**

The court rejects the prayer on the ground that it did not consider it *“Expedient in the interest of justice to open a new vista of evidence”*.

Ends of justice are not satisfied only when titled to justice. In the accused in a criminal case is acquitted. The community acting through the State and the public prosecutor is also entitled to justice

3.0 INDUSTRIAL REVOLUTION

The Industrial revolution which brings new hopes from time to time with these hopes some scams also came from time to time to join them as their part. The biggest supporters of these scams are legal professionals who besides using the law as a powerful tool to show the strength of justice they always tried loopholes of law as a tool to defend wrong and the accused always used this as a weapon to do these scams¹².

By doing Tax Evasion and by violating laws of Import and Export these professionals thought that they are doing something great by taking advantage of their knowledge in the context of the law. But, they forget that they are doing unethical towards both their profession and justice which are given by our courts. The professionals who are doing these kinds of unethical work do not understand what is their profession is actually about, what are the results a victim faced after their wrong allegations and helping criminals. Law gives everyone the opportunity to be heard but when you start manipulating someone’s words who is just telling the truth then there you become wrong because somewhere you are miss use your knowledge in the wrong manner. The worst part of these scams is this not only big investors’ even small investors got stuck with these and some even lost everything they had to that date. Using the wrong technique to show someone as clean as white cloth is considered under White Collar Crime. We belong to that country where still we need to work hard to earn a single penny and on top of that is someone who is in a respectable position and then starts using your efforts as a tool to get his progress then yes, of course, it is considered as one of the biggest crime in eyes of law because somewhere you hurt that victim deep down especially when you are in a respectable position. Doctors, Engineers, Lawyers, and administrator workers are considered as respectable persons if they are doing things like this and start using their positions to make extra benefits or to provide benefits to others then it is a question of the point that on whom common men should believe because if we are saying these crimes done at every level of expertise than off course it creates questions in our mind.

¹² New York Times;(2019) January

White Collar Crimes are different at every stage of professional areas but yes they always involved lots of people. It can't be done by a single person at one time all alone which means every person at some point supporting each other for doing something wrong.

4.0 WHITE COLLAR CRIMES SOCIETY

If we are saying that these crimes are limited to a particular person or profession because now every person who is even tried to do small tax evasion by showing income low or using other loop and holes to get benefits then even they consider as accused under this. People are keeping forgetting that somewhere for our benefit we are ready to let down someone else.

Yes, the major role is indeed played by an industrialist in the context of White Collar Crime but at the same time somewhere we are also supporting them even at the smallest level makes them believe that It's ok to do things for their benefit that's how things worked for all persons. We can't deny this fact even our Educational Institutes are also involved in these crimes especially at the time of payment of taxation. A country like India always supports education because that is the only way for a country to come out of many wrong situations and to improve this government always give benefits to the educational institute.¹³ So, besides giving benefits as support to educate children lots of educational institution owners are just get registered their institutes and make benefits for their own. Their motive is not about educating children their main motive is to increase their earnings on the name educational institute and at the same time get benefits from the government. When our Educational Institute does these things what can we expect from other professional people? When we talked about justice and all we forget at that time somewhere we miss use our law by using its loop and holes to get benefit from it.

Another thing we always tried to make our situation better and in all this we always forget other losses. We do not understand that the situation which we are facing right now we are responsible for it because somewhere at starting we support this even in the smallest way. Those business houses which we consider as the established working place is having maximum fake and illegal contracts. They do that to generate money for their other contract which may be a clean one but yes even this is not wrong that they earn that money from the wrong method.¹⁴ All these small crimes maybe not affecting in monetary terms that much but, yes they may affect the spirit of the law at large. After all this, no one wants to work positively because somewhere they are not assured that whatever they are doing is going to benefit them or not. What if their all efforts get into the drain and they are doing or putting their all efforts into a fake deal or agreement which not even in existence. People in a country like India maximum time do work into trust and according to the position. For example, when you know a person is renowned Dr Then off course not even for once something negative came into your mind regarding his work because you trusted that person based on his position and work.

¹³ Dainik Bhaskar;(2017) may

¹⁴ The Hindu;(2019) November

What if you get to know that you were wrong and that person is just not as good as suggested off course it low down your spirit same applies to law professional's there wrong working style and taking advantage of loopholes in law due to their knowledge in-law makes the spirit of providing justice low.

White Collar Crimes are nowadays done at every level and at each stage we cannot deny the fact that somewhere we know about this but either we are not in this position to oppose it or we don't want to oppose it because somewhere it gives benefit to us also. Here we became wrong because we do not understand the consequences of this in the future.

5.0 CONCLUSION

- It's not that easy at it looks to solve these matters because it involves both small and large investors at the same time.
- Our judiciary system always trying to give justice to all in this matter but recovering monetary loss is a time taken long procedure itself.
- Being a developing country there are so many hurdles which we need to cross to provide justice to all.
- White Collar Crime shows us a clear picture that people who are sitting on respectable position is not always correct even they do things for their benefits.
- We need to look around at the whole whenever a scam happened and losses every time they get increased day by day.
- White Collar Crimes do become a concern point in the global market.
- This crime increases rapidly and vastly like a fire to every level or stage.
- Many reports suggested that that the financial crises that happened because of these crimes is much bigger than other crimes that happened in society.
- In a country like India which is still developing this crime always degrades the procedure of growth in the financial market which is not at all beneficial for us.
- Somewhere we understand that if we are thinking about eliminating this crime from our surroundings then it becomes next to impossible now because now these crimes are present at every stage and place around us.
- These crimes are present for centuries now we can just try to reduce them.
- Special tribunals needed to deal with these kinds of crime in our country were already so many cases are pending it becomes more difficult to provide justice in this matter to each person.
- Strict laws should be made so that before doing anything wrong offenders must think twice.
- Our Government and Agencies need to work together to overcome this situation properly.
- Working people who are working even at the smallest stage should make them clear that neither they are doing nor supporting evens the smallest wrongdoing.
- We need to start from the lowest and higher level because now each level person is involved in these types of crimes.

- Government besides getting involved needs to take strict actions against these people who are doing things just to favour them they should never be allowed any kind of favours which itself makes other people clear that they should also need to do that.
- Togetherness is needed to combat these situations because the people who are doing crimes even are doing it together so to eliminate these crimes every person must come together.

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