White Collar Crimes: A Study in the context of Classification, Causation and Preventive Measures

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Crime and punishment has its origin in antiquity. With the development of society, the nature of the crime also changed in different dimensions from common crimes to special crimes which remained unattended. The criminal jurisprudence while classifying the crimes from different parameters also uses the technique to differentiate the crimes and label them as ‘Blue Collar Crime’, ‘Red Collar Crime’ and ‘White Collar Crimes’. The blue collar crimes are the common crimes, while the red collar crime being coupled and tainted with blood. On the other hand, white collar crime emerged with the advancement of society by a particular act or omission of an individual appears not to be a crime but is always tainted and painted with underline crimes in its concealed form usually related to economic offences of essential commodities food adulteration, money laundering and so on and so forth. The crime in its nature remains undetected from the general public and criminal justice administrators. The research topic takes care of different dimensions of white collar crime, their penalties too and investigating and adjudicating their models thereof, with emphasis or causation of such crimes and providing suggestive measures for a curative purpose. The topic is dealt on doctrinal methodology based on primary and secondary sources of data, analyzed on different research techniques for arriving at conclusion.

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White Collar Crimes: A Study

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1. Introduction

White Collar Crimes are the crimes which are committed by someone who is having high social status and respect during his occupation. It refers to the crime which is committed by professional or salaried workers or persons in businesses who basically conduct a form of financial fraud or theft. Edwin Sutherland, the Sociologist, the American Criminologist has defined the term “White Collar Crime” in 1939. Such type of crimes is known as non-violent crimes which are committed mainly by business people through deceptive/wrong/cheating activities as they are able to access large amounts of funds of the business account for the purpose of their financial gain.

People who commit white collar crime exploit technological power, social or economic for corporate or personal gain. However, Since Sutherland’s time, such crimes have been stopped to be the exclusive domain of these groups. Moreover, with the developments in the fields of technology and commerce have increase the scope of white-collar crime to include health-care fraud, conspiracy, obstruction of justice, cyber crime (computer crime), perjury, and intellectual property crimes, embezzlement, money laundering, antitrust violations, bribery, tax crimes, and regulatory violations. Some of the specific examples of activities that predicts white-collar crimes include:

- Price Collusion (To plan with other cooperative Firms to fix the prices of goods or services which in turn help in achieving artificially high profits or helps in driving a competitive Firm out from the market)
- Preparing False reports of tests on pharmaceutical products to obtain legal manufacturing licenses
- Mixing defective and cheap components for costlier components as mentioned in the construction of buildings or roads but charging the customer for the whole cost of the mentioned components.

2. Types of White Collar Crimes

There are many forms of white-collar crimes as they are non-violent in nature. The Different types of white collar crimes involve: tax evasion, frauds, public corruption, antitrust violations, and many others. Let us look closely at these various types below:

2.1 Tax Evasion and Money Laundering

Tax evasion is a term that basically refers to the failure of not following tax-paying policies or avoiding various tax payment by illegally. Most of the schemes
include an independent person or corporative firm who are intentionally misreporting there part of remuneration with the perspective to pay less amount that they are supposed to pay for the tax. Deliberately, misreporting the salary occurs through under-reporting (failing in making full report), inflating deductions (Increasing the debits from the income), and even hiding various amounts of money along with its interest and its other sources of income.

“Tax evasion is a crime is considered as in many of the countries, which is included as one of the serious criminal cases. Tax evaders are punished with large number of fines or jail custody or even both. For example, in the United States, a tax evader is responsible to make a payment of not more than $100,000 or over $500,000 for corporative trial and/or jail custody of not more than 5 years. In a many of the scenarios, it includes all the penalty of the prosecution like surrendering of owned properties.”

2.2 Public Corruption, Bribery, and Embezzlement

Public corruption involves breaching of public trust and/or abuse of cooperate by government officials together with private sector counterparts (Cornell University, 2010). It is an offense of authorize person misbehavior with the familiar dishonest conduct of an official during the period of period his or her duty. Some types of this misbehavior include theft/robbery, swindling or redirection of properties and restricting of justice. People have various views concerning public shoot/grafft and misconduct. Recently, countries focus to come forward with standards internationally and had included public corruption as one of the misconduct. “This standardization aims to include specific offences and not only generic definition and offense of corruption (OECD, 2008).”

On other hand, bribery is defined as is the soliciting, giving, offering, or taking of any amount of value which is used to impact the activity of an authorized holding a legal duty or public office. “Bribery of any kind is objectively handled in best suiting of the private interests with regard to the maker of the decision (Cornell University, 2010)” The most significant elements of bribery include “giving” “offering” and “promising”. Therefore, a movement of bribery is term as a crime even if does not include an official agreement. The person who takes bribery is called briber who is also responsible to the activity itself. Moreover, with the approval or agreement of the bribe, the scenario becomes different. In that case, both of the parties are held as responsible to the transaction made.

2.3 Fraud

Fraud is performed by misreporting the facts and figures to obtain something in return of something. There are four elements of fraud:

- The person who is responsible for making unlawful act made a statement of fact whatever is doing is not true.
- The perpetrator purposefully made the false declaration.
The sufferer thinks that the declaration to be true and depends on the declaration only, and thus lose something which is of value.

2-4 Computer and Internet Fraud

Unauthorized access of Internet and computer is called Computer and Internet fraud. It is to create Broadway to misinterpret the facts to initiate loss purposefully. These can be done through the following methods:

1. Improve computer input data in a random legal method,
2. Alter or even erased the saved data,
3. To write software codes again to totally access the data.

Most of the common form of internet and computer fraud is hacking through sophisticated and knowledgeable gadgets to access Internet or computer password, even identity and the credit card information. Especially unsafe fraud is information and other details of bank users' which will be used for credit card hosting. Offenders may use the details to create fake credit cards along with the user real identification number and password.

2-5 Bankruptcy Fraud

There are three major forms of Bankruptcy fraud:

- The first form of bankruptcy occurs when borrowers hide their property to avoid any charge of penalty. This includes more than 70% of all bankruptcy fraudulent cases. Failure to pay the debt and disclose some of the properties may permit the defaulters to keep their properties or assets instead of having remained or outstanding debt.
- Secondly, any person who is defaulter in paying the remaining amount file incomplete or incorrect forms. These can also hide some of the important data or information about the properties.
- Third, is the process of record filing multiple times Defaulters who filed multiple false or incorrect documents may result in postponing and hiding of their properties.
- Lastly, activity of bribery of court-appointed trustee is also a very common and existing cases that is occurring. Debtors or defaulters pay huge amount of money as a fine than to lose their properties.

2-6 Healthcare Fraud and Insurance Fraud

Fraud of insurance and Healthcare mostly go ahead simultaneously. Healthcare fraud is procedure of filing false information and healthcare records to achieve higher profits. On the other hand, insurance fraud refers to the procedure of achieving improper payment of income in some wrongly manner from an insurance benefactor. This type of fraud cases is also prevailing through the
Internet and thus considered as one of the top cases of Internet fraud. However, there are various methodologies to do such type of crime activities.

Insurance fraud is referred as “any activity or mission with a point of view to unlawfully obtain an insurance benefit.” This type of procedure involves dishonest claims, fabricated claims, false statement. After collecting some of the important information with the point to fraud or do some personal gain which is known as the activity of crimes. It is existing, and its existence is increasing day by day because such type of crimes is comparatively more difficult to detect. Such type of criminal cases cost up to $80 billion each year.

2.7 Forgery

The process of changing, making, possessing, or using a false or wrong document, like some form of contract, or other document, with the mindset to make a fraud of the holder of the document is known as forgery. This type of activity includes the crimes like selling falsified art or passing forged checks.

3. Penalties for White Collar Crimes

The penalties penetrating for white collar crime vary hugely which depends on the type of crime which is committed by the person, and the scenarios or the environment that is surrounding the case. Many of the citizens of the country are facing criminal charges for a white-collar crime. Basically, penalties for white collar crime may involve:

- community service,
- fines,
- imprisonment,
- restitution,
- probation.

These types of crimes are tough and serious enough to face imprisonment. “The Sarbanes-Oxley Act of 2002 was passed by the Congress, which expand the administration which is under corporative authority and mandated monetary declaration, with an aim to develop large scale white collar crime.” Due to this Act, wire or mail fraud are included in penalties for white collar crime which is increasing day by day.

In complementary to any criminal penalties which is forced on an offender, secular penalties may be forced for white collar crime as the offenders can report a secular or civil legal action against the perpetrator. Criminal judgement is not needed for a monetary crime offender to be victorious and be rewarded harm for his monetary losses in a secular legal action.

4. Causes of White Collar Crime

The common opinion or perception is that the white-collar crimes are mostly occurred because of greediness or commercial/monetary instability. Beside this
white-collar crime are also committed due to the environmental pressure or the deep-rooted characteristic. Moreover, the various reasons for white collar crimes are:

- **Not really a crime**: Some offenders convince themselves that the actions performed by them are not the crimes, as the act engaged in the activity does not resemble street crimes.
- **Not realizable**: Most of the people explained themselves in performing crimes as they observe that the administration rules and regulations do not interpret the practical scenarios and difficulties of participating in the free business system activity.
- **Lack of awareness**: The lack of knowledge or awareness among people is one of the main reason of white collar crime which is occurring around the globe. White collar crime differs from the orthodox crimes and people hardly perceive it though they are the worst sufferer of crime.
- **Greed**: Greed is another type inspiration of the committing the crime. Most of the people believe that other people are also disobeying the laws therefore it is not harm if those people will do the same.
- **Necessity**: Essentiality is another type of factor which is executing the crimes. People executing white collar crimes to cool down their ego or help their family.

### 5. White Collar Crimes in India

White Collar Crimes are quickly expanding in our nation with the betterment of trading and technologies. “The modern or the recent growth in the technology has provided new dimensions to cyber crimes which are known as computer related crimes. However, the white-collar crimes are expanding with the development of various new types of websites. The affected areas by these crimes are business, banking and financial institutions, industry, etc.”

Hence, crime is an omission or activity which represents the wrong and is illegal under the law. As we know that the white-collar crimes are expanding day by day, it harms the population on a large scale because the laws are not correctly managed or administered, hence, there is a requirement to control the limitation factors which are serving in the commitment of such type of crimes.

### 6. Laws relating to White Collar Crimes

Various types of regulatory legislations have been established by the government of India, the violation of which will be charged a penalty to white-collar criminals. Some of the regulatory legislations introduced by the government are:

- The Import and Exports (Control) Act [1947]
- Essential Commodities Act [1955]
- Companies Act [1956]
- The Foreign Exchange (Regulation) Act [1974]
- Prevention of Money Laundering Act [2002]
- The Industrial (Development and Regulation) Act [1951].

The Indian Penal Code includes means and methods to be examined about the crimes such as credit card fraud, Bank Fraud, Insurance fraud, etc. In the scenario of money laundering, some of the steps have been taken by the government of India to handle this problem. The Reserve Bank of India has provided orientation which has to be rigidly followed by the banks under KYC (Know Your Customer) guidelines. The financial institutions such as banks should maintain the records or the data of every transaction for a time span of ten years.

"Information Technology Act, [2000] has been established in order to handle the computer-related crimes, so as to give the identification legally to the authentication of statistics or data which is interchanged with respect of profit oriented transactions."

Following are the crimes which are advised as the punishment under the Section 43 and 44 of Information Technology Act:
- Copying of apart from any data and separating it from main data illegally.
- Accessing and downloading the documents or files illegally.
- Inventing of malicious programmed or viruses which can harm other computers and its data.
- Harming the computer network or the computer system.
- Not providing the authorization or the access to an authorized person to the computer system.
- Giving the help to someone to ease the smooth unauthorized access to a computer illegally.

Although the main emphasis of Information Technology Act is not on cyber crime, but this Act has some of the allocation which is the concern of white collar crimes. Despite this, there are some of the issues which are still not resolved because of incomplete emphasis or focus. Some of them are mention below:
- Non-presence of suggestion for enquiry regarding cyber crime.
- Inapplicability.
- Meaning of hacking.
- No steps to control internet privacy.
- Absence of international team work.
- Authority of police to search and enter limited to public places.
- License for meeting as judge officer which is not authorized.

There are some estimates to allocate with white-collar crimes. Most of them are, establishing common people awareness of crimes through the means of press
or media and legal literacy programmed or through other audio-visual means. Unique panel should be established with ability to sentence the criminals for at least 5 years and heavy fines should be imposed rather than arrest and imprisonment of criminals.

Every day we do not listen regarding white-collar crimes. It is stated by Federal Bureau of Investigation that USA has noted white collar offenses contributing $300 billion every year. Comparatively, White-collar crime is a brand-new term. It has been used or is available in courts for fairly a long time, but the main aim can still be unclear or confused for some of the individuals. Legal Practitioner and lawyers/agent pursue their quarrel concerning the environment and extent for white-collar crimes. It has large number of characteristics that are feasible for inspection and additionally clarification to clear some portion of its blurry parts.

7. Conclusion and Suggestions

This chapter provides us the meaning and the extent of white-collar crimes. Clashing definitions and thinking from law agents increases the confusion/ambiguity of the plan. By penetrating the documentation/literature, this chapter focuses to conduct forepart of the roots and antiquity of this arguable section of the judicial system and law. It presents its rebellion in terms of sentences and sanctions, extent/scope and specific cases which occurred throughout the years, from its orthodox introduction, conceptualization, and incorporation in the constitution. However, it is seen clearly that on the certain categories of white collar crimes, considering into account their extent, cause, penalty for the wrong doer with features about prevalent legal system. Moreover, at last, it describe and considered some of the cases that gave white-collar offense vogue and gather awareness from someone of the media, the law and the public.

It is understandable that because of the progress of technology and science, present form of offense known as white-collar crime has appeared. The extent of white-collar crime is so broad that after examining the distribution of Indian Penal Code, 1860, we came to the negotiation/conclusion that most of the offences under Indian Penal Code are bonded closely with white collar crimes such as deception and adulteration of food, fraud, bribery etc. The supply of Indian Penal Code which is trading with white-collar of fences should be revised to modify and increase the penalty especially with modifying socio-economic state. The extraordinary activity which is concerned with white collar offences and the supply of Indian Penal Code should sound harmony and clarified to restrict the cause of white-collar offences.

From the aforesaid deliberations, it is a fact that white collar crimes emerged on scheme and have attained a definite place in society. The crime is such which has different dimensions besides different territorial connections including the crime in most situations being a country in wrong originating in one place,
developed in another and showing its consequence in third place or so. The state of origin in most cases became helpless to prevent such crime provided that the criminal and subject matter of crime, besides occurrence happens in territorial jurisdiction. The crime in some cases is territorial but in most cases becomes the cross border of crime which needs immediate regulatory mechanism at international and national level. Though the Money Laundering Act provides for extra territoriality but same is based on reciprocity and/or treaty methodology which in some cases happens but in most cases is like to happen. This warrants international convention followed by international agency like Interpol etc., besides adjudicatory mechanism for which the researcher makes strong suggestions. The provision in the present form in Money Laundering Act is well begin but half done as such needs the mechanism as suggested therein before.

**Footnotes**