White Collar Crimes: Causes, Consequences and Cures and Prerequisites for Vigorous Controlling Mechanisms

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ABSTRACT:

The seminal subject indicates complex nuances of white-collar crime existed in all jurisdictions, both nationally and abroad. Irrespective of the form of government, the concept of white-collar crime is known worldwide. However, causes, effects and challenges always vary from country to country. The conceptual principle of white-collar crime is also found in the practice of natural law theory. American social scientists Edward Ross and Edwin Sutherland are pioneers of developing present day concept of white-collar crime, which to date follows the principle of inclusivity. Despite almost every nation having its regulatory regime to counter the hazard of white-collar crimes, they still face severe issues of white-collar crimes due to their multidimensional nature.

The author by present paper has traced the historical origins and early phraseology of white-collar crimes till modern age development. Alongside, the author has also explored information on root causes, modern-day causes, effects and challenges concerning white-collar crimes. The author's literature study also focuses on system failure by discoursing on various major scandals, court precedents and commission reports.

KEYWORDS: White-collar crime, Criminaloid, Corporate Crimes, Occupational Crimes, System Failure, Causes, Effects and Challenges, Revolutionary and Foundational Regulatory Mechanism.

Research Methodology: During the preparation of the present paper, the author has utilised non-empirical methodology and reviewed various books, literature, research papers, judicial precedents, legislation, essays by experts and jurisprudence relating to white-collar crimes and their various traits, reports by various committees, experts, including legislative materials and parliamentary debates.

1. INTRODUCTION

White Collar Crimes are one of the greatest menaces to human beings, irrespective of their nation of origin. Also, it acutely causes financial and psychological detriment to the institutional belief, affecting overall societal mechanism eventually resulting in the collapse of the economy as well as the foundational structure of the country. Since white-collar crimes

are closely related to ethical human behaviour, the theory of natural law finds support in this modern age ailment. There is no uniform definition of these crimes yet. In 1907, Edward Alsworth Ross, in his manuscript "*Sin and Society*", talked about participants involved in immoral activities detrimental to society at large and called them "*Criminaloid*" and also branded them as the most dangerous [1]. Carry forwarding said conceptual chronicle, Edwin Sutherland, a social scientist in 1934 in his book "*Principles of Criminology*" announced a concept he called 'White Collar Crimes' in relation to the notion of criminaloid. Finally, in 1949, Sutherland expressed his theoretical opinion in relation to white-collar crimes through his own phraseology that "*it is a crime committed by a person of respect and high social status in the course of his occupation*" [2]. At the initial stage, the object of introducing the notion of white-collar crimes by Edwin Sutherland was to identify certain misbehaviour as criminal activities to be included within the ambit of crimes[3]. However, Sutherland's new notion was widely criticised for the tone ambiguity.

In a further development, in 1970, two American criminologists, namely Marshal Clinard and Richard Quinnery, by relying upon the work of Edwin Sutherland, circulated a text "*Criminal Behaviour System*" and tried to remove ambiguity by comparing white-collar crimes into two segments, first corporate crimes and second occupational crimes[2]. Thus, a notion of white-collar crimes envisaged by Sutherland[4] came to be conceptualised by Marshal Clinard and Richard Quinney. However, a concrete and concise definition of white-collar crimes has not yet been agreed upon [2].

In contrast, if one studies causes, effects and challenges of white-collar crimes irrespective of jurisdictional barriers, it indicates the presence of similar or alike factors but with a varied degree of mode of operation. Differences can also be seen in the mode of operation, execution, motivation and particular environment. Presently, there would be no country or nation that does not have legislation dealing with an issue of white-collar crimes, yet tendency and provocation have not minimised but amplified at light speed[5].

In India an issue of white-collar crime has persisted right from pre- independence period. Various social diversities are also responsible for its amplified growth. The Parliament of India, time and again exercised efforts by enacting various legislation to deal with said issue. It also establishes various specialised enforcement agencies, but the microscopic hipper technical nature of technical crimes possess challenge during investigation, which is further contributed to by judicial delay in concluding the proceeding emerges as one of the challenges to deal with white-collar crime with promptitude. Additionally, ultra-modern technical complexity also poses hurdles while intercepting white-collar crimes. This poses a

worldwide challenge and cannot be achieved without a revolutionary foundational regulatory mechanism [6].

2.Definition

White-collar crimes are a nonspecific term that primarily denotes economic or financial misbehaviour. The concept of a white-collar crime was first established by Edwin Sutherland[7]. In 1934 focussing on the offender rather than the offence. He maintained that a crime is a white-collar crime where a person, having an upright social status motivated to misbehave during the tenure of his occupation [8]. Later, in 1970, Edelhertz, Herbert, particularised the concept in the language of definition by focusing on the nature of the offence compared to Sutherland's view of preparator approach. He defined it as "*an illegal act or series of illegal acts committed by non-physical means and by concealment or guile, to obtain money or property, or to obtain business advantage*".[9]. Focusing upon a concise definition of white-collar crimes, Black's Law Dictionary defined it as "a non-violent crime usually involving cheating or dishonesty in commercial matters"[10]. The Oxford English Dictionary defines it as "*a person who takes advantage of the special knowledge or responsibility of his position to commit non-violent, often financial, crimes*"[11]. The American Dictionary of Criminal Justice elaborated it as "*a nonviolent crime for financial gain committed by means of deception by persons whose occupational status is entrepreneurial, professional or semi-professional and utilising their special occupational skills and opportunities*" [12].

In India, we do not have one composite, concise and concrete definition of white-collar crimes, but various traits of white-collar crime have been tried to consolidate via various legislative enactments. Thus, it is a globally accepted position that white-collar crimes are an inclusive set of definitions.

2.1 Jurisprudential analysis

The natural law theory finds support in the element of social misbehaviour involved in the commission of white-collar crimes. Natural law theory asserts that fundamental breaches of morality, even in the absence of specific enactment is not permitted, as it proposes that laws are derived from nature rather than enacted. The concept of morality is dynamic and can be applied in the absence of specific legal enactment if societal activity infringes basic morality principle[13]. The foundation of white-collar crimes finds its multidimensional misbehaviour in the form of breach of morality, attracting criminal liability and as such, white-collar crimes pose a threat to natural law, ultimately affecting society at large[14].

2.2 Historical Evolution

White collar crime in the traditional form of crime can be traced in ancient India during the Vedic and after Vedic period. The ancient history of this period indicates traits of white-collar crime in the form of theft, fraudulent activities, and counterfeiting coins[15].

The modern-day concept of white-collar crime was developed and shaped during the century with the great contributions of American social scientists Edward Ross and Edwin Sutherland [16]. This does not mean that rampant practice, such as white-collar crime was not exist. It predominantly existed during ancient times; however, the nature was varied, mostly including embezzlement and fraud. In this regard, Carrier's Case of 1473, which occurred in the United Kingdom, was the first reported case under the domain of occupational crime commonly known as wool trade fraud[17]. After the wool trade fraud, it was found by William Bonger, a Dutch Marxist, that due to miserable workplace conditions during capitalism working class, as well as the middle class, have developed insolence and greediness, which eventually resulted in activities of embezzlement and fraud[18].

After eighteenth century industrial revolution, widespread growth was seen in white-collar crime. During this period, abusive practices and commercial race reaches at its peak, which constrained the American Congress to enact the Sherman Antitrust Act of 1890, followed by the formation of various regulatory authorities such as the Federal Trade Commission, Securities and Exchange Commission. The rampant practice of fraud, insider trading, oppression and mismanagement proliferated during great depression of 1930, which necessitated the passing of the Glass-Steagall Act of 1933 and Security Exchange Act of 1934. During 1970, to prevent evolving threats and new trends and modes of white-collar crime, the American Congress again enacted certain legislation, such as the Foreign Corrupt Practices Act, 1970, the Sarbanes-Oxley Act, 2002 and the Dodd-Frank Act, 2010. Additionally, the United Nations also passed certain conventions to promote worldwide co-operation and fixing standard to prevent and control white collar crime, which include the Convention against Corruption and the Financial Action Task Force[19].

Before independence, India was under the domain of Her Majesty. The post-1947 era, characterised by the license-permit raj and tight state control over industry, saw crimes primarily linked to black-marketing, tax evasion, and regulatory bypasses. Early major scandals, such as the Mundhra scam in the 1950s, highlighted political-bureaucratic collusion in financial dealings and spurred the first parliamentary investigations.

Considering the serious effect of white-collar crime upon the economy, the Prime Minister in 1962 initiated an anti-corruption movement and constituted the Santhanam Committee to deal

with the issue of corruption. The Santhanam Committee in 1972 submitted its report, which was comprises of incidences and modes of white-collar crimes in India and recommended the creation of the Central Vigilance Commission [20]. In the further development, nationalisation of banks and industries concentrated economic power, creating new opportunities for bribery and misuse of public funds throughout the 1970s and 80s. However, the true inflexion point came with the economic liberalisation reforms of 1991, which, while boosting growth, simultaneously exposed the weak regulatory oversight within the nascent financial markets. This regulatory lag was notoriously exploited in the early 1990s Harshad Mehta securities scam, marking the entry of sophisticated stock market manipulation into public consciousness. Subsequent decades saw scams like the Ketan Parekh scandal, where insider trading and circular trading became rampant, demonstrating the continuous adaptation of criminals to modern financial tools. The 2000s and 2010s brought mega-scams, including the 2G spectrum and Commonwealth Games frauds, which revealed the staggering scale of losses possible through systematic policy corruption and resource misallocation. Most recently, corporate governance failures like the Satyam scam, coupled with the rise of complex cyber frauds, indicate that white-collar crime is now inextricably linked to digital technology and multinational operations. Thus, the historical facts indicate a transition from simple regulatory corruption under a closed economy to complex, high-tech financial fraud in a globally integrated market.

2.3 International Perspectives

Globally, white-collar crime was first formally conceptualised by sociologist Edwin Sutherland in 1939, defining it as a crime committed by a person of respectability and high social status in the course of his occupation. Today, the international perspective recognises that these crimes are inherently transnational, exploiting differences in regulatory frameworks and judicial systems across borders. Key international organisations play a vital role in combating these crimes, including the Financial Action Task Force (FATF), which sets standards for anti-money laundering (AML) and counter-terrorist financing (CFT) measures, pressuring member states to implement robust frameworks. The Organisation for Economic Co-operation and Development (OECD) focuses on combating bribery of foreign public officials and improving tax transparency, notably through initiatives against Base Erosion and Profit Shifting (BEPS). Furthermore, UN conventions, such as the United Nations Convention Against Corruption (UNCAC), provide a universal legal instrument promoting international cooperation, mutual legal assistance, and asset recovery. Current global trends show a massive surge in cyber-enabled white-collar crimes, including business email

compromise (BEC) and complex ransomware attacks targeting corporate data and financial systems. Money laundering has become increasingly sophisticated, utilising digital assets and complex corporate structures like shell companies to obscure the origin of illicit funds. Many developed economies emphasise preventative compliance programs within corporations, mandating strict internal controls and ethical training to reduce reliance solely on ex-post enforcement. The continuous challenge remains the harmonisation of evidence laws and extradition treaties, which criminals often exploit to evade prosecution by relocating assets and themselves across jurisdictions. The success of international efforts depends heavily on real-time information sharing and integrated financial intelligence units, a necessary response to the globalisation of financial fraud.

2.4 Constitutional and Legal Provisions

India's legal framework addressing white-collar crime is a complex web derived from both specific statutes and general criminal law, underpinned by the Constitution. Constitutionally, Article 21, guaranteeing the Right to Life, has been interpreted by the Supreme Court to encompass the Right to a Clean and Corruption-Free Governance, lending judicial gravity to anti-corruption efforts. The primary legal instruments include the Indian Penal Code (IPC) 1860, which deals with core offences like Cheating (Section 420), Forgery (Section 465 onwards), Criminal Breach of Trust (Section 405), and various conspiracy clauses. The most powerful tool against public sector corruption is the Prevention of Corruption Act (PCA) 1988[21], recently amended in 2018, which criminalises acts like obtaining undue advantage and criminal misconduct by public servants. For financial crimes, the Prevention of Money Laundering Act (PMLA) 2002[22] is crucial, granting the Directorate of Enforcement (ED) vast powers to attach and confiscate assets derived from scheduled offences, thereby dismantling the economic proceeds of crime. Corporate fraud and malfeasance are chiefly governed by the Companies Act, 2013 [23], which mandates stringent corporate governance norms and established the Serious Fraud Investigation Office (SFIO) to investigate major corporate frauds. Furthermore, sector-specific regulatory bodies enforce specialised laws, such as the Securities and Exchange Board of India (SEBI) Act[24] for market manipulation and the Income Tax Act for tax evasion. These provisions are enforced by specialised agencies: the Central Bureau of Investigation (CBI) handles high-profile corruption cases, the ED focuses on money laundering, and the SFIO targets corporate misconduct. Despite this comprehensive legal structure, the lengthy judicial process and challenges in proving criminal intent often hinder quick convictions, leading to calls for continuous legislative refinement.

2.5 Roots for Proliferation

The root sources of white-collar crime in India are multifaceted, stemming from a combination of socio-economic and institutional factors. One significant driver is the sheer speed and scale of economic liberalisation and globalisation, which created huge, unregulated markets that outpaced the institutional capacity to govern them effectively. This regulatory arbitrage allows sophisticated actors to exploit gaps between different laws or jurisdictions for personal gain. Deep-rooted socio-economic inequalities incentivise illegal shortcuts; when legitimate channels for wealth creation are perceived as slow or unavailable, ambitious individuals resort to illegal means to accumulate capital rapidly[5]. Institutional weaknesses, particularly weak governance structures and limited accountability within public sector undertakings and regulatory bodies, provide fertile ground for corruption. The pervasive nexus between certain business entities and political structures ensures that criminal activities are often protected from investigation or prosecution, undermining the rule of law [25]. A societal culture that often tolerates or even glorifies rapid, illicit wealth accumulation, prioritising status over ethical conduct, further normalises these offences. Moreover, the complexity of modern financial instruments and technologies allows these crimes to be committed with extreme sophistication, often leaving no traditional paper trail, making detection incredibly difficult. Low detection and prosecution rates, coupled with notoriously slow judicial processes, contribute to a low risk-reward calculus, effectively incentivising the continuation of white-collar offences. Finally, the inherent lack of transparency in campaign financing and lobbying often creates a shadow economy where favours, licenses, and contracts are exchanged outside the formal regulatory framework [26].

2.6 Effects and Influences

The effects of white-collar crime ripple through the entire national economy and social fabric, causing far-reaching damage that extends beyond immediate financial loss [27]. Economically, these crimes lead to massive losses to the public exchequer through tax evasion, fraudulent claims, and the mispricing of public assets, as famously illustrated by the presumptive loss figures in the 2G spectrum allocation[28]. These losses severely deplete funds available for public infrastructure and social welfare programs. They erode market stability and investor confidence; large corporate scandals, such as the Satyam accounting fraud or banking frauds, can trigger systemic crises, deter foreign direct investment (FDI), and cause significant capital flight [29]. Socially, the proliferation of corruption leads to a profound erosion of public trust in governmental institutions, financial systems, and democratic processes, fostering deep cynicism among the populace[30]. This trust deficit

destabilises social order and increases social inequality, as the illicit wealth accumulated by a few is effectively stolen from the legitimate economic opportunities of the many. Politically, corruption can destabilise governments, undermine the credibility of regulatory agencies, and allow criminal influence to dictate policy and legislative decisions, leading to resource misallocation that favours vested interests[31].

Internationally, high levels of unpunished white-collar crime severely damage India's global reputation, impacting its ease of doing business ranking and increasing the cost of capital for honest firms due to the perceived high-risk environment[32]. The psychological effect is equally damaging, as it creates a moral hazard where ethical business practices are discouraged, and compliance is viewed merely as a burdensome formality rather than an essential duty. Essentially, these offences compromise the nation's capacity for genuine, sustainable, and equitable economic development.

2.7 Robust Mechanism

To create a robust mechanism for tackling white-collar crime, India must implement reforms spanning technology, law, institutional capacity, and public ethics. Firstly, there must be a massive investment in Digital Forensics and Predictive Analytics, employing Artificial Intelligence (AI) and Machine Learning (ML) to monitor large datasets, detect anomalies, and flag suspicious transactions in real-time, moving from reactive investigation to proactive prevention. Secondly, Institutional Autonomy and Specialisation must be enhanced, ensuring agencies like the Enforcement Directorate (ED) and Serious Fraud Investigation Office (SFIO) have guaranteed budgetary and operational independence from political interference[33], supported by highly specialised training in complex financial products and digital asset tracing[34]. Thirdly, Judicial Reform is critical, requiring the establishment of dedicated Fast-Track Economic Offence Courts with fixed timelines for case disposal, ensuring justice is delivered promptly, and deterrence is maximised. Fourthly, implementing comprehensive Whistleblower Protection Laws is essential, offering complete anonymity and substantial rewards for reporting corporate and official misconduct, creating a powerful internal check on corruption[35]. Fifthly, there is a need for Regulatory Convergence and Simplification, integrating fragmented regulatory reporting requirements across SEBI, RBI, and MCA into a single transparent system, closing loopholes that facilitate regulatory arbitrage. Sixthly, the Prevention of Corruption Act (PCA) should be strengthened further to introduce asset freezing and seizure powers early in the investigation phase, mirroring the effectiveness of the Prevention of Money Laundering Act (PMLA) against the economic backbone of crime. Lastly, Public Sector Ethics and Corporate Governance must be mandated

through compulsory, regular ethics training for all public officials and board members, coupled with transparent, real-time public disclosure of all high-value contracts and financial transactions. This multi-pronged approach, rooted in technology and transparency, is necessary to dismantle the entrenched structures of white-collar crime.

3 CONCLUSION

This analysis of white-collar crime reveals that the challenge in India is systemic, having fundamentally shifted from exploiting the bureaucratic rigidities of the License Raj to abusing the complexities of a globalised, digital financial ecosystem. While India boasts a robust statutory framework, anchored by the Indian Penal Code, the Prevention of Corruption Act (PCA), and the Prevention of Money Laundering Act (PMLA), the mere existence of these laws has proven insufficient to deter high-level economic offences. Crucially, the Supreme Court has often acted as the primary bulwark against corruption, utilising landmark rulings, such as the *CPIL* (2G) and *Vineet Narain* judgments, to mandate systemic reforms, judicial oversight, and institutional independence.

The profound economic impact, characterised by staggering presumptive losses and erosion of investor confidence, is compounded by the ethical damage caused by a deep-seated political-business nexus and a societal tolerance for illicit wealth accumulation. Enforcement remains the weakest link, burdened by sluggish judicial processes and the high legal standard required to prove criminal intent or the "demand" for gratification, as highlighted in the *Nirmala Devi* case. This low risk-reward calculus for high-status criminals necessitates a strategic, comprehensive overhaul of the current mechanism.

The suggested robust mechanism requires immediate, massive investment in digital forensics and AI-driven predictive analytics to shift enforcement from reactive investigation to proactive detection. Furthermore, ensuring the complete institutional autonomy of specialised agencies, free from political interference, is essential to guarantee impartial investigation of the powerful. The establishment of dedicated Fast-Track Economic Offence Courts and the strengthening of whistleblower protection laws must work in tandem to accelerate justice and enhance transparency. Ultimately, combating white-collar crime is not just a legal fight but a struggle to restore faith in the system; only through technological sophistication, legal streamlining, and unwavering political will can India secure its market integrity and demonstrate that accountability transcends privilege.

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