

6. WHITE COLLAR CRIMES BY INDIAN COMPANIES IN SHADOW OF ECONOMY

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ABSTRACT

One field of research in which the unlawful components of capitalist dynamics have long become the dominant focal point, is the field of white-collar crime research. It is consistent with the common knowledge that there are certain professions which have opportunities for criminal acts and untrustworthy practices which is generally ignored by the general mass of the general public. There have been law breakers and deceptive people in business, different professions, who become corrupt in light of no explanation separated from the thirst of gaining more and more for themselves. These degenerates have least respect for moral and virtues. In this manner, they carry on their criminal operations without risk of punishment. These crimes are of the idea of white collar crimes which is the basic result of the advancement of the economy of the twenty-first century.

Key Words: *White collar crime, rime, economy, Companies*

I. INTRODUCTION

White collar crimes are to be considered as a worldwide phenomenon. The white collar crimes turned into a problem with advent of industrial revolution. Present day modern industrialist economy which got developed with time got unpredictable in nature as it built up a developing business nexus with insurance, banking, stocks and related corporate issues. This thus, offered

ascend to basic lawful complexities identifying with various lawful issues which paved way for another class of professionals of advocates who for the sake of giving equity began abusing legitimacy and along these lines sought after their own limited intrigue. An enormous number of consultants advanced, who began searching for the lawful escape clauses and packed primarily in assisting the rich business visionaries to become more extravagant.

They made broad examination to evaluate ways for most extreme tax avoidance for these rich corporate characters just as for themselves. The white collar crimes carried out by these legitimate specialists just limits in sifting through unlawful techniques for tax-evasion. There are exceptionally unscrupulous and unethical practices like that of fabricating false evidence, engaging professional witnesses, thereby violating ethical standards of legal profession and dilatory tactics in collusion with the ministerial staff of the courts.

The medical practitioners are regularly found engaged in one or more activities like with issuance of false certificates, carrying out illegal abortions, selling out sample drugs and medicine, adulterated medications and prescriptions to the patients. Nithari case depicts where the medical professionals set up before the general public the ideal degree of merciless character they can go after making money. Misdirecting and fake advertisement guaranteeing absolute cure is additionally one of the successive misbehavior being completed in the medical profession. Engineers also

commit white collar crimes. For example, instances of underhand dealing with contractors, suppliers, passing of sub-standard works and maintenance of bogus reports of the labor works. They monetarily gain more for their low grade works from the temporary workers, than they can win for the certified work. In this way, huge numbers of them, out of the eagerness of procuring to an ever increasing extent, play perilously with thousands of lives of the individuals.

The educational institutions do come in the alliance to work without risk of punishment. A nastier job is played by the private organizations that are least disturbed providing the education, yet just concentrate of making business at the expense of the youngsters future.

Indeed, even rackets work in these organizations for obtaining students to appear in the examinations on the basis of manipulation, in this way harming the standard of education in India. The significant job perpetrating to white collar crimes are played by the business tycoons and politicians, whose covetousness and needs multiply with

the more they get. Corporate criminals are associated with unlawful agreements, combination and conspiracies of trade restraints, unfair labor practices, selling of adulterated foods and drugs, bribing of public officials, etc. The Satyam Scam shows how an individual concealing himself in the veil of incorporation, enjoy duping crores of money.

II. SIGNIFICANCE OF THE STUDY

There are so many incidents of White Collar Crimes or scams which are very bad for the particular economy. Laws are there to regulate them but incidents of frauds are increasing day by day. These incidents should be restricted as these are detrimental for society. The study will help strengthen the administration by different provisions which will be discussed in detail. This study will suggest punishment for White Collar Crimes and corrupt government officials to prevent White Collar Crime. Following an inductive process, this research also proposes a set of suggestions. This research will be beneficial to officials who are concerned with the responsibility of

ensuring that all the rules and regulations are been followed efficiently. The research will enable to have a better understanding of why White Collar Crimes do exist. It will help the society by the suggestions which this research will depict. This research is also expected to be of benefit to researcher for future research and policy makers. Further there is also a need to educate the people about Indian laws and create such an environment in which they follow their duties rather avoid it and feel proud in discharging their duty.

III. SCOPE AND LIMITATION OF STUDY

The study is limited to White Collar Crimes by Companies in India through different regimes. The study focuses on the comparison between different regimes, and the advantages and disadvantages of the system in curbing the White Collar Crimes. In this regard, the researcher analyzed the impact of White Collar Crime on Indian economy and also analyzed the judicial approach in the past thirty years towards White Collar Crimes in India. The study also

includes the opinions of government officials, academicians, legal practitioners, law consultants, companies and general public, and about the comparative analysis of different regimes and the improvements required to the present system in curbing the menace. The study is limited to White Collar Crimes by Companies in India. The empirical study is limited to cities of Odisha.

IV. RESEARCH METHODOLOGY

This paper discusses doctrinal and non-doctrinal legal theory, the combination of methodologies, i.e., a blended strategy utilizing ideological, social, and lawful, can work for accomplishing a superior comprehension of the law. The topic has been extensively researched upon so as to accomplish the goal of completion of the current project report.. The method of writing followed in the course of this research project is primarily analytical and descriptive. Simple mathematical calculations are used as and where required.

The research methodology adopted for present study is:

Inputs from government officials, academicians, legal practitioners, law consultants, companies and general public.

Feedback and interaction with government officials, academicians, legal practitioners, law consultants, companies and general public.

DATA COLLECTION

Primary data as well as secondary data is used for the present study

Primary Data is collected through the Questionnaire, Observation, Interviews and feedback, from government officials, academicians, legal practitioners, law consultants, companies and general public, legislative instruments and other official documents.

Secondary Data is collected through previous records, data, articles, books, journals, online research database, newspaper articles.

V. CONCEPT:

White Collar Crime: The origins and evolution of a concept, Growth in India:

White Collar Crimes are the crimes perpetrated by an individual of high economic well-being and decency over the span of his occupation. It is a crime that is perpetrated by salaried expert specialists or people in business and that normally includes a type of money related burglary or misrepresentation. The expression "White Collar Crime" was characterized by humanist Edwin Sutherland in 1939. These crimes are peaceful crimes perpetrated by agents through beguiling exercises who can get to a lot of cash with the end goal of monetary benefit.

Criminal offenses are sorted under three expansive headings in Indian law – bailable and non-bailable offenses, cognizable and non-cognizable offenses, and compoundable and non-compoundable offenses. This differentiation radiates from the seriousness of the offense and the subsequent discipline. Schedule I of the Code of Criminal Procedure, 1973, (CrPC) explicitly records offenses which are bailable and non-bailable, cognizable and non-cognizable and compoundable and non-compoundable. For instance,

the forging of cash is both a non-bailable and a cognizable offense, while purposely resisting an isolate or check-in time rule is both bailable and non-cognizable.

VI. LAWS RELATING TO WHITE COLLAR CRIMES

The government of India has introduced various regulatory legislations, the breach of which will amount to white-collar criminality. Some of these legislations are Essential Commodities Act 1955, the Industrial (Development and Regulation) Act, 1951., The Import and Exports (Control) Act, 1947, the Foreign Exchange (Regulation) Act, 1974, Companies Act, 1956, Prevention of Money Laundering Act, 2002.

The Indian Penal Code contains provisions to check crimes such as Bank Fraud, Insurance fraud, credit card fraud etc. In case of money laundering several steps have been taken by the government of India to tackle this problem. The Reserve Bank of India has issued directions to be strictly followed by the banks under KYC (Know Your Customer) guidelines. The banks and financial institutions are required to

maintain the records of transactions for a period of ten years.

In order to tackle with computer-related crimes, Information Technology Act, 2000 has been enacted to provide legal recognition to the authentication of information exchanged in respect of commercial transactions.

Section 43 and 44 of Information Technology Act prescribes the penalty for the following offences:

- Unauthorized copying of an extract from any data.
- Unauthorized access and downloading files.
- Introduction of viruses or malicious programmes.
- Damage to computer system or computer network.
- Denial of access to an authorized person to a computer system.
- Providing assistance to any person to facilitate unauthorized access to a computer.

Though the focus of Information Technology Act is not on cybercrime as such, this Act has certain provisions that

deal with white collar crimes. Chapter XI deals with the offence of cyber-crime and chapter IX deals with penalties and adjudication of crime. Apart from this, many issues are unresolved due to lack of focus. Some of them are:

- Inapplicability
- Qualification for appointment as adjudicating officer not prescribed
- Definition of hacking
- No steps to curb internet piracy
- Lack of international cooperation
- Power of police to enter and search limited to public places
- Absence of guidelines for investigation of cyber crime

There are some measures to deal with white-collar crimes. Some of them are, creating public awareness of crimes through media or press and other audio-visual aids and legal literacy programmes. Special tribunals should be constituted with power to sentence the offenders for at least 5 years and conviction should result in heavy fines rather than arrest and detention of criminals. Unless the people will strongly detest such crimes,

it is not possible to control this growing menace.

VII. STUDY AND FINDINGS

Universe: Odisha

Population: government officials, academicians, legal practitioners, law consultants, companies and general public.

Sample size: 50

The following conversation proposes a portion of the inquiries certain in an abnormality and social control point of view. It guides consideration first to white-collar lawlessness itself, analyzing the structures and examples of infringement, their social "area," and the social attributes of guilty parties. Subjects key to a social control point of view, concerning cultural qualities and the development of non-relating to white collar offenses, the requirement of these standards, and the air and authorizing of illicit conduct, are additionally investigated. For each of these subjects, the requirement for depiction just as clarification is thought of.

The researcher has highlighted the below questions:

- i. It would be useful to have data by offense pertaining to questions such as: What kinds of illegality were involved?
- ii. When did the offense begin, and where was it located?
- iii. What was the duration of the offense?
- iv. How many offenders were there?
- v. What are the characteristics and social position of the offenders?
- vi. Are there enumerable victims, and how many?
- vii. What are the characteristics of the victims?
- viii. How were victims recruited?
- ix. Was there victim precipitation?
- x. Were the victims aware of their victimization?
- xi. What were the methods of the offense?
- xii. Was there a cover-up, and if so, what did it entail?
- xiii. What is an estimate of the amount of money involved in the violation or some other indicator of harm or impact?

xiv. Were there other violations associated with the offense -- i.e. Tax fraud, mail fraud, regulatory violations, etc.?

Few of the Types of White Collar Crimes as discussed by the respondents are: Bank Fraud, Blackmail, Bribery, Computer Fraud, Embezzlement, Extortion, Insider-Trading, Money-Laundering, Tax fraud, Security Frauds (Scams), Tax Evasion, Insider trading, Fraud against depositor's money, Land Scams, Benami transactions in relatives, friends and employees names, Chit Scam, Fraudulent activities in nexus (collusion) with Bureaucrats and Politicians, Exports and Imports Frauds, Money laundering, Counterfeit Currencies and stamps, Trademark Infringements, Spurious gold and bullion ornaments, Hawala Transactions, Insurance Frauds, Bank loan Frauds, Internet and e-mail frauds etc.

Factors Leading to Generation of Black Money that were cited were: Smuggling, Racketeering, Illicit liquor trade, Illegal mining, Forgery, Robbery, Human trafficking, Kidnapping, Trade of

narcotics, Sexual exploitation, Ban frauds, etc.

VIII. CONCLUSION AND SUGGESTION

The white collar crimes are regularly engineered and are completed in an arranged way by technocrats as scams, frauds and so on, which is encouraged by technological progressions. In these kinds of offenses not just the individual encounters with financial misfortune yet additionally, such offenses like peddling drugs and narcotic substances, counterfeiting of currency, financial scams are a portion of the crimes which summon genuine concern and effect on the national security and administration. Infringement of foreign exchange guidelines and import and export laws are frequently resorted to for tremendous benefits. In India 84% organizations reported that they experienced misrepresentation during the year. There are conflict of interest, internal financial fraud, corruption and bribery and vendor procurement related frauds have increased. In India businesses generally tend to defilement and bribery,

data burglary, internal financial fraud, financial mismanagement and vendor procurement. India to keep up its development intact needs to lessen misrepresentation and defilement in government and private sector. Due to these issues the multinationals companies are hesitant of investing in the country as financial crimes are clear indicators of the negative effect of malpractices that are been imbibed in the society.

Indian government must improve administration and make strict action against the guilty parties. The Government and private sector must consolidate together to reduce such malpractices. The victims of the white collar crime are consistently the whole society or indeed, even the whole Nation or State. Professional wrongdoing is tried to be recognized from the conventional wrongdoing on the request that it isn't as genuine in result as the last mentioned. It is not possible for anyone to deny that professional wrongdoing exacts an unsalvageable harm upon the social and monetary existence of a general public as a whole. The conversation in regards to

the physical outcomes of salaried wrongdoing will be inadequate without a reference to the infringement of criminal law in regards to the natural contamination and individual security of mechanical laborers. As indicated by press report, it has been evaluated that every year 200,000 to 50,000 specialists are unnecessarily presented to dangerous operators, for example, radioactive materials and toxic synthetic substances since companies neglect to obey safety laws. As much as 2.5 million temporary and 250,000 permanent workers experience mechanical mishaps every year as a consequence of administrative acts which fail to follow the principles laid down.

The industrialization, urbanization and new organized society in course of time end up being reproducing ground of numerous acts of malpractices and irregularities in whole modern, business and trade sector in the free nations. These are being committed in the facilitation of financial and vital interest of legitimate callings and comprised in proclaiming false or misdirecting advertisement inhuman

exploitation of employees, misbranding of merchandise, violation of standards, loads and measures, assembling and marketing substandard or adulterated food stuffs, prescriptions and evading customs, taxes, bribery and defilement. These acts of neglect, irregularities and wrongdoings are influencing the wealth, wellbeing and material welfare of the community as a whole and are to be checked with substantial measures.

The aim of this research is to give direction to future research on illegality with regards to financial markets by reviewing the literature on white-collar crime, a moderate and incredibly ignored field of research in the scholastic discipline of criminology. This research would bring out the causes and development of the idea of white collar crime. By explaining the motive of white collar crime and the area of conflict, this research is arranged at the intersection of law, society, and markets.

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