

Case Study On White Collar Crime

¹Harshit jain, ²Chandrashekhar Agrawal, ³Harsh Sharma, ⁴Anmol Joshi, ⁵Jayesh Surana
^{1,2,3,4}Students, ⁵Assistant Professor,
 IT Dept, SVITS Indore

Abstract: ‘White-collar crimes account for enough violations of law. By comparison, the instances of white collar crimes are more than the conventional type of crimes such as theft, burglary, and arson. The loss incurred through white-collar crimes is far higher than that of the conventional type. In the American Context, it has been estimated that losses from such crime may be as high as 200 billion dollars every year. In India also such type of crimes are increase.’ In this article we endeavored to address the intricacies involved in white-collar crimes. Our analysis of White-collar crime will differentiate between individuals who steal, defraud and cheat in and out of an occupational context and those who commit the variety of offences attributed to business corporations. We will also be analyzing the corporate crimes and corporate criminal liability and the discrepancies, which flow along with it.

Keywords: Corporate crime, Crime, White-collar crime

I-INTRODUCTION:

White Collar Crimes are the crimes committed by a person of high social status and respectability during the course of his occupation. It is a crime that is committed by salaried professional workers or persons in business and that usually involves a form of financial theft or fraud. The term “White Collar Crime” was defined by sociologist Edwin Sutherland in 1939. These crimes are non-violent crimes committed by business people through deceptive activities who are able to access large amounts of money for the purpose of financial gain.

White Collar Crimes are committed by people who are involved in otherwise, lawful businesses and covers a wide range of activities. The perpetrators hold respectable positions in the communities unless their crime is discovered. The laws relating to white-collar crimes depends upon the exact nature of the crime committed.

White Collar Crimes may be divided into Occupational Crime and Organizational Crime but in common parlance there exist 10 popular types of White Collar Crimes as:

1. **Bank Fraud-** To engage in an act or pattern of activity where the purpose is to defraud a bank of funds.
2. **Blackmail-** A demand for money under threat to do bodily harm, to injure property or to expose secrets.
3. **Bribery-** When money, goods, services or any information is offered with intent to influence the actions, opinions and decisions of the taker, constitutes bribery.
4. **Cellular Phone Fraud-** Unauthorized use or tampering or manipulating cellular phone services.
5. **Embezzlement-** When a person, who has been entrusted with the money or property, appropriates it for his or her own purpose.
6. **Counterfeiting-** Copies or imitates an item without having been authorized to do so.
7. **Forgery-** When a person passes false or worthless instruments such as cheque or counterfeit security with intent to defraud.
8. **Tax-Evasion-** Frequently used by the middle-class to have extra-unaccounted money.
9. **Adulteration-** Adulteration of foods and drugs.
10. **Professional crime-** Crimes committed by medical practitioners, lawyers in course of their Occupation.

These crime are committed by people of high status in society such as doctors, advocates, chartered accountants, governments officials and not by hardcore criminals for e.g. Thieves robbers, dacoits, murders, rapists, etc means of crimes differ from the traditional crimes as fraud, adulteration, malpractices, irregularities etc. These crimes are committed by means of deliberate and planned conspiracies without any feeling and sentiments. When socio-economic crimes are committed people tend to tolerate them because they themselves indulge in them and they themselves often identified with those who do so.

Causes of White-Collar Crime

The general perception is that the white collar crimes are committed because of greed or economic instability. But these crimes are also committed because of situational pressure or the inherent characteristic of getting more than others. However, there are various reasons for white collar crimes.

- Not really a crime: Some offenders convince themselves that the actions performed by them are not crimes as the acts involved does not resemble street crimes.
- Not realizable: Some people justify themselves in committing crimes as they feel that the government regulations do not understand the practical problems of competing in the free enterprise system.
- Lack of awareness: One of the main reason of white collar crime is the lack of awareness of people. The nature of the crime is different from the traditional crimes and people rarely understand it though they are the worst victims of crime.

- Greed: Greed is another motivation of the commission of crime. Some people think that others are also violating the laws and so it is not bad if they will do the same.
- Necessity: Necessity is another factor of committing crimes. People commit white collar crimes in order to satisfy their ego or support their family.

II-WHITE COLLAR CRIME IN INDIA

White collar criminality has become a global phenomenon with the advance of commerce and technology. Like any other country, India is equally in the grip of white collar criminality. The reason for enormous increase in white collar crime in recent decades is to be found in the fast developing economy and industrial growth of this developing country.

One of the major havoc that is created in present times is because of mysterious disappearance of corporations. Of the 5,651 companies listed on Bombay Stock exchange, 2750 have vanished. It means that one out of two companies that come to the stock exchange to raise crores of rupees from investors' loot and run away. Even big names like 'Home Trade' came up with huge publicity stunts but after raising money, vanished into the thin air. About 11 million investors have invested Rs. 10,000 crore in these 2750 companies. We have Securities Exchange Board of India, Reserve Bank of India and Department of Companies Affairs to monitor the stock exchange transactions but none has documented the whereabouts of these 2750 odd companies suspended from the stock exchange.

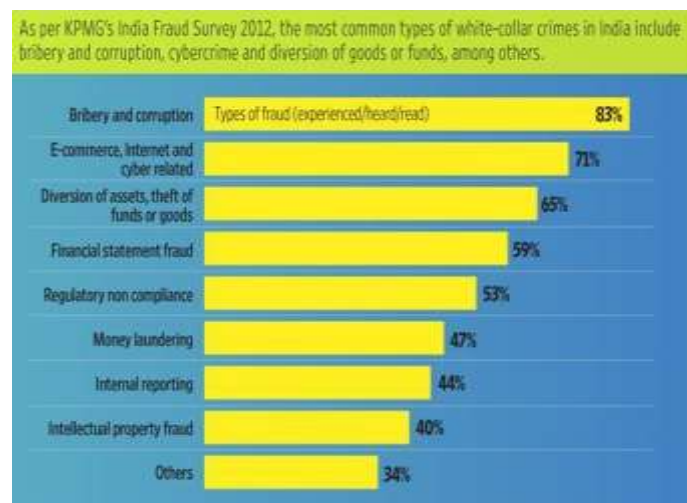


Fig 1 : White-caller crime survey in india

White-collar crime in corporate India has witnessed a “substantial increase” over the last two years partly because the economic slump puts pressure on employees to meet targets, according to KPMG’s India Fraud Survey, 2012.

The infringements are of various kinds, with bribery and corruption making up 83% of cases. A large part of the frauds also relate to cyber crime (71%) and diversion of assets (65%). The sectors most affected are financial services (33%) and information and entertainment (17%), according to the survey.

White Caller crime in hoarding, black marketing and adulteration

The white collar crimes which are common to Indian trade, and business world are hoarding, profiteering and black marketing. Violation of foreign exchange regulations and import and export laws are frequently resorted to for the sake of huge profits. That apart, adulteration of foodstuffs, edibles and drugs which causes irreparable danger to public health is yet another white collar crime common in India . The Law Commission of India has suggested drastic measures against such offenders. In the Commission’s observation the tedious prosecution process involved in the trial of such cases frustrates the cause of justice and often results into unjustified acquittal due to defective report of the analyst or delay in examination of samples or lack of legal expertise etc .

White Caller crime in business deals

White collar crimes are also rampant in business world. There have always been instances of violation of trust. Sutherland made a careful study of a number of large. corporations and business houses in United States and found that they were involved in illegal contracts, combinations or conspiracies in restraint of trade, misrepresentation in advertising, infringements against copyrights and trade marks, unfair labour practices, bribing public officials and so on. The public hardly knows the trickery of business criminals as they treat, it as not too important for their purpose.

Bribery is an offence under the Prevention of Corruption Act, 1988 and both, bribe taker as well as the bribe giver are equally punishable, but commercial agents and public officials indulge in illegal gratification for their personal gain and the legal restraints provided for the purpose are hardly adequate to cure this menace.

White collar crimes also operate in insurance business where both the insuree as well as insurer earn considerable profit by making false and fabricated claims.

Computer related White Collar crimes

The latest developments in information technology and electronic media especially during 1990's have given rise to a new variety of computer related white collar crime which is commonly called cyber crimes. The widespread growth of these crimes has become a matter of global concern and a challenge for the law enforcement agencies in the new millennium. Because of the peculiar nature of these crimes, they can be committed anonymously and far away from the victim; without being physically present there.

Presently, viruses are the most common problems which are causing serious damage to computer systems. Most viruses just replicate themselves, but many also cause damage. Some others computer related white collar crimes are-Phreaking, Internet frauds, Stalking, Money laundering, Data diddling.

White Collar in Engineering

Speaking of the engineers' role in having their role to play in white collar crimes, we often find instances of underhand dealing with contractors, suppliers, passing of sub-standard works and maintenance of bogus reports of the labour works. They financially earn more for their low grade works from the contractors, than they can earn for the genuine work. Therefore, many of them, out of the greed of earning more and more, play dangerously with thousands of lives of the individuals.

White Collar in Education

The matter comes to the white collar crimes educational institutions do come in the league to operate with impunity. A nastier role is played by the private institutions that are least bothered in providing the education, but only concentrate of making business at the cost of the children's future. Even rackets operate in these institutions for procuring students to appear in the examinations on the basis of manipulated eligibility certificates, thereby damaging the standard of education in India. When it comes to the Governmental institutions, the teachers and staffs of the institutions are often found to be involved in unscrupulous practices, since they can hardly make fortune from the inadequate salary they receive from the government. Teachers often drag the students for taking private tuitions and even go to the extent of blackmailing them of ruining their future, if they deny doing so.

III-REALIST OF WHITE CALLER CRIME

Boston business Charles Ponzi discovered a way to make money by buying and selling postal reply coupons. Postal reply coupons allowed for someone in one country to write a letter to someone in another country with a coupon enclosed which would pay for postage for a reply. Ponzi learned that postal reply coupons were very cheap in Italy, but very expensive in America. Once he recognized the discrepancy in prices, Ponzi asked his Italian relatives to buy large amounts of postal reply coupons and send them to him in America.

Ponzi realized large profits in selling postal reply coupons in America. Soon, he convinced investors to give him money to purchase coupons to be sold in America. But instead of paying investors with profits, Ponzi paid investors with money belonging to other investors. This fraudulent practice gave the impression of a highly successful business. Ponzi's scheme began to unravel in 1920. Despite living extravagantly, Ponzi was in debt.

IV- LAWS RELATING TO WHITE COLLAR CRIMES IN INDIA

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:

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

V-DISCUSSION AND CONCLUSION

It is clear that due to advancement of science and technology newer form of criminality known as white-collar crime has arisen. The term "white-collar crime" has not been defined in the code. But the dimensions of white-collar crime are so wide that after analysing the provisions of Indian Penal Code 1860, we may conclude that certain offence under Indian Penal Code is closely linked with white collar crimes such as bribery, corruption and adulteration of food, forgery etc. The provisions of Indian Penal Code dealing with white-collar crimes should be amended to enhance punishment particularly fine in tune with changed socio-economic conditions. The special Acts dealing with white collar crimes and the provisions of Indian Penal Code should be harmoniously interpreted to control the problem of white-collar crimes.

India to maintain its growth story needs to reduce fraud and corruption in government and private sector. As previously mentioned corruption and fraud stop multinationals from investing in the country. The decrease in foreign direct investment in 2011 and the international financial institutions outflow of funds from stock markets are clear indicators of the negative impact of fraud and corruption.

Therefore, Indian government must improve governance and take strict action against the offenders. Comptroller Auditor General is showing the way forward, the need of the hour is for political parties to have the spirit to clean up the mess. The private sector must implement fraud prevention measures and focus on ethics to reduce frauds. Both sectors have to collaborate to minimize fraud risks in India.

VI-REFERENCES

1. International Journal of Social Science & Interdisciplinary Research White Collar Crime In India Vol1. Issue 9,September 2012,ISSN 22773630 by- G. Nagarajan, Dr. J. Khaja Sheriff
2. International Journal of Research In Humanities and Social Sciences White Collar Crime In India Vol2. Issue:2 February 2014, ISSN :(P)2347-5404 ISSN :(O)2320-771X by- Dr. Minal H. Upadhyay
3. White Collar and Corporation Crime: A Documentary and Reference Guide by- Gilbert Gels Greenword, 2011

