



White Collar Crime and Its Changing Dimensions in India

SALKESH KORI

1. Meaning of White Collar Crime

This notion was laid down for the first time in the field of criminology by Prof. Edwin Sutherland in 1941. He defined white collar crime as “crime committed by persons of respectability and high social status in course of their occupation”. Examples of it include fraudulent advertisements, infringement of patents, publication of falsified balance sheet of business, passing of goods, concealment of defects in the commodity for sale etc. These white collar crimes by nature are such that the injury or the damage caused as a consequence of them is so widely diffused in the large body of citizens that their enormity as regards personage victim is almost trifling. Hartung defines a white-collar offense as a violation of law regulating business, which is committed for a firm by the firm or its agents in the conduct of its business.”

2. Types of White Collar Crime In India

- 2.1 Bank Fraud:** To engage in an act or pattern of activity where the purpose is to defraud a bank of funds.
- 2.2 Blackmail:** A demand for money or other consideration under threat to do bodily harm, to injure property, to accuse of a crime, or to expose secrets.
- 2.3 Bribery:** When money, goods, services, information or anything else of value is offered with intent to influence the actions, opinions, or decisions of the taker. You may be charged with bribery whether you offer the bribe or accept it.
- 2.4 Cellular Phone Fraud:** The unauthorized use, tampering, or manipulation of a cellular phone or service. This can be accomplished by either use of a stolen phone, or where an actor signs up for service under false identification or where the actor clones a valid electronic serial number (ESN) by using an ESN reader and reprograms another cellular phone with a valid ESN number.
- 2.5 Computer fraud:** Where computer hackers steal information sources contained on computers such as: bank information, credit cards, and proprietary information.
- 2.6 Counterfeiting:** Occurs when someone copies or imitates an item without having been authorized to do so and passes the copy off for the genuine or original item. Counterfeiting is most often associated with money however can also be associated with designer clothing, handbags and watches.
- 2.7 Credit Card Fraud:** The unauthorized use of a credit card to obtain goods of value.
- 2.8 Currency Schemes:** The practice of speculating on the future value of currencies.
- 2.9 Educational Institutions:** Yet another field where collar criminals operate with impunity are the privately run educational institutions in this country. The governing bodies of those institutions manage to secure large sums by way of government grants of financial aid by submitting fictitious and fake details about their institutions. The teachers and other staff working in these institutions receive a meager salary far less than what they actually sign for, thus allowing a big margin for the management to grab huge amount in this illegal manner.
- 2.10 Embezzlement:** When a person who has been entrusted with money or property appropriates it for his or her own use and benefit.
- 2.11 Environmental Schemes:** The overbilling and fraudulent practices exercised by corporations which purport to clean up the environment.
- 2.12 Extortion:** Occurs when one person illegally obtains property from another by actual or threatened force, fear, or violence, or under cover of official right.
- 2.13 Engineering:** In the engineering profession underhand dealing with contractors and suppliers, passing of sub-standard works and materials and maintenance of bogus records of work-charged labour are some of the common examples of white collar crime. Scandals of this kind are reported in newspapers and magazines almost every day in our country.
- 2.14 Fake Employment Placement Rackets:** A number of cheating cases are reported in various parts of the country by the so called manpower consultancies and employment placement agencies which deceive the

youth with false promises of providing them white collar jobs on payment of huge amount ranging from 50 thousands to two lakhs of rupees.

- 2.15 Forgery:** When a person passes a false or worthless instrument such as a check or counterfeit security with the intent to defraud or injure the recipient.
- 2.16 Health Care Fraud:** Where an unlicensed health care provider provides services under the guise of being licensed and obtains monetary benefit for the service.

The white collar crimes which are common to Indian trade and business world are hoardings, 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.

- 2.17 Insider Trading:** When a person uses inside, confidential, or advance information to trade in shares of publicly held corporations.
- 2.18 Insurance Fraud:** To engage in an act or pattern of activity wherein one obtains proceeds from an insurance company through deception.
- 2.19 Investment Schemes:** Where an unsuspecting victim is contacted by the actor who promises to provide a large return on a small investment.
- 2.20 Kickback:** Occurs when a person who sells an item pays back a portion of the purchase price to the buyer.
- 2.21 Larceny/Theft:** When a person wrongfully takes another person's money or property with the intent to appropriate, convert or steal it.
- 2.22 Legal Profession:** The instances of fabricating false evidence, engaging professional witness, violating ethical standards of legal profession and dilatory tactics in collusion with the ministerial staff of the courts are some of the common practices which are, truly speaking, the white collar crimes quite often practiced by the legal practitioners.
- 2.23 Money Laundering:** The investment or transfer of money from racketeering, drug transactions or other embezzlement schemes so that it appears that its original source either cannot be traced or is legitimate.
- 2.24 Medical profession:** White collar crimes which are commonly committed by persons belonging to medical profession include issuance of false medical certificates, helping illegal abortions, secret service to dacoits by giving expert opinion leading to their acquittal and selling sample-drug and medicines to patients or chemists in India
- 2.25 Racketeering:** The operation of an illegal business for personal profit.
- 2.26 Securities Fraud:** The act of artificially inflating the price of stocks by brokers so that buyers can purchase a stock on the rise.
- 2.27 Tax Evasion:** When a person commits fraud in filing or paying taxes. The complexity of tax laws in India has provided sufficient scope for the tax-payers to evade taxes. The evasion is more common with influential categories of persons such as traders, businessmen, lawyers, doctors, engineers, contractors etc. The main difficulty posed before the Income Tax Department is to know the real and exact income of these Professionals. It is often alleged that the actual tax paid by these persons is only a fraction of their income and rest of the money goes into circulation as 'black money'.
- 2.28 Telemarketing Fraud:** Actors operate out of boiler rooms and place telephone calls to residences and corporations where the actor requests a donation to an alleged charitable organization or where the actor requests money up front or a credit card number up front, and does not use the donation for the stated purpose.
- 2.29 Welfare Fraud:** To engage in an act or acts where the purpose is to obtain benefits (i.e. Public Assistance, Food Stamps, or Medicaid) from the State or Federal Government.
- 2.30 Weights and Measures:** The act of placing an item for sale at one price yet charging a higher price at the time of sale or short weighing an item when the label reflects a higher weight.

3. 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 recent developments in information technology, particularly during the closing years of the twentieth century, have added new dimensions to white collar criminality. There has been unprecedented growth of a new variety of computer dominated white collar crimes which are commonly called as cyber crimes. These crimes have become a matter of global concern and a challenge for the law enforcement agencies in the new millennium. Because of the specific nature of these crimes, they can be committed anonymously and far away from the victims without

physical presence. Further, cyber-criminals have a major advantage: they can use computer technology to inflict damage without the risk of being apprehended or caught. It has been predicted that there would be simultaneous increase in cyber crimes with the increase in new internet web sites. The areas affected by cyber crimes are banking and financial institutions, energy and telecommunication services, transportation, business, industries etc. in India

4. Reasons for Growth of White Collar Crimes in India

1. White collar crimes are committed out of greed. The people who usually commit these crimes are financially secure.
2. Financial or physical duress.
3. White collar crimes are estimated to cost society many times more than crimes such as robbery and burglary. The amount of death caused by corporate mishap, such as inadequate pharmaceutical testing, far outnumbers those caused by murder.
4. The emergence of cutting edge technology, growing businesses, and political pressures has opened up new avenues for these criminal organizations to prosper.
5. This increase is due to a booming economy and technological advancement such as the Internet and fast money transfer systems. Law enforcement is sometimes reluctant to pursue these cases because they are so hard to track and investigate.
6. It is very difficult to detect as white collar crimes always committed in privacy of an office or home and usually there is no eyewitness.
7. But naturally a question arises that if we have specific legislations to trace out White Collar Criminality then why these offenders go unpunished. Main reasons for which these white Collar criminals or occupational criminals go unpunished are
 - a. Legislators and the law implementers belong to the same group or class to which these occupational criminals belong;
 - b. Less police effort;
 - c. Favorable laws;
 - d. Less impact on individuals.

The judiciary is equally, if not more, guilty of delaying justice. With white-collar crimes on the rise, it is necessary for the judiciary and police to distinguish between white-collar crimes, petty crimes and acts of homicide and violence. Sending everyone to the same jail is also unfair. India needs different detention centers for different kinds of criminal misconduct. At this present juncture what we need is the strengthening of our enforcement agencies such as Central Bureau of Investigation, the Enforcement Directorate, The Directorate of Revenue Intelligence, The Income-tax Department and the Customs Department. Concentration and distribution of national wealth must be done in a proper manner. Speedy trial should be arranged by appointing more Judges. Central Vigilance Commission must keep a constant vigil on the workings of the top ranking officers. General public must not avoid being engaged themselves in the prosecution of the White-collar criminals as the offence in general is directed towards them. Lastly if they are traced and proved guilty then Deterrent Theory of punishment is an option one.

5. Conclusion

In my concluding words I would like to say that if everyone at a particular business or company would keep an eye out for anything suspicious that alone would detour potential thieves. The real solution to this problem is going to have to come from the people who are being affected by it. They are the most likely to stop it. They cannot let anyone take advantage of them anymore. Most do not give white collar crimes much thought because they are only things that they read about in newspapers and hear on the news. If these crimes continue to grow at the present rate, they will be out of control before we know it.