

UNRAVELLING THE THREADS OF WHITE-COLLAR CRIME IN INDIA

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ABSTRACT

White collar crimes have its origin from large and complicate organization. These offences often originate from the brain of Individuals having sophisticated knowledge and understanding of various disciplines but not limited to that of commerce and management. The rise in technology and education coupled with economic growth has led to an increase in white-collar crime, which is supported covertly by the government and protected by professionals who take advantage of legal loopholes. The saddened attitude of the government coupled with hand in glove relationship between authorities and the wrongdoer results in turning of small offenders to big corporate frauds. The white-collar crime is rapidly engulfing the economy and its encroachment can be seen and felt in every sphere of the Indian society.

This research paper is an attempt to undertake an in-depth examination of corporate deception, encompassing its historical context, contemporary manifestations, and the far-reaching socio-economic implications it engenders. By adopting a comprehensive and multidisciplinary approach, the research delves into the intricate web of factors that contribute to this burning issue.

KEYWORDS: *White Collar Crimes, Corporate Deception, Frauds, Economy.*

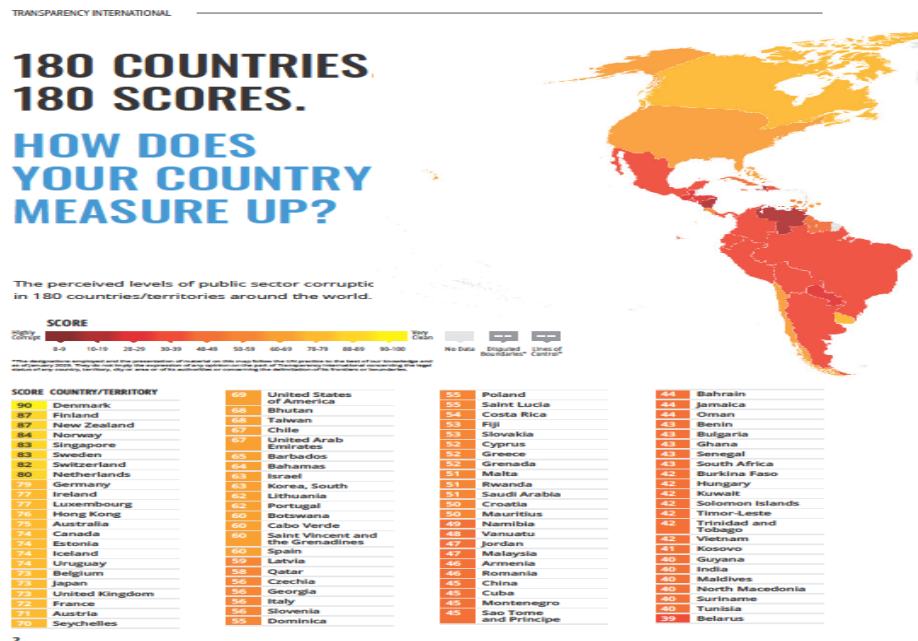
INTRODUCTION

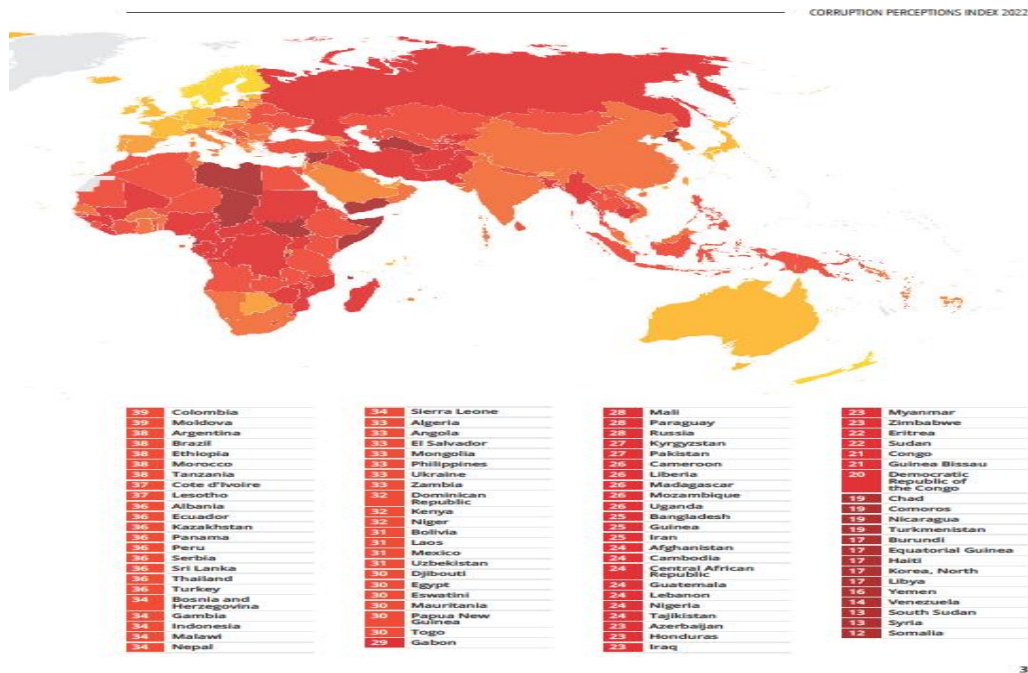
Edwin Hardin Sutherland, A prominent criminologist and sociologist of 20th century from America was the first to describe the term “white collar crime”. He described white collar crime as “crimes committed by people who enjoy high social status, great reputation, and respectability in their profession.” Before Edwin Sutherland came up with the concept of “white collar crime” and popularized it, the common assumption was that the members of the top strata of the society

were largely incapable of engaging in such illegal activity. This idea was so deeply rooted in the society that When Sutherland first published a book about it, some of America's largest corporations were successful in their efforts to have the publication largely suppressed.

White collar crime has become a global phenomenon as trade and technology have advanced. White-collar crime is rampant in India, as it is in every other country. White collar crime has increased dramatically in recent decades due to the developing world's rapidly growing economy and industrial growth.

According to a report by the Indian Express on January 25, 2022, titled "India ranks 85 among 180 countries in Global Corruption Index; the case of India is particularly worrying, says Watchdog,"¹. The Transparency International's Corruption Perceptions Index (CPI), 2021 in its survey has placed India at the 85th place among 180 countries, while in its previous year the ranking was 86th. This is concerning for a developing nation like India, where white-collar crime along with other factors like poverty and health is hindering its progress and economic growth. India's. The government must act immediately to stop these crimes, not only by enacting strict laws but also by making sure they are carried out correctly.





Historical origin of white-Collar Crime: -

The one of the first documented case of white-collar crime owes its origin in England way back in 15th century. Carrier's Case (Anonymous v. The Sheriff of London, The Case of Carrier Who Broke Bulk) (1473) was a landmark English court case.² In this case the agent was entrusted with the task of transporting bales of woad (a type of dye) and He opened the bales and took the goods for himself. The matter was referred to the English Court of Law. The English Court adopted the doctrine of 'breaking the bulk' as it has the ingredients of establishing the crime of larceny. He was arrested but could not be convicted for the crime of larceny because he had rightful possession of the bales as it was given to him by Flemish merchant. This resulted in the evolution of the offence of embezzlement.

White collar crime did not get much focus until the inception of globalization. However, with the emergence of modern capitalism, crime has reached new heights. In order to gain more, bourgeois organisations perpetrate such acts out of greed and misery. The Sherman Antitrust Act of 1890 made monopolistic practices unlawful in the United States. Economic crime penalties in the United Kingdom, as well as competition and antitrust laws in other nations, have not been as thorough as the Sherman Act.

White collar crime has evolved in terms of scope since its inception. A modern definition of white-collar crime is given by Federal Bureau of Investigation, USA in the following words:

“Illegal acts characterised by deceit, concealment or violation of trust, which are not dependent upon the application of threat or physical force or violence.”³

White Collar Crime in Indian scenario: -

Pre Independence-Era: - In India's pre-independence era, white collar crime as we understand them today may not have been as clearly defined or documented. However, certain forms of

economic exploitation, corruption, and financial wrongdoing existed. Some aspects related to pre-independence economic crimes are listed below: -

1. Economic Exploitation by the British crown and other colonial Powers: -The British crown controlled the majority of the economic activity in India during this period. Colonial regimes engaged in economic exploitation, depriving countries of resources and wealth. This did not apply to traditional white-collar crime, but was a form of economic exploitation and financial misconduct.
2. Land Revenue System: - The British introduced a land revenue system, which often led to exploitative practices. Zamindars (landlords) and tax collectors were known to be corrupt and exploit farmers and tenants for their own benefit.
3. Administrative corruption: - Corruption and financial irregularities were not uncommon in administrative structures under British rule. Bureaucrats and officials sometimes engaged in embezzlement, bribery, and other forms of corruption.
4. Economic difference: -The economic policies of the colonial rulers contributed to significant economic inequality in India. This socio-economic disparity created an environment in which certain strata of society had disproportionate economic power and could engage in exploitative practices.
5. Contract labour and exploitation: - The British colonial system employed indentured labourers for a variety of economic activities, and the conditions under which these workers worked were often exploitative. Although these acts were not only financial in nature, they were a form of exploitation.
6. Financial Schemes and Frauds: -Some cases occurred when the British East India Company and other colonial establishments involved in some financial tricks that were not transparent always. Occasionally, such schemes resulted into financial losses to investors just like in various fraudulent activities.

It is worth noting that the concept of white-collar crime as a distinct category with specific legal implications was not fully developed during this era. Often, historical records and documentation would often concentrate more on political and economic exploitation than specific white-collar crimes.

WHITE COLLAR CRIME IN INDIA Post-Independence (1947-1991): -

India after independence was characterized by transition to a new way of life for its inhabitants. This also saw social and economic gains, which resulted in the mushrooming of white-collar crime in various forms. Here are some key features of white-collar criminality during this period:

1. License Raj and Corruption: - During the period that followed independence, India implemented the License Raj system which issued permits and regulations to control economic as well as industrial activities. This system, in place for planned economy purposes, also encouraged corruption since individuals resorted to illegal ways of getting licences and permits.
2. Corruption in Public Sector Undertakings (PSUs): - With the establishment and growth of Public Sector undertakings PSUs, corruption and financial mismanagement witnessed a

sudden spike. The functioning of these state-owned enterprises was often plagued by corruption and nepotism.

3. **Banking Frauds and Financial Irregularities:** -During this time there was an increase, in incidents of banking fraud, loan defaults and financial irregularities. Certain individuals and businesses exploited the system resulting in banks and investors suffering losses.
4. **Technology and Cyber Crimes:** - During the part of this era the rise, in technology usage for transactions resulted in the occurrence of cybercrimes such, as financial frauds and data breaches.

Various committees have been set up to study the scope and scale of economic crimes in India. It begins with Santhanam Committee⁴, which was formed in 1962. The commission exposed the reality of economic crime prevalent in this country. The reasons as recommended by the commission for the prevalence of white-collar crime were the government's incomplete regulatory measures and the government's authorities' discretion in exercising its powers coupled with uncontrolled technological progress that contributed to the creation of monopolies. It also addressed the threat of corruption through transparency in the workplace, controlling technological progress in favour of common and appropriate oversight, incorporating morality, creating a conducive work environment, and introducing integrity agreements to curb corrupt practices. A commission of enquiry was constituted in 1963 to enquire into the administration of Dalmia Jain companies.⁵ Subsequently in 1964 the commission on Prevention of Corruption was constituted, which suggested for constitution of Central Vigilance commission to look after the matters related to corruption⁶. To cater to the problem of Black money The Wanchoo committee⁷ was established. The Wanchoo Committee in its report of 1972 submitted a shockingly horrifying quantum of Black money amounting to Rs. 700 Crores. The report also mentioned that marginal rates of taxation as high as 97.75% was the main reason for evasion of Taxes. While identifying the prominent reasons of black money regeneration besides political financing, it included the reasons like rapid decline of societal standards, moral degradation and unprecedented increase in corruption. The Committee came up with certain recommendations which included reduction of marginal Taxation rates, reintroduction of expenditure taxation, uniformity in spreading fiscal resources, introduction of income tax collection system for agricultural income. And Introducing penalties for concealment or withholding of such income.

WHITE COLLAR CRIME IN INDIA After 1991: -

The period after 1991 saw a turbulent global market condition, wherein the world economy at large was at the risk of global economic depression. To immunize itself with the effects of global economic depression, India opened its economy for the external world thereby adopting the famous LPG i.e liberalization, Privatization, and Globalization policy. For the first time the international community started recognizing india as one of the biggest potential consumer markets. The outside investors were interested in the Indian market and the foreign investment increased manifold during this era. However, The post 1991 era also witnessed some of the biggest and high profile scandals and corporate fraud cases.

1. **Harshad Mehta Scam (1992):** - The Harshad Mehta scam of 1992 stands out as a famous case of white collar crime. Harshad Mehta, was a famous businessman and stockbroker in Bombay. Mehta had gained popularity within Mumbai's trading community for his alleged manipulation of stock prices resulting in a surge. It is believed that Mehta managed to amass

Rs 5,000 crore through his activities. Later his misdeeds were uncovered by a renowned financial journalist Sucheta Dalal. Mehta's actions exploited existing flaws in the system and led to Panic selling in the share market. After the fraud came to light, SEBI specifically amended its market laws and regulations.

- 2. Ketan Parekh Stock Market Scam (2001):** -Ketan Parekh, a former stockbroker and a chartered accountant from Mumbai, was convicted in 2008 for his role in manipulation scam of the Indian stock exchange that ran from late 1998 to 2001.⁸

During this period, Parekh artificially manipulated the prices of certain selected securities and borrowed large sums of money from banks such as Madhavpura Commercial Cooperative Bank, where he held position of director.

After a thorough investigations by the Securities and Exchange Board of India, Parekh and his front companies were found guilty of manipulating the stock prices of 10 companies, known as K-10, and SEBI banned Parekh and related companies from trading in the market for 14 years.⁹

- 3. Satyam Scandal (2009):** -The Satyam scandal is one of the biggest accounting frauds in our country, and it was unearthed in the most spectacular way.

In a interview given to Times of India in 2009, B. RamalingamRaju of Satyam Computers admitted that he had forged his own books.

According to Lego Desk, the severe recession of 2009 was made worse by a fraud of Rs 14,000 crore. Raju and his associates were booked by SEBI for being responsible for financial fraud, insider trading and other major financial schemes.

According to a Lego Desk report, SEBI has banned the culprits from accessing the securities market for 14 years and ordered them to pay Rs 3,000 crore within 45 days.

- 4. Coal Allocation Scam (2012):** -The scam, commonly known as "Coalgate," involved fraud regarding the allocation of coal blocks to private companies. The Comptroller and Auditor General (CAG) estimated that the government suffered a loss of about Rs 1.86 trillion due to the improper allocation of coal blocks.

- 5. Saradha Chit Fund Scam (2013):** - This Scam was responsible for suicide of hundreds of people of lower income strata. This scam is also termed as "Ponzi Fraud." A chit fund in Bengal known as Sardha Chit fund was run by program's mastermind, Sudipto Sen. It lured the innocent rural investors promising extra ordinary returns. The organization was able to raise fund as high as 300 billion rupees and almost a million investors. SudiptoSen also managed to enter the television industry by funding news programs, movies and local sports. He also gained a strong grip over the politics by funding politicians and managed to silent the complaints of the investors. Sarada took the initiative to create over 200 companies in order to divert the attention of SBI from their investigation.

Mr. Sen and his associates faced actions, including a restriction from participating in securities markets by SEBI until they had repaid all refunds owed. Following Sens admission of guilt, to the CBI he resigned from the company, leading companies to file FIRs against him.

CM Mamata Banerjee set up \$70 million relief fund for distressed low-income depositors, and an ongoing probe was initiated by SIT.

6. **National Stock Exchange (NSE) Co-location Scam (2015):** -Allegations of unfair access and preferential treatment were leveled against some brokers and employees of NSE. In this fraud case, certain brokers gained an advantage due to their rapid access to market data.⁹
7. **Vijay Mallya - Kingfisher Airlines Case (2016):** - Vijay Mallyatook over his father business at the age of 28. Very soon his business was a hit and he began investing in airlines and liquor sector. His airline company, Kingfisher soon was ranked no. 1, and was passenger favorite.Kingfisher Airlines faced financial difficulties due to operational issues, high debt amounting to 9000 crores and failure to raise additional funding. Mallayaowed money at 17 banks in India and was charged with money laundering and fraud. The once world-famous airline fell into a debt trap, and by the time it took action to prevent bankruptcy, it was too late.All international and domestic flights were canceled, the stock price plummeted, and the airline posted a loss of Rs 7 billion in 2012.

Meanwhile, employees have gone on strike as they have not been paid their salaries since 2008.This airline ceased operations 2012 year.Mallyaflee the country on March 2, 2016 to seek asylum in the UK.

8. **Sukesh Chandrasekhar Fraud:** - Sukesh Chandrasekhar, a dropout, is known for his involvement in high-profile cases such as financial fraud, identity theft, and extortion. He is suspected of extorting money from businessmen by impersonating influential people such as politicians and celebrities. He is also well known for his involvement in attempting to bribe election commission officials to use the "Two Leaves" symbol for a political faction led by T.T.V. Dhinakaran.Sukesh and Dhinakaran were initially arrested by the Delhi Police Crime Branch in 2017 in connection with the Election Commission bribery case.Sukesh is said to have defrauded many unsuspecting people of at least Rs 200 million while in jail.
9. **Punjab and Maharashtra Co-operative (PMC) Bank Fraud (2019):** Punjab & Maharashtra Cooperative Bank is a commercial bank with headquarters in six states of the country.It was established on February 13, 1984 and has since then grown into a network of 137 branches in six states with a total deposit of approximately 11,617.34 crores.¹⁰ The higher management of bankwas found to have transferred 70% of the net credit facilities of the PMC bank to HDIL and its associated companies.In an effort to conceal 44 loan accounts around 21049 bogus accounts were opened, even tampering the Bank's software to conceal these loan accounts.

This bank fraud case was brought to light by a group of women employees in PMC Bank's credit department, who also informed RBI about the existence of ghost Accounts.

When the scandal uncovered, customers of PMC Bank attempted towithdrawtheir deposited money but were refused, with the bank setting withdrawal limits.

Laws Related to White Collar Crime in India: -

The Indian legislature has tried to answer the questions and threats posed by the unprecedented rise of white-collar crime in India. Several laws have been enacted imposing liability on the wrongdoer ranging from monetary penalties to even imprisonment.

Some of these laws are: -

1. The Indian Penal Code, 1860

2. Drugs and Customs Act, 1940
3. Central Excise and Salt Act, 1944
4. Emblems and Names (Prevention of improper use) Act, 1950
5. Foreign Corrupt practice Act, Foreign exchange regulation, forward contracts (regulation act,1952)
6. Immoral Traffic (prevention) Act, 1956
7. Income Tax Act 1961
8. The Prevention of Corruption Act,1988
9. The Foreign Exchange Management Act,1999
10. The Prevention of Money Laundering Act,2002
11. The Food Safety and Standards Act, 2006
12. The Companies Act,2013

White-collar crime in various professions: -

A). In the field of Medical & Health

White collar crime in India has made a niche in almost every field. Professionals engaged in noble field of medicals are also found involved in illegal and immoral activities involving false certifications, illegal abortions, organ purchase and sale etc. The Nithari case is an example which exposed the nation with the brutal face of medical professionals. Misleading and false advertisement claiming 100% cure is also example of such malpractices.

B). In corporate world: -

The corporate world has seen the greatest number of White-collar crime then any other sector. The investigation of these crimes more often than not comes up with the hand in glove relationship with politics.

C). In Academics &Education: -

Donations from students for getting admissions, Misrepresentation for obtaining financial aid from governments under various schemes are the most common form of White-collar crime in education sector.

D). In the legal profession: -

The legal profession has been plagued with the instances of Creating false documents, threats to opposing witness and compromise with ethical rules for making easy money.

Analysis to the causes of White-Collar crime in India: -The causes of economic crime in India are complex and multi-layered. They are often caused by a combination of individual, organizational, and systemic factors. Below is an analysis of some of the main causes:

1. Wide spread Corruption and Bribery
2. Economic Inequality
3. Lack of Ethical Culture.

4. Cut throat Competition
5. Weak Regulatory Framework
6. Greed
7. Easy Access to sensitive Information
8. Lack of Whistle blower Protection.

The Effects of White-Collar Crime: -

1. **Loss of Reputation and Revenue:** - The business suffers a heavy loss of Reputation and good will once the news fraud, embezzlement, and other economic crimes reaches public domain, because of which heavy financial loss occur.
2. **Stifled innovation and legal implications:** Crimes like intellectual property theft and industrial espionage can slowdown innovation, Companies hesitate to invest in research and development. Besides this, the white-collar crimes face legal consequences such as fines, prison terms, and penalties, while companies can face regulatory sanctions, lawsuits, and increased scrutiny.
3. **Job Losses and Social Inequalities:** - As a result of financial losses due to white collar crime, the companies opt for downsizing, layoffs and sometimes even liquidation leading to job losses. White collar crimes cause social inequalities by diverting resources from public services and social programs. This exacerbates inequalities in access to education, health care, and other vital services.

CONCLUSIONS: -

Surpassing UK, India has achieved the fifth place in the table of largest economy of the world¹¹. Supported by its strong democracy and strong partnerships, India is expected to become the world's fastest growing major economy and one of the world's top three economies in the next 10 to 15 years. However, additionally it has seen unprecedented growth in the cases of fraud and corruption both in public and private domain. The common masses stay uninformed of such uncommon changes which are brought around by reason of harm to the socio-economic texture of the country. To maintain its current trajectory of growth, the Indian government must address the corporate governance issues and must severely punish the wrongdoers.

India has multiple legislations to prevent the instances of White-Collar crimes but the problem lies in the effective enforcement. The legislature along with judiciary and the executives must go hand in hand to control and curb this menace. In addition, the public should be educated and made aware of such crimes so that such instances can be detected at the early stages and the potential damage can be controlled.

The settled and well-known principle of "Prevention is better than cure," should be tried to follow at all times. The public must step forward to protect society from insatiable individuals who are damaging ethics and quality of the public by claiming individual circumstances.

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