

A CASE STUDY ON WHITE COLLAR CRIMES IN DIFFERENT PROFESSIONS

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Abstract: This paper provides a detailed comprehension about a new form of crime which is known as white collar crimes. In today's scenario white collar crimes are rapidly expanding in various aspects and also white collar criminality is present in possibly in every profession such as Medical, Educational, Legal, Journalism, Engineering etc. Due to the advancement of science and technology the white collar criminals are committing crimes with new methods.

The white collar criminality is increasing day by day as there is no fear in them that will be caught because most of the white collar crimes are not covered under the laws of India. This has made a connection where individuals belonging to different backgrounds have started framing groups to do white collar crimes and protected by experts in law. This has led to a circumstance where the individual whether he belongs to middle class or upper class are also involved in white collar crimes. Therefore, the concern of this paper is to define white collar crimes and how the white collar crimes are committed in different profession.

Keywords: white collar crime, education, government, crime, judiciary.

1.1 INTRODUCTION

Now-a-days, it is a common belief that certain professions provide wider opportunities for criminal acts and unethical practices which hardly attract public attention. There have been wrongdoer and unethical person in business¹ various professions and even in public life. They tend to become immoral because of their neglect at school, home and other social institutions where people get training of moral values and character building. These immoral people had hardly any regard for honesty and other ethical values. Therefore, they carry on their illegal activities without any fear of loss of prestige or status. These types of crimes are called 'white collar crimes' and they are essentially an outcome of the competitive economy of mid- twentieth century.²

The sociologist Prof.Edwin.H.Sutherland coined the term "white collar crime" in a speech given to the American Sociological Society in 1939. Prof. Edwin.H.Sutherland defines white collar crimes as "crimes committed by a person of respectability and high social status in the course of his 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.³ White collar crimes are the crime that are committed by salaried professional workers or persons in business and that usually involves a form of financial theft or fraud. 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 have become a global phenomenon with the advancement of commerce and new technologies. The recent developments in information technology have added new dimensions to white collar criminality. In a developing country like India where population is increasing day by day, economics offences are increasing by leaps and bound besides the traditional crimes. These crimes are mostly associated with middle and upper class of society and have added new chapter to criminal jurisprudence. The term "white collar crime" has not been defined in any code. But the dimensions of white collar crimes are so wide that after analyzing the provisions of Indian Penal Code 1860 it can be stated that certain offences under Indian Penal Code are closely linked with white collar crimes such as bribery, corruption, adulteration of food and forgery etc.⁴

1.2 EDWIN.H. SUTHERLAND'S DEFINITION OF WHITE COLLAR CRIMES

The term 'White Collar Crimes' was first coined by Edwin .H. Sutherland, the most influential American Criminologist of his time. Edwin. H. Sutherland has defined White Collar Crimes as a "The crime committed by a person of respectability and high social status in the course of his occupation".

¹ Dr. Rajendra.K.Sharma – "Criminology and Penology" 320 (Atlantic Publishers and Distributors, Delhi, 2017).

² N.V.Pranjape – "Criminology and Penology and Victimology" 145(CLP, Allahabad, Seventeenth edn. 2017).

³ "White Collar crime and its changing dimensions in India" available at <http://www.legalservicesindia.com/article/1378/White-collar-crime-and-its-changing-dimensions-in-India.html> last visited on 4th February 2019.

⁴ "White Collar Crime" available at <http://www.lawyersclubindia.com/articles/White-Collar-Crime-8556.asp> last visited on 4th February 2019

The above definition of White Collar Crimes has 5 elements which are as follows:

- I. It is a crime.
- II. Committed by a person of respectability.
- III. Of high social status.
- IV. In the course of his profession or occupation.
- V. It is usually a violation of trust.

Thus, Edwin.H.Sutherland pointed that the besides the ' Traditional Crimes or Blue Collar Crimes' such as Assault, Robbery, Murder, Rape etc. There are certain White Collar Crimes i.e. are bribery, extortion, fraud, blackmail, money-laundering etc.⁵

1.3 WHITE COLLAR CRIMES IN DIFFERENT PROFESSIONS

Some of the professions needs skill and technical expertise provide sufficient opportunities for white collar criminality. They include Legal Profession, Engineering, Medical Profession, Educational Institutions and Journalism.

1.3.1 WHITE COLLAR CRIMES IN LEGAL PROFESSION

The occurrence of white collar crimes is increasing day by day due to the advancement of science and technology in different professions. Legal profession is also one of them. An advocate is the most responsible, privileged and learned person in the society. Advocates usually help the people to get justice. But in today's time, a large number of advocates are forgetting their pious oath to serve the society and started for looking the legal loopholes and intensively helps the rich entrepreneurs to grow richer. The low standard of legal education and immoral practices used by the members of legal professions to obtain the clients is also considered as one of the reason of white collar crimes. In legal profession, professional misconduct is considered as white collar crimes. Professional misconduct refers to disgraceful or dishonorable conduct not befitting an advocate. Chapter V of the Advocate Act, 1961 deals with the conduct of Advocates. It deals with the provisions relating to punishment for professional and other misconducts. Section 35(1) of the Advocate Act,1961 states that where on receipt of complaint or otherwise a state bar council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to it disciplinary committee. Basically, according to Oxford dictionary misconduct refers to wrongful, improper and planned act. In legal profession, misconduct means an act done with a wrong intention by the people engaged in the profession thus it means that any act or behavior of an advocate in violation of professional ethics for his selfish purpose. ⁶

In *Sambhu Ram v. Hanuman Das Khatri*⁷ a complaint was filed by the appellant against an advocate to the Bar Council of Rajasthan, that while appearing in a suit as a counsel, he wrote a letter stating that the concerned judge, before whom the suit is pending accepts bribes and asked for Rs.10, 000 to bribe and influence the judge to obtain a favorable order. The Disciplinary Committee stated that advocate was guilty for his misconduct and stated that he is totally unfit to be a lawyer. The Supreme Court confirmed the finding of the Rajasthan Bar Council held that the legal profession is not a trade or business; members belonging to the profession have a duty to secure the society and provide the justice to society instead of getting indulge in illegal activities⁸.

There were many decisions made regarding the misconduct of advocates by the Supreme Court of India. Thus, there is a complete list of types of misconduct done by the lawyers during the time of their profession which can be also considered as white collar crimes and some of them are mentioned below:-⁹

1. Dereliction of duty
2. Fabricating False evidences
3. Violating ethical Measures of Profession
4. Dilatory Tactics in collusion with the Court Staff
5. Deteriorated standard of legal education
6. High Fees
7. Attesting forged affidavits & documents

In *N.G. Dastane v. Shrikant S. Shind*,¹⁰ where the advocate of one of the parties was asking the continuous adjournments to the immense inconvenience of the opposite party. The Supreme Court held that seeking adjournments for postponing the examination

⁵ Information available at http://shodhganga.inflibnet.ac.in/bitstream/10603/129394/7/07_chapter%201.pdf last visited on 4th February 2019.

⁶ "Professional misconduct of lawyers in India available at <http://www.legalservicesindia.com/article/1665/Professional-misconduct-of-lawyers-in-india.html> last visited on 5th February 2019.

⁷ AIR 1992 S 2188

⁸ "Professional misconduct of lawyers in India available at <http://www.legalservicesindia.com/article/1665/Professional-misconduct-of-lawyers-in-india.html> last visited on 5th February 2019

⁹ Ibid.

¹⁰ 2004 AIR 2440

of witnesses who were present without making other arrangements for examining such witnesses is a dereliction of the duty that an advocate owed to the Court, amounting to misconduct.

1.3.2 WHITE COLLAR CRIME IN ENGINEERING

Engineers are the professionals who invent, design, analyze, build and test machines, systems, structures and material to fulfill objectives and requirements while considering the limitations imposed by practicality, regulation, safety and cost.¹¹ Engineering profession provides the construction of houses, bridges, roads, factories etc, to the public. They have to be alert that no lapses are there which can lead to accidents. In house construction if in case some death or hurt happens, the responsibility lies on the engineers who are involve in house construction. In India, The Consumer Protection Act provides protection to the consumers by fixing liability on engineers of house construction. Similarly, if a bridge collapse and causes loss of life and property, engineering company will be held liable for losses. Engineer's profession is also considered as one of the respectable profession. But in today's scenario, no person is lacking behind belonging to any profession to commit white collar crimes. The main aim of every second person is to become more and richer either by hook or crook. So, in engineering profession also the rate of white collar crimes is high. Some of the examples of white collar crimes in engineering profession are:-¹²

- i. Dealing with Suppliers and Contractors
- ii. Passing of sub-standard works and materials
- iii. Maintenance of bogus records of work-charged labors
- iv. Violation of Safety Norms
- v. Charging high fees
- vi. Illegal Tenders
- vii. Low standard education
- viii. Resorting to illegal method to pressure tenders
- ix. Delay in completion of projects by making excuses
- x. Appointment of unfitted labour and engineers

1.3.3 WHITE COLLAR CRIMES IN EDUCATIONAL INSTITUTIONS

Another field for white collar criminals is educational institutions. Mostly the white collar crimes are committed in private educational institutions in India because here the whole power is in the hands of the owner of the educational institution and he runs the educational institution according to his own will. There are varieties of white collar crimes committed in educational institution for a common aim which is financial gain. Prof. (Dr).Sanjay Gupta in Times of India stated that "Education in India has become a seller's market today because the students who do not come under the merit list they had to buy a seat for certain rate in a private educational university." In courses like medical, cost a high amount of donation fees from the student for admission and amount of donation is decided according to the reputation of the private educational institution and this type of private educational institution are mostly run by the high class businessman and politicians. They run these institutions like a small business enterprises without following any government guidelines and regulations. When the matters of educational institution come in contact with white collar crimes then the standard of education goes more low because at that time the private institutions are least bothered in providing the education and their main focus is on making business. Different types of rackets are operated in these types of institutions such as fake placements rackets, fake degrees etc. On the other hand, in government institutions, the teachers and staff are involved in unfair activities such as they blackmail the students for private tuitions. Many private institutions are functioning without any valid recognitions and permit from regulating authorities to earn profit. Thus, it can be stated that even educational institution is in the grip of white collar criminals.¹³

Following are some other types of white collar crimes exercised in educational institutions:-¹⁴

- i. Obtaining large sum by way of grants or financial aid from the government by submitting false and fake details about the institution
- ii. Giving less salary to the teachers and other staff.
- iii. Fake and Bogus enrollment of students who are residing far away.
- iv. Charging huge amount of donation or capitation fees from the students.
- v. Rackets regarding procuring students to appear in different examination on the basis of manipulated eligibility certificates working as commercial shops.
- vi. Low standard of education.
- vii. Appointment of unfitted teachers and other staff.
- viii. Fake placement rackets.
- ix. Fake and misleading advertisements to procure the admission of the students.
- x. Sending students to rallies or for political workers in order to secure political favors.

¹¹ Information available at <https://en.wikipedia.org/wiki/E0ngineer> last visited on 5th February 2019.

¹² Dr.S.R.Myneni – "Crime and Criminology"197 (Allahabad Law Agency, Faridabad, First edn,2017)

¹³ "White collar crimes in education sector" available at <https://legalgensis.blogspot.com/2011/03/normal-0-false-false-false-en-us-x-none.html?m=1> last visited on 5th February 2019.

¹⁴ N.V.Pranjape – "Criminology and Penology and Victimology", 155 (CLP, Allahabad, Seventeenth edn. 2017).

- xi. Exploitation of students is high in private institution.
- xii. Unrecognized private institutions.
- xiii. Biasness with students.
- xiv. Fake degrees and mark sheets are provided by the unauthorized institutions.

1.3.4 WHITE COLLAR CRIMES IN MEDICAL PROFESSION

In India, the dimensions of white collar crimes are getting so much expanded that at present time there is no profession which is spare of white collar criminals. Medical profession is considered as one of the noble profession. In India, Doctors are also called 'God' because they save the life of a person but now in present scenario some of the doctors considered this profession as a business and their main aim is only to earn money. They even don't care about the life of patients. They perform the immoral and unethical acts just to earn money. Some of the immoral incidents like, Nithari Case, where the medical professionals showed their wicked character to the society for the greed of money. White collar crimes are mostly conducted by the person who belongs to medical profession either it can be ward boy of the hospital, nurse or doctor or any other person related to the profession. Some common types of white collar crimes conducted in medical profession are mentioned below:-¹⁵

- i. Issuance of fake medical certificates to students or employees or any other person who needs it.
- ii. Helping in illegal abortion
- iii. Social services to dacoits by giving expert opinion leading on their acquittal.
- iv. Selling sample drugs and medicines to patient or chemist,
- v. Fake and misleading advertisements regarding cure through advertisement in magazines, radio, social media, newspaper, TV etc
- vi. Dilatory tactics adopted by member of the profession in treatment of their patients with a view to extract huge amount from their patients.
- vii. Fake medical degrees.
- viii. Huge fees charged by private hospital.
- ix. Patients are forced to purchase medicines, clothes, medical equipments from the hospital and even the food also.
- x. Delay in releasing the insurance of patients.
- xi. Illegal business of organs of the patients.

1.3.5 WHITE COLLAR CRIME IN JOURNALISM

Journalism is also another profession which has come under the grip of white collar criminals. Basically, journalism refers to the production and distribution of reports on recent events. The word journalism applies to the occupation, as well as citizen journalists using methods of gathering information and using literary techniques. Journalistic media include print, television, radio, Internet, and, in the past, newsreels.¹⁶ In profession of journalism, a person who is considered as journalist whose duty is to collect writes or distribute other current information to the public.¹⁷ But now days, this profession has also become corrupt and white collar criminality has come into existence in this profession also for financial gain. Generally, white collar criminals in journalism profession are either the journalist or the owner of the news channels or newspapers etc who want to raise the Television Rating Points so that can earn profit.

Some common examples of white collar crimes are as below:-¹⁸

1. Investigative Journalism
2. Fake Sting Operation
3. Paid News
4. Favorable Attitude towards Political Parties
5. Media Trials

1.4 CONCLUSION

According to Sutherland, white collar crimes are the crimes committed by the person of respectability and social status during the course of their business or profession. As dimensions of white collar crimes are expanding it can be observed that the definition given by Sutherland is true. The dimensions of white collar crimes are expanding in high class professions such as engineering, medical, police, journalism, lawyers and in educational institutions and by the respectable professionals. The main reason of these expanding dimensions is to earn profit. At present time, every profession is in the grip of white collar criminals. Due to the advancement of science and technology the white collar criminals are committing crimes with new methods. Most of the crimes are committed through online system. The white collar criminality is increasing day by day as there is no fear in them that will be caught because most of the white collar crimes are not covered under the laws of India. The main advantage to white collar criminals is that profession like police and lawyers whose primary duty is to serve the justice and protect the society and maintain

¹⁵ Dr Rajendra.K.Sharma – “Criminology and Penology” 320 (Atlantic Publishers and Distributors, Delhi, 2017).

¹⁶ Information available at <https://en.wikipedia.org/wiki/Journalism> last visited on 5th February 2019.

¹⁷ Information available at <https://en.wikipedia.org/wiki/Journalist> last visited on 5th February 2019.

¹⁸ “S.M.A.Qadri -“Criminology, Penology and Victim logy” 329 (Eastern Book Company, Chandigarh, Seventh Edition 2016).

law and order in society are also involved in white collar crimes. Firstly it was stated only high class people are involved in white collar crimes but as the time is changing and people are getting advanced because of this middle class also started committing white collar crimes in form of tax evasion, online frauds etc. People belonging to middle class are opening small business enterprises and committing white collar crimes such as providing loans on high interest, opening educational institutions and charging high fees or providing fake degrees etc. Now at present time, from a person doing a small business or a middle class employee to high class businessman and employees are involved in white collar criminality. As white collar criminality is increasing even it is not affecting the society personally but it affecting the society economically in every department and thus it can be observed that rich person is getting richer and the poor person is getting poorer.

Thus, there is a dire need to enact strict laws for white collar criminals so that it can create a deterrent effect in the society.

REFERENCES

1. S.M.A.Qadri - "*Criminology, Penology and Victimology*" (Eastern Book Company, Chandigarh, Seventh Edition 2016).
2. Dr. Rajendra.K.Sharma - "*Criminology and Penology*" (Atlantic Publishers and Distributors, Delhi, 2017).
3. N.V.Pranjape - "*Criminology and Penology and Victimology*", (CLP, Allahabad, Seventeenth edn. 2017).
4. Dr.S.R.Myneni - "*Crime and Criminology*"197 (Allahabad Law Agency, Faridabad, First edn,2017)
5. <http://www.legalservicesindia.com/article/1665/Professional-misconduct-of-lawyers-in-india.html>
6. <https://en.wikipedia.org/wiki/Journalism>
7. <https://legalgensis.blogspot.com/2011/03/normal-0-false-false-false-en-us-x-none.html?m=1>
8. <https://en.wikipedia.org/wiki/E0ngineer>

