JETIR.ORG ISSN: 2349-5162 | ESTD Year : 2014 | Monthly Issue
JOURNAL OF EMERGING TECHNOLOGIES AND INNOVATIVE RESEARCH (JETIR)
An International Scholarly Open Access, Peer-reviewed, Refereed Journal

WHITE COLLAR CRIME IN INDIA

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ABSTRACT

Money is frequently the motivating factor in white-collar crime, a kind of non-violent crime. During their careers, white-collar criminals usually occupy a position of authority and/or status, which comes with much above average pay.

There are several reasons why increasing awareness of white-collar crime is so important. Therefore, governments, organizations, and corporations have recognized white-collar crimes as major issues. Increasing vigilance against criminal activity is necessary for all establishments. People can identify, assess, and prevent real and imagined risks to people's well-being and administrative systems when they are knowledgeable about white-collar crimes. Organizations will also be able to recover from the harm that crimes and the hazards they pose by having sufficient knowledge about the conduct. To ensure that the crime is stopped before it happens, organizations should increase public awareness of this kind of fraud.

INTRODUCTION

Edwin Sutherland, a criminologist and sociologist, first used the term "white-collar crime" in 1939. He defined a white-collar criminal as a member of the upper socioeconomic class who breaks the law while performing their professional or vocational duties. For financial gain, they typically commit a variety of nonviolent crimes in commercial places. There's a widespread misperception that white-collar crimes are less hazardous because they don't involve victims. These crimes are not inherently innocuous, even though they are not carried out with the use of weapons or threats of bodily damage. He adopted the term to characterize the kinds of crimes typically committed by "persons of respectability," or those who are seen as having a high social standing. Sutherland later established the State University of Indiana's Bloomington School of Criminology.

"A nonviolent crime, usually committed in commercial situations, for financial gain" is how he described white collar crimes1. The Federal Bureau of Investigations states that the main methods used to perpetrate these crimes include concealment, dishonesty, or trust-violation.

WHITE COLLAR CRIME IN INDIA

In India, "white collar" crime refers to a variety of offences primarily "job oriented," meaning they occur while a person is performing their duties; however, an employer abusing a personal secretary is not considered white collar crime. Other examples of white-collar crime include manipulation of funds, stock exchange fraud, misrepresentation in advertising or financial statements of a corporation, and violations of labour, copyright, and patent laws.

These crimes are frequently committed by people to get access to goods, services, or property. Alternatively, they can take this action as a safeguard against the disappearance of these latter incentives. Some people commit white-collar crimes to give themselves an advantage over coworkers in the workplace or in business. Additionally, the offender feels that there is more risk involved in carrying out that crime than there is benefit. The relationships between opportunity and motive in the Fraud Triangle are deeply anchored in social theory and criminological psychology, regardless of whether the crime is individualistic or organizational.

TYPES OF WHITE-COLLAR CRIME

1. MONEY LAUNDERING: Money laundering is an intricate process that conceals the ownership, control, and source of money obtained unlawfully to make it appear genuine. In order to conceal the audit trail and reintegrate money obtained illegally into the legal economy, it involves a number of complex financial operations, or layers of transactions. Money laundering is the act of converting "dirty" funds acquired through illicit activities into "clean" funds that can be discreetly spent.

2. BRIBE: A bribe is an immoral present or inducement given to a public figure or other authority figure in return for preferential treatment, such as preferred actions, decisions, or services.

Bribery typically includes two parties:

(a) The briber is the one who offers the bribe in an attempt to gain an advantage or favorable treatment.

(b) The person receiving the bribe, referred to as the Recipient, can be in a position of authority or have influence over the outcome the briber is seeking.

3. EMBEZZLEMENT: Embezzlement is a term used to describe a specific kind of financial crime and theft in which an individual who has been trusted with another person's money or property unjustly obtains or misappropriates such assets for their personal profit.

The intentional theft of property or funds for one's own benefit by a person who has been entrusted with them—typically as a part of their job or position—is known as embezzlement. Embezzlement involves the unlawful taking of resources that have been lawfully granted to the embezzler, as opposed to theft, which is the unlawful taking of another person's property. Participants in embezzlement cases typically include:

(a) An embezzler is a person who quietly pilfers money or property that has been entrusted to their care.

(b) The victim is the person or organization from which the funds or property were taken.

4. COUNTERFEITING: Counterfeiting is the act of making, distributing, or selling authorized copies of goods, cash, legal documents, or intellectual property with the intention of deceiving clients, businesses, or authorities.
Counterfeiters are the individuals or groups in charge of producing, promoting, or selling counterfeit goods or materials.

5. FORGERY: Forgery is the creation, alteration, or imitation of a document, signature, seal, or other object with the goal of deceiving, fooling, or fooling people into thinking it is legitimate.

(a) Document forgery is the deliberate falsification of written documents with the goal to deceive others, including contracts, wills, deeds, passports, and checks.

(b) Signature forgery is the act of copying or emulating another person's signature without that person's consent or authorization.

(c) The act of making or altering artwork with the intention of tricking viewers, collectors, or art historians into believing it to be an original work by a well-known artist is known as art forgery.

PROVISIONS OF WHITE-COLLAR CRIME IN INDIA

1. PREVENTION OF CORRUPTION ACT, 1988: The concept of "public servant" encompasses not just the categories specified in the Indian Penal Code but also individuals holding office in cooperative organisations that receive government funding, university staff, the Public Service Commission, and bank workers.

(a) A public servant faces a minimum punishment of six months and a maximum punishment of five years, along with a fine, if they receive satisfaction for an official act or influence other public servants beyond what is legally compensated. The Act also punishes a public servant for using his personal influence over another public servant and for taking pleasure in using illicit means to influence the public.

(b) If a public worker accepts a costly item from a person with whom he is conducting business in his official capacity and fails to pay the full amount owed, he will be subject to a minimum punishment of six months and a maximum punishment of five years, as well as a fine.

(c) Before filing charges against a public servant, approval from the federal or state governments is required.

2. INDIAN PENAL CODE, 1860: Sections of the Indian Penal Code (IPC) and other specialized provisions that target specific financial wrongdoing kinds address white-collar offenses. The following are some crucial IPC parts that are frequently used in cases involving white-collar crime:

Section 403: Criminal Breach of Trust This section deals with circumstances where someone deceitfully misappropriates or utilises any property that has been entrusted to him or over which he has power because of his position for his own gain. It is sometimes employed in cases of embezzlement, where people in positions of trust, such as executives or employees of businesses, steal money or assets and exploit them for their personal gain.

Section 415: Cheating This section deals with dishonestly influencing someone to give up property to another person, make, alter, or destroy any valuable security, or make anything that is signed or sealed and could be converted into a beneficial security. In cases of fraud, where individuals deceive others to seek financial advantage by false information or misleading statements, this area is sometimes utilised.

Section 420: Cheating and dishonestly Inducing Delivery of Property This section deals with circumstances in which a person tricks another party into giving them or any other person any property. This is one of the primary guidelines used in fraud and other white-collar crime trials.

Section 169: relates to the illegal purchase or bidding of property by a governmental servant. The public servant faces a maximum two-year sentence in jail, a fine, or both. The property will be seized if it is bought.

Section 409: relates to a public servant's criminal violation of trust. The public employee faces a sentence of life in prison or a maximum of ten years in prison together with a fine.

CASE LAWS

1. CBI vs. Ramesh Gelli (2011)

The Central Bureau of Investigation (CBI) brought charges against former Global Trust Bank chairman Ramesh Gelli for his role in fraud and financial irregularities.

The case highlighted the duties that directors and executives of corporations have to maintain moral principles and make sure that banking laws are followed.

The court stressed the significance of internal controls, corporate governance practices, and regulatory supervision in stopping financial misbehavior and preserving the integrity of the banking system.

2. Harshad Mehta vs. Union of India (1996)

The prominent stockbroker Harshad Mehta was at the center of the 1992 securities scam, which involved trading stocks at inflated prices and embezzling bank assets.

The case revealed structural flaws in the regulatory supervision and enforcement protocols of India's securities markets.

Significant changes were made to India's financial system because of the scandal, including the creation of the Securities and Exchange Board of India (SEBI) to better safeguard investors and regulate the securities markets.

3. State of West Bengal v. Orilal Jaiswal & Ors. (1994)

In this case, the question of whether a company's members were responsible for its debts was at issue. The idea of "Lifting the corporate veil," which permits judges to ignore the corporate entity and hold its members personally accountable in specific situations, was reviewed by the Supreme Court of India. In State of West Bengal v. Orilal Jaiswal & Ors. (1994), there was a disagreement on a company's members' accountability for its debts. The idea of "lifting the corporate veil," which permits judges to ignore the corporate entity and hold its members personally accountable in specific situations, was reviewed by the Supreme Court of India.

The court ruled that where a corporation was used to carry out fraud, break the law, or avoid paying debts, the corporate veil might be lifted. The goal of this notion was to stop people from abdicating their responsibility by concealing themselves behind the corporate veil.

4. Satyam Computer Services Ltd. Fraud Case (2009)

The case concerned a significant accounting fraud that the founder and senior executives of Satyam Computer Services, one of the biggest IT firms in India, committed.

To deceive investors and stakeholders, the fraud entailed misrepresenting revenues, fabricating financial statements, and misappropriating funds.

The case made clear how crucial corporate governance, accountability, and openness are to stopping corporate fraud and defending the interests of shareholders. In order to stop such occurrences in the future, it also spurred changes to regulatory supervision, auditing standards, and corporate governance procedures.

CONCLUSION

The intricate nature of financial misconduct committed by people and institutions in positions of trust or power can be better understood by looking at the criminological profile of white-collar crime. From corporate fraud and embezzlement to insider trading and bribery, it has become clear from our investigation that white-collar crime covers a wide range of offenses. These crimes are all defined by non-violent, financially motivated actions that frequently cause significant economic harm and social disruption.

Beyond just monetary losses, white-collar crime has far-reaching effects. Fraud victims as well as victims of other white-collar crimes frequently go through severe emotional and psychological pain. Employees may experience long-term financial instability as a result of losing their jobs, pensions, and assets in cases of corporate fraud. In addition, white-collar crime damages more than just its victims; it jeopardizes the stability of the economy, erodes public trust in institutions, and threatens the integrity of financial markets.

White-collar crime is a serious threat to people, companies, and society at large. Its effects are extensive, including harm to the economy, deterioration of trust, and monetary losses. A multimodal strategy that includes improved enforcement tactics, regulatory changes, and initiatives to encourage moral behavior in businesses is needed to combat white-collar crime. We may contribute to the establishment of a more just and equitable society by cooperating to prevent and prosecute white-collar crime.