



White Collar Crime- A Social Menace- A Search For Corrective Measures

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<i>Abstract</i>	
	<p>White-collar crime is a persistent and complicated danger to society, including a wide range of illegal acts carried out by people and organisations in positions of trust and authority. The paper investigates the complex character of white-collar crime, examining its effects on both economic stability and public trust. The paper examines case studies to reveal the incidence and severity of white-collar offences, highlighting their negative impact on individuals, organisations, and communities. This paper asserts that the scourge of white-collar crime needs a cohesive and varied procedure that includes legislative reforms, institutional reforms, and cultural shifts. By implementing the recommended remedial actions, society could mitigate the negative adverse effects of white-collar crime while also safeguarding the integrity of financial systems and restoring public faith in institutions.</p>
<p>CC License CC-BY-NC-SA 4.0</p>	<p>Keywords: <i>White Collar Crimes, Organised Crimes, Money Laundering.</i></p>

RESEARCH OBJECTIVES:

1. To understand the concept of White Collar Crimes.
2. To critically study the major cases occurred in India in relation to White Collar Crimes.
3. To recommend corrective measures.

INTRODUCTION:

According to one of the great Jurist Aristotle, "Man is a social animal." The nature of the man being social, he gave birth to the concept of society. In the earlier state of the development of the society, man followed the doctrine of *laissez faire*. *Laissez faire* is a French concept which is majorly related to economy. This doctrine states minimum interference of the government in the economic market. This doctrine puts an emphasis on the freedom of the economy from the control of the government. It believes that, in order to flourish the economy minimum involvement of the government is necessary. The core belief of this doctrine is 'capitalism.' Later on, the concept of 'welfare state' was introduced in order to curb capitalism. In the welfare state, the government plays the key role in socio-economic development of the society.

• **Concept of crime:**

The concept of crime is not static and is a dynamic one i.e. it changes from time to time as the society changes. Crime requires two elements i.e. act and the guilty notion behind committing the crime. Organized crimes are those crimes which are serious in nature and are committed with others in continuity with intent to gain large profit.

• **Economic disparity – Cause of Crime:**

The concept of White collar crimes traces its source from the Socialist school of criminology. The main propagandist of this school is Karl Marx. He believed that, crime is a social phenomenon which was governed on the principle of the economic condition of the people. He stated that, the law is made by the people of the high strata of the society which he eventually propounded it to be the Capitalist class of the society. He marked the poor as the “have not’s” and the capitalists as the “have’s.” He believed that the causation of crime is caused due to the economic disparities in the society. Economic determinism provokes crime.

• **White Collar Crime – The History, Meaning and Definition:**

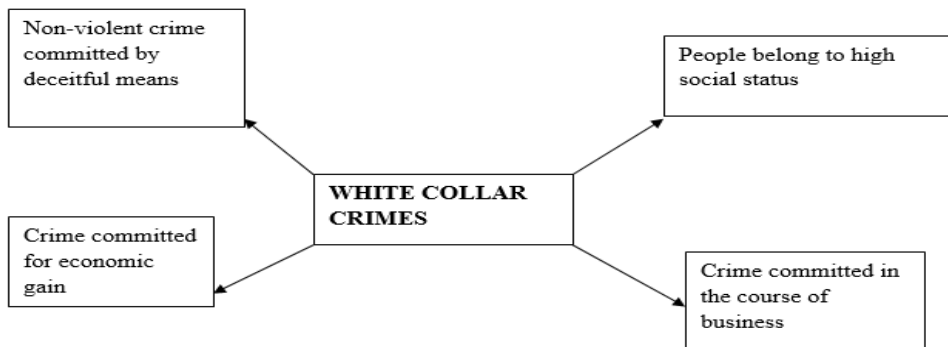
In 1934, *Morris* proposed a type of crime which he explains as the “anti-social activities which are different from normal anti-social activities committed by people of high level professions.”

In 1941, the concept of White Collar Crime was introduced and coined for the first time by *Sutherland*. In general parlance, white collar crime means a crime or certain anti- social activities which are committed by the upper class of the society in their occupation.

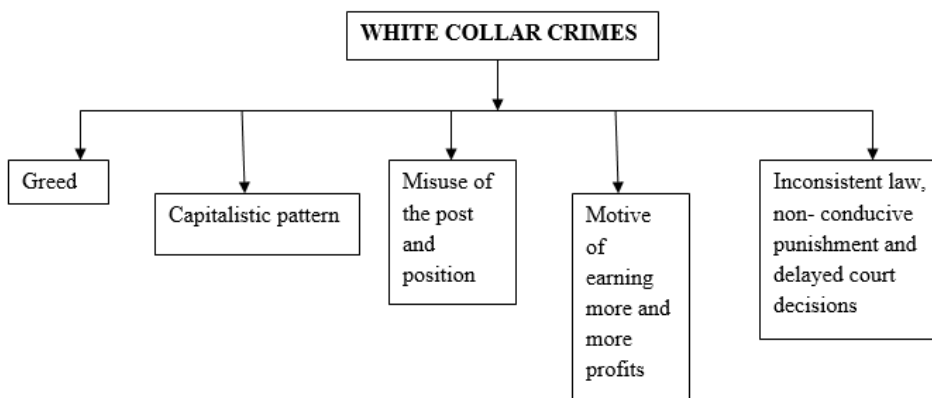
Sutherland defined White Collar Crimes as, “crime committed by a person of respectability and high social status in the course of his occupation. A white collar criminal is a person who belongs to the upper socio-economic class who violates the criminal law in the course of his occupational or professional activities.” Such crimes are to be denoted as ‘White’ collar crimes as it was considered that the people of the high standard preferred wearing ‘White colored clothes.’ Hence, this crime is known as White Collar Crimes.

Walter Reckless, an eminent American criminologist suggested that, “white collar crime represents the offences of business that are in a position to determine the policies and activities of the business.”

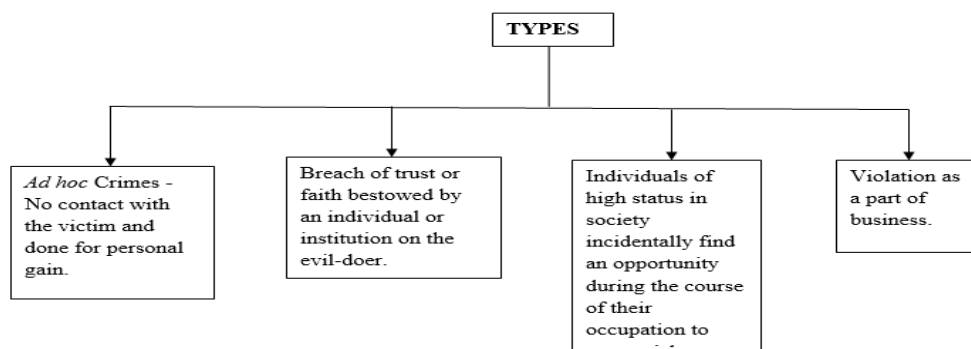
• **Essentials of White Collar Crimes:**



• **Causes of White Collar Crimes:**



• **Types of White Collar Crimes:**



These white collar crimes not only have a great impact on the victim but also the society at large. It affects the economy and the consumers in the society. White collar crime was first reported in England in 1473 in the Carrier’s Case. All over the world there are several examples of white collar crimes. Internationally these crimes affect the world economy and nationally it affects the business in the country.

COMPARATIVE ANALYSIS OF CRIMES AND RELATED LEGAL PROVISIONS:

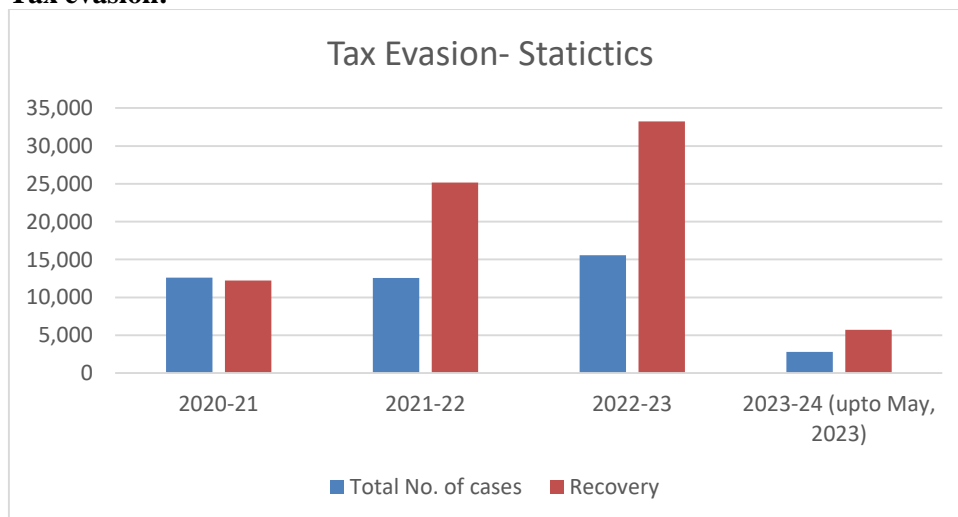
This chapter elucidates the major and minor types of white collar crimes across the world and the legal recourse through which the wrong-doer may be prosecuted. Major crimes affect the economy at large scale. The minor crimes are generally profitable in small scale where the profit amount is less.

• **Minor white collar crimes:**

Such crimes also form a part in small percentage in the field of food industry in form of adulteration. These crimes also are practiced in certain professions. Such crimes are widely committed by the people belonging to the medical field. They commit such offences by issuing false medical certificates, gender detection of the child in the mother’s womb, illegal abortions. Some doctors also form a part of organ trafficking rackets which are heinous in nature. The legal profession is also affected by such crimes where the lawyers help the wrong-doer to get out of the burden of crime, fabricating false evidence and also manipulating the witnesses, etc. the noble profession of education is not untouched. Taking ample amount of donations in the name of “kota” is a form of extracting money from the parents and fulfilling one’s greed for money. Making fake degree certificates, teachers and professors taking money from the students and promoting to the higher classes in spite of knowing the actual result of the student is also a part of white collar crime. Engineers who are working under the government for construction of roads, canals, dams, bridges, etc use low quality of raw material which constitutes white collar crime. Bribing the bidder for passing the tender in the name of the construction company are all the examples of white collar crimes which are practiced in the small scale.

• **Major White collar crimes across the globe:**

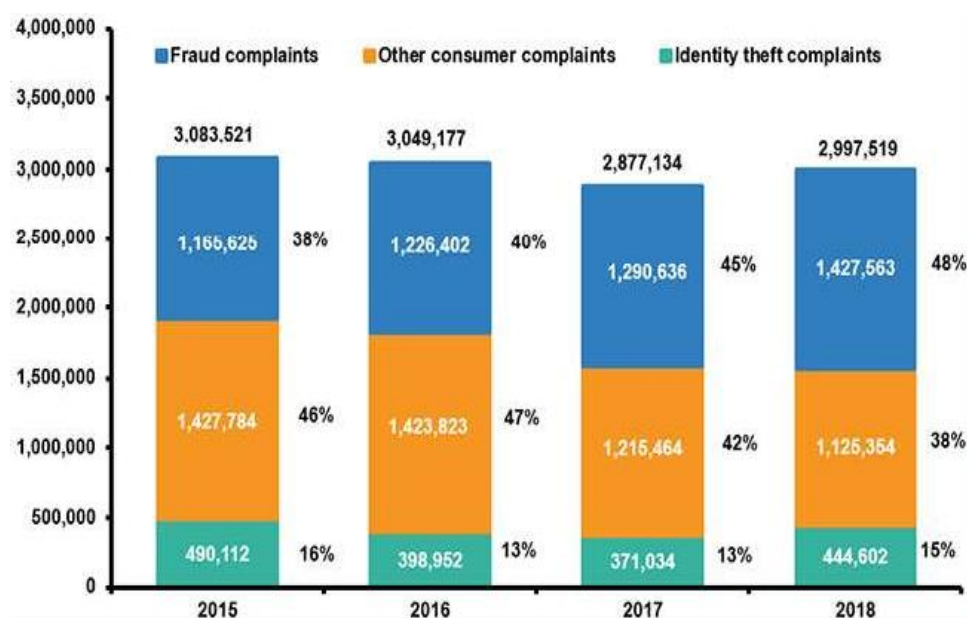
Tax evasion:



Non-payment or under payment of tax by individuals, companies or other entities who actually use government infrastructure for their profits. The Income Tax Act, 1960 enlists the penalty for evading taxes and related responsibilities under Sections 139, 240, 221, etc. In U.S.A. the taxpayers in the States are directly accountable to the Internal Revenue Service's for selecting the forms and filing their respective returns. For the few percent of law breakers the law which controls tax evasion in USA is the Internal Revenue Code, 1986. HM Revenue and Customs or the HMRC is the regulating authority for collection and assessment of Taxes in U.K. The body further presents the cases of tax evasion or any such tax relating breach before the Crown Court. UK has experienced tax evasion cases upto \$5.3 billion for which they have penalized the defaulter with 7 years of imprisonment.

Money laundering:

It is a simple process of turning the black money into white money by either transferring small amount of money in several accounts or in the form of shell companies or by placing the money by smuggling into the tax heaven countries. The legislation governing money laundering is the Prevention of Money Laundering Act, 2002 which enshrines the punishment for Money Laundering under Section 4. The offender is imprisoned for three years which may be extended up to 10 years and fine if required. U.S.A had a larger motive to deal with money laundering since it had to curb the menace of offenders financing and promoting terrorism. With the start made in 1970 by legislating the Bank Secrecy Act, it came up with a concrete legislation in 1986 which was the Money Laundering Control Act.



Bribery:

Most common white collar crime where a commodity or a service is provided with something in return other than the charge of such commodity or service. Bribe is also used to hide one's act done against the law by giving the people belonging to the administration money or any commodity or service. The Indian Legislature have prescribed it as a crime under the criminal law and but seeing its growing amplitude it has also enacted a separate legislation called the Prevention of Corruption Act, 1988, Foreign Corrupt Practices Act, 1977. There are numerous penalties under this Act namely injunction, forfeiture of assets, disgorgement of profits. In cases where the corruption has caused a severe disruption to the US economy the Government officials are ordered suspension from their service. Penalty inflicted for Bribery under the Bribery Act, 2010, explains the imprisonment shall be imposed for 10 years and the individual or a company shall have to bear an unlimited fine depending on the severity of offence.

Cybercrime:

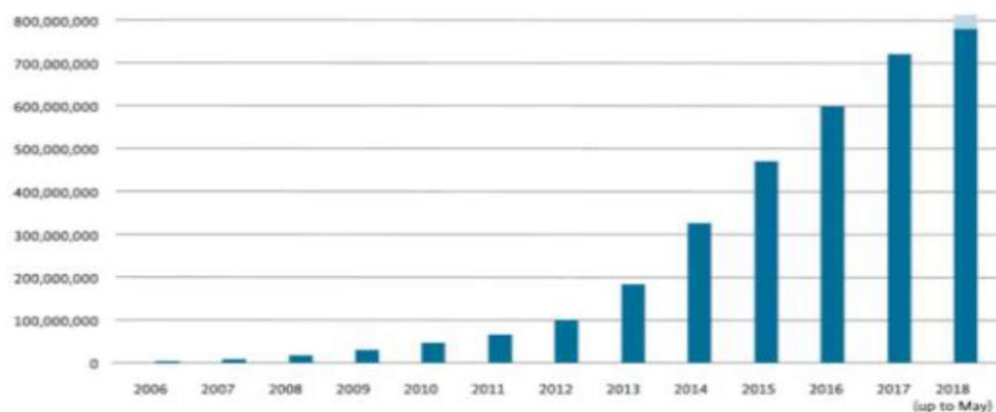


Figure 12 Known malware (2018 up to May), source AV-Test

This is the most rapidly growing white collar crime where the crime is done with the help of a technical network base. This also includes the Nigerian frauds, stalking, pornography, hacking, etc. The Information Technology Act, 2000 is the law governing Cyber Crime in India.

WHITE COLLAR CRIME – A SOCIAL MENACE:

Menace literally means an apprehension, a thread or danger. The effect of White collar crime is quite dreadful. It affects the society, an individual as well as the economy of the country.

- **Effects on consumer:** the consumer is under a danger of the quality of the product they are using. Due to white collar crimes, the quality of products decreases immensely. The white collar crimes work on the idea of profit to one and loss to all. So to gain the profits by investing lump sum amount of money in the products, these criminals tend to reduce the quality of products.
- **Effects on company:** the companies in order to recover the losses which have been suffered by them increase the cost of the products they sell. This causes a decrease in the number of the consumers.
- **Effects on employees:** the employees lose their jobs as there is recession in the market which is created due to huge losses to the companies. As the price of the commodity is inversely proportional to demand, the demand decreases as the price of the commodity increases, this adversely affects the salaries of the employees.
- **Effect on the society:** The management of money procured from money laundering is used in planning various terrorist activities through various terrorist organisations. Cyber-terrorism was a component of several well-known terrorist actions, including the assaults on the US stock exchanges and the Taj hotel in Mumbai. The perpetrators needed to know what events were scheduled to occur in those locations at that particular time, so they used website hacking to obtain information in a variety of ways that allowed them to obtain a clear picture of the scene. Financial elements are always included in these types of crimes; individuals target locations where they can readily obtain money, and with the use of cyber technologies, money can be moved quickly and easily between locations.

WHITE COLLAR CRIME IN ACTION:

• 2g spectrum scam:

Spectrum is a range of frequencies that an object emits or handles information throughout and is considered as a natural resource. Natural resources belonging to the government, even the spectrum need to be sold in mega hertz to the people. In 2007, A Raja, politician in Tamil Nadu was appointed as the telecom minister. On 25th September 2007, the government issues press note fixing the deadline for purchasing the spectrum, also, Prime Minister in a letter asked A Raja to have fair policy for issuing the license for selling 2g spectrum. A Raja ignored the recommendations of PM and framed new rules of first come first serve basis and also the deadline for the purchase was being shifted from one date to another date. Spectrum was being sold to some companies on the first come first serve basis. These companies further sold spectrum to other companies on a higher rate.

Central vigilance commission informed CBI regarding the sale of spectrum at higher rates.

In March 2011, special court was established by the Delhi High Court for handling 2G scam cases. On the report of Comptroller and Auditor General, India was in a loss of 1.76 lakh crores rupees. In 2012, Supreme Court cancelled all the spectrum licenses allocated as it was convinced of procedural irregularities. December 2017, A. Raja was acquitted on the ground of lack of proofs. J. Saini opined that, CBI failed to frame accurate charges on A raja as the amount mentioned by CBI in the charge sheet was 30,985 crores only where as the actual loss was of 1.76 lakh crore rupees.

• **Punjab National Bank Scam:**

A letter of understanding is issued by the Indian bank to the offshore bank giving them a guarantee that in case of any loss, the Indian bank will be responsible for the payment of the loss along with the interest. Nirav Modi a diamond merchant took a fake letter of understanding from Punjab National bank. 11,000 crore rupees of loan was been taken between 2011 –2017 with 8 fake letter of understanding by Mr. Nirav Modi. When the offshore bank asked to repay the loan the PNB refused to take the responsibility of such loan as no letter of understanding was issued by the bank to Marne. Nirav Modi. PNB then informed the CBI regarding the issue. Nirav Modi after the enquiry in 2018 flew to a safe heaven in Hong Kong and then applied for asylum claiming he being the victim of political persecution and denying of the wrongdoing. On 8th June, 2020, under Prevention of Money laundering Act court has ordered a confiscated of nearly Rs. 1,400 crores worth property of Nirav Modi.

• **Harshad Mehta scam- biggest Stock market scam:**

Ready forward deal is a way to give the government short term loan in exchange of the government securities. In such deals, the brokers are a mid way between the buyers and sellers. Harshad Mehta is one such broker who used to work for the banks who were interested in selling the government securities and also such banks who were interested in buying the government securities. According to RBI rules, the cheques in exchange of the government securities should be issued in the name of the bank selling such securities and not the broker or a private person. In this case the cheques were issued in the name of Harshad Mehta. Hence, the banks who were the buyers and sellers did not know each other and the transactions were made between Harshad Mehta and the buying banks. The buying banks were unaware of the selling bank and vice-a-versa. The bank selling such securities when asked for them he used to find some other bank who was interested in taking the securities and would sell them in his name and take the money in his name. He used this ready forward deals in a chain system. Harshad Mehta in lieu of greed invested such money and changed the scenario of the stock market by manipulating the prices of the shares. The government securities were not actually submitted to the buying bank but a receipt was issued in the name of the buying bank. Harshad Mehta started making fake bank receipts to gain more and more profit with help of some banks. Some banks did fall prey for these fake bank receipts and gave the cheque which was issued in his name. He then used this money heavily in the stock market and the market was in a boom. When the shares were at its peak, Harshad used to sell the shares and used to return the money to the bank and then took back the fake bank receipts. When the share prices went down, Harshad could not repay the money to the banks. CBI arrested Harshad in November 1992. SEBI barred harshad Mehta from investing money in the shares. There were 70 criminal suits and 600 civil suits. This was the biggest scam in the history of Indian Stock Market.

• **Chit fund scam:**

Sudipta Sen, the chairman of the Saradha group of companies was in need of money and hence issued redeemable bonds and debentures for the investors. Sudipta Sen assured the investors to pay heavy interests in return of bonds and debentures. In lieu of the scam, he hired agents for finding the investors for investing the money in Saradha and gave heavy commissions. He took 4000cr rupees from 17lakh people. SEBI on some inquiry found something fishy in the whole transaction and notified the west Bengal government, Saradha group of companies and Sudipta Sen but the west Bengal government ignored it. On inquiry by SEBI, it was introduced that Sardha group of companies was raising fund maliciously and hence gave a notice to Sudipta Sen. Nevertheless, Sudipta Sen was unaffected and he opened 300 more companies under Saradha so that SEBI gets confused and the exact company doing the act won't be detected. On questioning Sudipta Sen, SEBI was informed by them that, the money was raised not on the name of bonds or debentures but chit fund as chit fund does not come under the ambit of SEBI; whereas, actually, the scam was done on bonds and debentures. This was the biggest chit fund scam not only in West Bengal but also in India.

CORRECTIVE MEASURES: RECOMMENDATIONS:

• A specialized agency for detection of crime:

There must be a specialized committee or agency especially formed for detecting and investigating such crimes. There should be experts in the field of tax, food industry, banking industry, etc. to easily identify any fraud or malpractice going on. There should be a separate investigating with wide powers and total transparency and freedom to work. The members of the agency must be appointed by the central vigilance agency and officers should be well trained to handle such cases.

• No interference of the ruling party:

As these crimes are being done by the high class or people having high standard of living, they have connections with the politicians and some are politicians itself. Hence to maintain a fair investigation and fair trial there should be no interference by the ruling party. The departments must have full freedom to act upon and the judiciary to be out of the reach of the ruling party.

• Central codification in one act or under Indian penal code, 1860:

There are several white collar crimes which are codified under several different acts. If there is a central act which is passed by the central government, consisting all the economic offences, its definitions, punishments, trials, etc. it will be very easy for the administration to be smooth.

• Time line for prosecution to be defined:

These crimes are hard to be identified and the ways and means to prosecute the same is very hard. The investigating departments to be given fixed period of time to investigate the matters and bring the matters to the court. The courts hence need to act fast and a time limit should be prescribed for solving such cases.

• Strong extradition treaties:

Such offenders being very smart, they fly off to the countries where the extradition policy of the country is very strict and hence, it is very difficult to trace the time required to bring the offender into the court.

• Stringent implementation of the existing laws for forfeiting the properties:

The existing laws are not being implemented in India very stringently and the loss cannot be compensated as the forfeiting of the property to recover the losses takes time.

CONCLUSION

White collar crimes are economic crimes committed by the people belonging to the high strata of the society in the course of their occupation. These crimes do not have a specific victim always but it affects the society at large.

The main causes of this crime are the greed for money, the mis use of the post and position in the society in order to fulfill the unsatisfied wants. The capitalistic pattern of the society hence encourages these crimes. These crimes are hard to detect and thus they are increasing day by day.

White collar crimes include tax evasion, money laundering, corporate frauds, bank frauds, corruption and many more. Nigerian fraud and other cyber crimes affect the victim not only economically but also mentally. These crimes create a huge economic loss to the country and need to be curbed as soon as possible. Stringent punishments, codification of all economic crime under one law, speedy trials and most importantly strict laws for compensation and forfeiting the property are necessary.

These white collar crimes only need special courts which may adjudicate the matters expeditiously but also special agencies for detecting, investigating and prosecuting the same.

Also we being educated citizens of India, it is our responsibility to create public awareness of such crimes and also be vigilant and not fall prey to such scams.

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