



Research Paper

Understanding Critical aspects of White-Collar Crimes

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ABSTRACT

White collar crimes are not like ordinary crimes they are not committed by ordinary persons but by people who are at high ranking positions like CEO's, government, business professionals and the reason this crime is put in different category of crime is because it is difficult to identify the criminal as crime is happening inside the company by internal management and if any persons working under them, any employees now about this crime still he or she will prefer to remain silent as they can lose their job as higher authorities can cause damage to person who disclosed his frauds. There is a mechanism given under Company law which talks about similar situation Vigil Mechanism, so vigil mechanism is a channel for employees and directors to report to the management, concerns about suspected fraud or violation of codes of conduct or any policy of company, but if management that they need to report is also included in fraud, it will make the situation worse and it will become more difficult to identify the criminal that is why this crime is not categorized with other crimes. This concept is not new for our society but before there were no proper laws for this, in this research paper we will discuss about this issue in brief.

Keywords-

Company, Crime, Employees, higher level, Commit, punished, Working, authorities, Corporate, Banks, Financial Institutions, Scam.

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I. INTRODUCTION

Long ago, there was a concept that "a king can do no wrong," so in businesses, professionals and people at higher levels could be considered kings, but this concept is no longer followed, and white collar crime also proves this concept wrong because people in higher positions are considered wrong if they are wrong and are punished for their actions. The main reason these higher authorities commit crime is greed because if they are already at higher level that means they are financially stable but even after having everything they still need more which makes them commit these type of frauds, their aim is personal advantage which means they also commit this crime because of competition which means to satisfy their ego or to remain superior which means when pride fills up their mind then mind gets disturbed and make them commit these type of frauds. Rate of these crimes is increasing because people who commit these crimes think that they will not get caught and investigation for these crimes is difficult than other crimes because it is very complex and internal and if someone has power there is more chance of bribe by this I mean to say that if a government is also involved in these kind of frauds and crime then people who are investigating this crime can get influenced by getting bribe from them and can shut down the case against them. Bribe can also be a reason why these people keep on committing crime and feel safe to commit it over and over again. Company is an entity and it includes people from different backgrounds but they all have same objectives and goals but when people in company start working for personal gain it ruins overall goal which causes financial losses and reputation of a company get degraded and because of which stakeholders interest get broken and company suffer losses. There are many cases in India and the most known Fraud is Harshad Mehta Scam and it is said that many politicians were also involved in this scam as I mentioned above it is difficult to find out who is culprit because in these kind of frauds many people get bribe like in Harshad Mehta case PM was also involved as he was given amount of 1 crore as a bribe. This case is best example of how white collar crimes are invisible and internal and difficult to instigate because as in this case Harshad did everything secretly and by gaining trust of other like he used to take securities or BR from borrowing banks and find lending banks who give him money that he can lend to borrowing bank he basically work as broker but the money he used to get from lending bank he invest that money in stock market

and at that time he was the King of stock market but now question arises that how he used to give money to borrowing banks from who he took BR? So, he used to find other lending banks who want to lend money and by taking their money he then give that money to borrowing banks and he continued this chain and also started making fake BR. There was another scam named *Satyam Scam* in this scam Satyam Co. Started window dressing and because of this window dressing Share Price of Satyam Company increased and Mr. Raju thought that the properties he bought he will sell them when price of properties will increase and will use the profit to fill the gap between actual and fake figures in Satyam but unfortunately economy hit recession and prices of property declined so to fill the gap he decided to show fake purchase of two companies but as he did not take prior approval of shareholders this made the investors unhappy which led to decrease in shares and many people were involved in this scam including auditors of the company and the fraud remained unnoticed for such long time because auditors were also included in this and same auditors were working with the company for long time so after this scam new provisions were added, this also gives us idea why laws should be flexible and need to be changed according to situations in our society. After observing these cases we can see that White collar Crime is different from other crimes in this way also as ordinary crimes are mostly committed by less educated people and to commit this type of crime a person is educated and knowledgeable about this field as the types of frauds are well planned and many people are involved in these scam that mean if anyone is committing this crime he also have a very good backbone of people behind him. After reading this introduction you may have many questions in your mind like How these scams affect GDP of our country?, Who are the people who get most affected? etc. You will get answer of these questions further in this paper.

II. VICTIMS OF WHITE COLLAR CRIME

We have seen above how, why criminals commit crime we have understood psychology of White-collar criminals with examples but we haven't mentioned who are the victims, people who get affected by these kinds of crimes. This crime is also a serious crime as it affects society badly, it not only affects individuals but also affects organizations. When any white collar crime affects stock prices many individuals get affected and many institutions also because there are 2 kinds of investors retail investors who invest individually and then institutional investors who are companies which invest for their company's profit. There are many people who invest in stock market but they don't have much knowledge about investing and big investors took advantage of this and start committing fraud and breaching their trust and earning profit as many retail investors look for companies whose stock is not expensive and company is rising so they keep on investing in these type of companies without prior investigation which makes them fall in a trap of big investors or people with higher authorities. Because of this investors suffer losses and many investors lose their trust because of which they never invest again and some not even able to come back from their losses then people who were dependent on companies get to know that company was committing fraud they are loss their money and jobs and because of those individuals who commit these crime in their company, their company also suffers loss and even reputation of company comes down, these kind of frauds remain hidden for long time and rich become more rich and poor become more poor because of these kinds of situations. These kind of crimes are fascinating as to commit these crimes a person must have knowledge and then people get influenced by these kind of people who commit these crimes and try to copy them like after Harshad Mehta Scam Ketan Parekh also get influenced by Harshad and committed this crime because individuals who are behind these scams are people who are role model for some people. After these scams financial system starts doubting itself and many new laws also get into force, many people said that these are not scams these are people who are highlighting the loopholes of financial system. Competition in market also get affected as when because of scam people's focus get diverted to some companies and then those companies start earning more and more which misrepresent the competition in the market. There are many other types of white collar crime by which victims get affected like the example explained about will come under Insider trading because insider trading is related to stock market scam so Harshad Mehta scam will also come under insider trading type of white-collar crime and the main victims of insider trading are Company owners, stakeholders, employees, accountants etc. Then in introduction we also talked about Satyam Scam that comes under Fraud as he misrepresented his accounts so main victims of this kind of fraud is banks, shareholders, tax authorities, customers etc. Then there is another type of white collar crime named Money laundering and the best example for this is *Common Wealth Games Scam* these kind of scams are mostly influenced by

politicians like corruption, In this scam only half of the amount was spent on sports event from the whole amount which was allotted. Money laundering is when black money is converted into white money. Money laundering victims include financial institutions, society, universities etc.

III. HOW WHITE COLLAR CRIME IS DIFFERENT FROM ORDINARY CRIMES

- 1) White-Collar crimes are committed by educated people and ordinary crimes are mostly committed by uneducated people it's not like educated people do not commit ordinary crime but ratio of uneducated people is more in committing ordinary crimes like robbery, murder etc.
- 2) White-Collar crimes are well planned and without planning white collar crime cannot be committed that is why it is difficult to find out and many people keep on committing this crime for years and it remains hidden but other crimes can be done on spot like murder can be committed because of anger on the spot but some murders are planned also but outcome of murder is death and ordinary crimes output can be seen and that is why it is easier to find evidence against it as compared to white-collar.
- 3) White-collar crimes are never committed alone by individual there are always many higher authorities which are involved and that is why these crime are successfully done and in a hidden manner, there can be individual mastermind but there are many people for his support and murder, theft type of crimes are mostly done by individuals.
- 4) White collar crimes are non-violent but other crimes include violence.
- 5) Financial losses are higher in white collar crime as compared to ordinary crimes and many people suffer loss at the same time because of white collar but most affected person in ordinary crime is 1-2 individuals.

IV. WILL AI IMPACT WHITE COLLAR CRIME

There are many cases where AI can be helpful in reducing White-collar crime as we have seen cases of this crime it includes bribery and then some white collar crimes are not easy to detect because there are a lot of people work together like in Satyam Scam he auditors were also at scam but if AI will be there it will keep data of every financial statement and even it can remember Data which is out of human hands or mind and if we talk about bribery as there are many cases where judges also take bribery like for example Central bureau of Investigation (CBI) filed case on a judge of High court for bribery and corruption But if AI will assist judges or public servants, politicians it will be less easy for judges and others to take bribe as AI will have all data fitted

inside it which can make it easy to detect criminals. *The Sahara Birla Papers case*¹ involved allegations of corruption against high-level officials, including politicians, this is the example how sometimes powerful people get rid of allegations against them because of current justice system but if there will be AI it will not know who is more powerful or who is politician or friend, enemy which makes it unbiased in these situations and how it promotes justice. Between January 1, 2017 and December 31, 2021, 1,631 complaints were received in the Centralized Public Grievance Redress and Monitoring System (CPGRAMS) on the functioning of the judiciary. These complaints included judicial corruption. AI (Artificial Intelligence) can also help to solve cases quickly by using less resources.

But as every pond has a good and bad fish, every human has a bad and good traits, Artificial Intelligence also has its bad impacts and good impacts, Bad impacts like if AI has so much data fitted inside it it can be used as it contain so much information and even personal information which can be misused and can go in wrong hands which can raise questions on Right to Privacy. Even AI can be used to increase White Collar crimes as we know White collar crimes are committed by people who are knowledgeable so if these people start using AI to get every information and even personal information of stock market investors, it can directly impact them and can cause them losses more easily. As AI can be biased it will not frame charges against individuals who have good standards it depends on what is fitted inside AI and it is very difficult to know who will be accountable for AI decisions as it is not transparent. It can impact fraud detection positive manner but at the same time can raise concerns for Cyber crimes.

As Technology is increasing it is not easy to cope up with it, Digital white collar crimes are also a new concern where laws are still lagging. As now a days everything is online Transactions, payments investment etc and criminals can take advantage of this to commit these white collar crimes.

V. HOW WHITE COLLAR CRIME IMPACT ECONOMY

Economy can be impacted by these factors which include consumer spending, corporate investment, government spending, and taxation. When consumers are confident and spend money, businesses are more likely to invest, resulting in job creation and economic expansion. Government spending can also boost the economy, whilst taxes might depress it. So white collar crimes disbalance trust, confidence of consumers and investors which can impact economy in a negative way and when a company is built it uses many resources of society and if company commits fraud or individuals inside company commit this crime it takes company down and company suffer losses. If company suffer losses its stakeholders also get

¹The Zero Case: Deadly Implications of the Birla-Sahara Judgment, Economic and Political Weekly (Jan. 11, 2017), <https://www.epw.in/journal/2017/9/web-exclusives/zero-case-deadly-implications-birla%E2%80%93sahara-judgment.html>

affected and stakeholder also include society that is why CSR (Corporate social responsibility committee) is established in companies which means if company has taken advantages from resources of society and used it in committing crime which means these resources get wasted and can be used in a place where economy can be benefited but because of these crimes resources get wasted which impact economy adversely.

As employment plays significant role in health of economy, which is also affected by white collar crimes because when company gets into trouble because of individuals who commit crime it leads to loss of jobs, it leads to loss of jobs of employees working with that company and if employment is affected which means consumers will spend less and if consumers spend less producers produce less, you can see the disbalance created by this type of crime. The taxes also play significant role in shaping economy because as we know more tax is taken by people who earn more and less tax by people who earn less so this creates balance between poor and rich and it promotes equitable distribution, but when people who are earning more and are rich commit these crimes like tax evasion, companies wrongfully hiding their assets etc. or black money means by money laundering it helps them to pay less taxes and when they pay less taxes it affects economy.

VI. CONCLUSION

Criminals who commit this type of crime are not only cunning, but they also use cutting-edge technology to do so. Various acts for recognizing white collar crime and punishment related to it are listed below:

- Companies Act, 1960 - **Sections: 447, 448, 449, 450, 451**¹
- Income Tax Act, 1961 - **Section 276C - Tax evasion**²
- Indian Penal Code, 1860 - **Sections- 415, 417, 418, 420, 405, 463-474, 406-409**³
- Prevention of corruption Act, 1988 - **Section 7-16**⁴
- Prevention of money laundering Act, 2002 - **Section 3: Offence of Money Laundering**⁵
- Unlawful Activities Prevention Act, 2008
- National Investigation Agency Act, 2008
- Information Technology Act, 2005.
- Passport Act,
- Prevention of Terrorism Act 2002

i. In Case *Sayaji Dashrath*

*Kawade v The State of Maharashtra*², The Bombay High Court ruled that a person cannot be convicted under the POCA until the prosecution establishes the basic requisite of demand and acceptance of a bribe. The Bombay High Court overturned a government official's conviction, stating that "a person cannot be convicted of corruption under the Act based on morality and ethics." When the law specifies required requirements for demonstrating an offense, no shortcut is allowed.

ii. In case *Prem Prakash v Union of India*³ the Jharkhand High Court, through the Directorate of

¹https://www.indiacode.nic.in/handle/123456789/2114?sam_handle=123456789/1362

²<https://taxguru.in/income-tax/section-276c2-prosecution-wilful-tax-evasion-not-tax-non-payment.html#:~:text=Legal%20Framework%20and%20Judicial%20Interpretation,intent%20to%20evade%20tax%20liabilities.>

<https://indiankanoon.org/doc/1569253/>

⁴https://www.indiacode.nic.in/bitstream/123456789/15302/1/pc_act_1988.pdf

⁵https://www.indiacode.nic.in/show-data?actid=AC_CEN_2_2_00035_200315_1517807326550§ionId=25469§ionno=3&orderno=3

Enforcement, ruled that money laundering is an independent offense, and that demonstrating innocence in a related crime does not absolve one from being charged with money laundering. The accused was arrested in connection with unlawful mining activities and charged with laundering criminal money. The Court ruled that even if the accused in the stone mining case was innocent, money laundering would be handled as a separate offense and adjudicated appropriately.

iii. In case *CBI v Ramesh Gelli*⁴ the Supreme Court ruled that the managing director and executive director of a private bank operating under an RBI license shall be regarded 'public officials' under the POCA.

²Sayaji Dashrath Kawade v The State of Maharashtra, (2022).

<https://www.the-laws.com/Encyclopedia/Browse/Case?caseId=312202976200&title=sayaji-dashrath-kawade-vs-state-of-maharashtra>

³Prem Prakash v. Union of India & Ors., 1984 AIR 1831, 1985 SCR (1) 564 (India).

https://www.livelaw.in/pdf_upload/prem-prakash-vs-union-of-india-ba-no-12350-of-2022-jharkhand-high-court-454996.pdf

⁴CBI v Ramesh Gelli, February 23, (2016)

<https://updates.manupatra.com/roundup/contentsummary.aspx?iid=3474>