“White-collar crime is not new to India. The scale is.”¹

INTRODUCTION
The famous Criminology Professor Edwin H. Sutherland coined the term ‘White Collar Crime’ as “the crime committed by a person of respectability and high social status in course of their occupation”. Sutherland through this definition included in it the big corporations and legal entities, which was earlier considered to be only committed by the lower class.

With the development of technology, White Collar Crime has become a global phenomenon and in India it is increasing at a tremendous pace because of the increase in the economical and industrial growth. There has been an unusual and unexpected increase in the growth of computer specific white collar crime which brings a great challenge for the law enforcement agencies as these crimes can be committed from anywhere in the world by any anonymous person.

There are many professions where criminal and unethical practices are often going unnoticed. In order to gain more for themselves, some unethical professionals indulge into illegal activities without fear of loss of respect and prestige.

HISTORICAL BACKGROUND
Prior to Sutherland, scholars like W.A. Bonger (1916), E.A. Ross (1907), Sinclair (1906) and Steffens (1903) have also laid emphasis on the misdeeds by businessmen and elites. Karl Marx and Friedrichs Engels have also contended that powerful people commit crimes too.

American Sociologist E.A. Ross (1907) coined the term ‘criminaloid’ focusing on the businessmen who indulged in criminal activities under the shadow of responsibility. In 1935, Albert Morris drew up the list of the ‘criminals of the upper

¹ Fraudster by R.V. Raman
world’, which included bankers, manufacturers, politicians, contractors, stock brokers and law enforcement officials.

However, the work of Sutherland was considered pioneering rather compared to others.

**OTHER CRIMES VS. WHITE COLLAR CRIMES**

White collar crime is not a new phenomenon and has been in existence from many centuries. It can be found in all types of businesses, professions and industries.

The Supreme Court of India in *State of Gujarat vs. Mohanlal Jitamalji Porwal and Anr.*\(^2\) has differentiated between the general crimes and white collar crimes. In the above-mentioned judgement, Justice Thakker had stated that murder can be committed in the heat of moment but these economic offences are committed with a cool calculation and planned strategy to gain personal profits.

The characteristics of white collar crime enunciated herein below distinguishes it from other street crimes.

1. **Direct access to the victim because of offender’s high position:** Because of his/her position the offender has direct access to the victim. E.g. when a thief commits a theft in a house, he first breaks the door or window and then commits the crime. Therefore, before committing theft a thief must first gain access to the house by entering it. Whereas this is not in the case of white collar crimes because the white collar offenders have easy and valid access to their targets;

2. **No information about the offender:** Most of these crimes are committed by offenders without coming face to face with the victim;

3. **Political Connections:** Most of the offenders have big political connections and somewhere the politicians are also involved in the said crimes. Therefore, it is difficult to take any action against such offenders; and

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\(^2\) Para 4; AIR 1987 SC 1321
4. **Harm to Society:** These types of offenders can cause great harm to the public as well as to the institutions and organizations.

**CAUSES OF WHITE COLLAR CRIME**

1. **Greed:** High class people are financially stable, however, they still commit crime because of their greed to earn more. And for this purpose, they even choose illegal ways to have an economic gain;

2. **Competition:** Darwin in his theory of evolution has stated that “survival of the fittest” is necessary and thus there will always be competition for survival. However, some people for their own greed and in order to get ahead of their peers commit crimes;

3. **No fixed laws or punishments:** After committing the crimes most of the offenders get away without getting any punishment because there are not enough laws to deal with such kind of crimes. In many cases, because of the supreme political connections most of the offenders get away without any punishment. Moreover, in many cases there are no witnesses for the said offences as such offences are committed in private.

**WHITE COLLAR CRIMES IN VARIOUS PROFESSIONS**

White collar crimes can be found in every industry and profession. Below enunciated here is five major forms of white collar crime:
1. **Medical Profession:**
   White collar crimes in the medical profession is not a new phenomenon and has been into existence from very beginning. Some of the offences which are considered as white collar crime in the medical profession includes providing false medical certificates, illegal abortions, selling of banned drugs and medicines to patients or chemists. Moreover, the people in medical profession makes misleading claims through advertisements in newspapers and television.

2. **Education:**
   Nowadays, education is only considered as a source of making money. Educational institutions are least bothered about providing quality education to the students. In order to make money for themselves, many educational institutions are engaged in the business of providing fake educational certificates. In government institutions, the teaching staff are often found to be indulged in corrupt activities. Teachers hardly teach their students in school and often blackmail them to take private tuitions.

3. **Engineering & IT**
   Sub-standard materials are being used for construction of buildings, roads and dams, which not only endangers life of many citizens but also result into huge losses to the government. Any illegal access of computer and internet services is known as Internet fraud. This kind of fraud is very common these days and the most vulnerable to such incidents are the people who use internet and mobile banking services.

4. **Business**
   Edwin Sutherland researched on large number of companies and corporations in the United States and concluded that most of them were involved in illegal contracts, infringements against copyrights and trademarks, unfair trade practices, bribery etc. these types of crimes are generally committed by big businessmen and tycoons. The Sanathanam Committee Report on Prevention of Corruption\(^3\) expressed great concern

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\(^3\) [http://cvc.nic.in/scr_rpt_cvc.pdf](http://cvc.nic.in/scr_rpt_cvc.pdf)
about the problem of hoarding, profiteering and black marketing. It was also observed by the committee that Indian businessmen build up secret stocks of foreign exchange abroad, violating the Imports & Exports Laws.

5. **Society**

White collar crimes are not only restricted to professions. Individuals, whether belonging to higher class or middle class are also part and parcel of such crimes. E.g. Often individuals misrepresent the details about their income in order to pay low income tax, which is considered as a crime. Non-payment of taxes or non-compliance of tax paying policies is referred to as Tax evasion. The tax evaders are either punished with huge fines or imprisonment or both.

Moreover, the offenders in certain cases try to hide the source and destination of income received by them. This offence is known as Money Laundering and it is done with the intention of making it seem that the money have come through legitimate means.

**WHITE COLLAR CRIMES IN INDIA**

The reason for the recent enormous increase in white collar crime in India is the fast developing economy and industrial growth of the country. The post-independence period in India led to an era of welfare activities which needed regulatory measures on the part of government. It is the contravention of such regulatory measures which generally gives rise to a white collar crime.

The **Santhanam Committee Report** showed a picture of white collar crimes committed by persons belonging to high status. The report of the committee stated that the big industrialists, businessmen, government officers are responsible for white collar crime in India.

After the independence, the first case of white collar crime was Mundhra’s case. India’s first Prime Minister Jawaharlal Nehru set up a commission headed by Justice M.C. Chagla to investigate the matter. Justice Chagla concluded that Mundhra had sold imaginary shares to Life Insurance Corporation (LIC) by

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4 [http://cvc.nic.in/scr_rpt_cvc.pdf](http://cvc.nic.in/scr_rpt_cvc.pdf)
defrauding the insurance company to the tune of INR 1.26 Crore. Mundhra was sentenced to 22 years in prison.

Another incident took place in the beginning of 21st century was the Satyam Scam. This scam involved the fraud of INR 7,000/- Crores. Few years back, CBI arrested many Trinamool Congress leaders for the alleged involvement in INR 24.60 billion chit fund scam.

After the rise of the Indian economy, many companies from the private sector and the public enterprise has been included in the corporate frauds and scandals. It is because of all these scams the common man is scared to invest in the equity market.

**Corruption**

Corruption is one of the worst form of crimes in India. It has been into existence for many centuries. Even Chanakya has mentioned the various forms of corruption during his time. Many political parties have promised to eradicate corruption, however, the offenders in these types of crimes are usually the government officials or the politicians itself. In between 2010 to 2012 Central Bureau of Investigation has registered over 1,450 cases of alleged corruption under the Prevention of Corruption Act, 1988.

The chart enunciated herein below shows India’s rank amongst the other 175 countries in terms of corruption from 2012 to 2016.\(^5\)

\(^5\) [http://www.tradingeconomics.com/india/corruption-rank](http://www.tradingeconomics.com/india/corruption-rank)
LEGAL FRAMEWORK

The legal framework in India is not so comprehensive to deal with the issue of white collar crime. There are no strict laws which can punish the offender as most of the offenders get away because of the lack of evidence. The other difficulty is that the members of the legislature who have been given the responsibility to make and implement rules are themselves indulged in these heinous crimes.

The main reasons for which these white collar criminals or occupational criminals go unpunished are because:

i) the law makers of the country are from the same social group;
ii) the effort made by the police against these criminals is highly low;
iii) of easy bail and mild sentences; and
iv) the impact of white collar crimes is not on a specific individual thus it creates a casual attitude of the society towards white collar crimes.

The delayed justice which is administered by our judiciary is also one of the reasons of rise in white collar crimes. Since white collar crimes are on a rise, it is highly important for the judiciary and the police to distinguish between white-collar crimes and traditional crimes.

MEASURES

White collar crime has not been defined anywhere in any act or codes, however, there are various legislations which touch the scope of white collar crime. These legislations include The Foreign Exchange Management Act, Companies Act, Prevention of Money Laundering Act and Import and Export Control Act.

In the present scenario, our top law enforcement agencies such as Central Bureau of Investigation, the Enforcement Directorate, The Income-tax Department, The Directorate of Revenue Intelligence and the Customs Department, needs to be strengthened. Top ranking officials should be regularly scrutinized by the bodies such as Central Vigilance Commission. If these agencies
are strengthened then only the problem of white collar criminality can be controlled.

It is the **responsibility of the government** to provide enough powers to the law enforcement agencies because without the help of these agencies the corruption and other economic offences cannot be eradicated from our country. The law enforcement officials should be provided **training**. This training will not only help in tracking such crimes but will also make them differentiate white collar crimes from other crimes.

**Strict laws should be made** to curb these types of crimes. It is seen that if found guilty the white collar criminals get away with petty fines or mild sentences. The approach used by the judiciary while punishing these criminals has failed to curb the threat of white collar criminality. Thus, **Fast track courts/ tribunals should be arranged by appointing more Judges**. The tribunals should be given power to impose fine and award sentence of anyone if found guilty for the said offence.

Finally, the government should take initiative to spread **awareness about white collar crimes through electronic and print media**. The public should have the knowledge about white collar crimes and how they are different from other crimes.

**CONCLUSION**

White collar crimes are a big global concern and is increasing at an alarming rate. Various studies have proved that the financial loss to the society from white collar crime is much more than the other crimes. India is a developing country and white collar crimes are not only a detriment to the economic growth of the country but also spoils the image of our country. It can be easily understood that to eliminate white collar crime is not easy at all because it has been into existence from many centuries, however, we along with government and legal entities should try to reduce such crimes.
As discussed earlier, **strict laws and special tribunals** should be made and implemented so that the offender should be afraid of the punishment and before committing any crime he should think twice. Moreover, the government agencies should make a combine effort to eliminate such crimes from our country.

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