

WHITE COLLAR CRIMES

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Abstract - Every job has a professional value and importance. These professionals have numerous opportunities to commit fraudulent activities in practice of their profession. The commission of these fraud activities happen only as part of their job. While consigning their assignment, doctors, teachers, engineers etc., encompasses some waggish acts for personal boon and against professional ethics called as white collar crimes. These acts of white collar crimes are now easily available due to the growth of Cyber facilities. The culprits of White Collar Crimes definitely ruin own reputation and the reputation of the place they work. It is quite natural that a professional will be assigned with some tasks while delivering their duties. Professional ethics speaks about the honest delivery of duties and responsibilities by the professionals. If it is done with a criminal objective to scam others to attain pecuniary benefit, the ambit of White Collar Crimes arises. The reputation will be quashed down in a sympathetic way. The consequences of committing white collar crimes will be faced wholly or partially by the organization in which the employee works. The good will, name and fame of the Organization will be affected very badly. Hence it may affect millions of customers, projects, assignments, future commitments too. The unique reason that drive the professionals to negotiate White Collar crime is greed. It is being done by renowned professionals.

Key Words: White Collar Crimes, Ethical Profession, Black Marketing, Monetary Benefit

1. Introduction

This composition is grounded on the hypothesis of White Collar Crime. It explains its types, causes, effects. and preventive measures. A group of people belonging to higher class of society do this white collar crime at the ambit of their profession. It is a special kind of offence done by high skilled professionals. The development internet facilities can be portrayed as an important cause for the commission of white collar crimes. The workmen who have deep and keen knowledge of the system of the place of work opens the door for the accused to commit the crime. This kind of crime is accompanied by moral dissonance and distrust.

2. Meaning

White collar crimes are the malfunctioning actualized through a man or woman of upper type or of excessive social repute at some point of the duration or course of assignment. Basically it is a lawbreaking committed by earning individuals in the corporation and typically it includes economic theft and fraud.

A sociologist Edwin Sutherland used this term for the first time in 1939 described the time period "White Collar Crime" as non-violent crimes dedicated via the usage of business enterprise people moves through deceptive tricks to get proper of access to massive quantities of cash for the purpose of monetary gain.

3. Definition

In the opinion of Edwin Sutherland a white Collar Crime is, a crime dedicated by using a man or woman of duty and excessive social status in the path of his occupation. The definition has 5 attributes that are

1. It has criminal objective
2. Respectable people are under suspicion
3. High position in society for the culprits
4. Enjoys full freedom to develop own business beyond its boundary
5. Trust is being violated.

4. Major Characteristics

These crimes are not traditional crimes. Their target is quite big. These fraudulent commitments are done by people who have good job, business, reputation and power in the society. The normal methods adopted by them are fraud, misrepresentation, adulteration, irregularity etc.

- White collar crimes are deliberate and planned conspiracies. They have an intention to earn money by unfit practices. It is not a crime happened by mistake, but well planned.
- These crimes are more tolerant by the people of a status because they relate with them. For eg: Doctors, advocates, bureaucrats are very much familiar with these crimes and people are more tolerant towards it.
- The collateral damages are usually faced by the entire community or society collectively. For example, Nirav Modi Case where the accused took enormous money from Punjab National Bank and disappeared. It affected the society as a whole. One type of crooked and deceitful encompassment is Ponzi Scheme in which capital donation of the original investors will be kept as the subsequent investors' fund. The promise of the scheme about the high return always remain as a vague statement. They attract new investors. There is always a loss.
- It is really hard to detect the crime as it will be exercised in such a way that only an expert can identify it at any time.
- It is also considered as less serious but it impacts social life and it is also not so easy to curb.

On general basis common people are cheated as-

- ❖ These crimes are usually dealt with credit card, evasion of tax, cybercrime which results as a result of hacking computer programs etc.
- ❖ Clients may be cheated by fraudulent acts focusing financial fraud, cheating in trading, fraudulent business, unethical conditions during business etc. As a result of this breach of trust, the crimes will be victimized by the criminology of the accused. The paramount result will be pecuniary consignment and decline. Hence the trust will be questioned and loyal relationships will be spoiled.
- ❖ The development of intellectual property is another reason. It is common to witness the crimes relating to the infringement of copy rights or any other property rights such as patent, trademark, industrial rights, geographical locations etc.
- ❖ Another character witnesses is the way of escaping from tax payment. Tax payment usually falls on the shoulders of high level professionals or business men.

5. Types

White collar crimes are really purview of fallacious and false practices for getting monetary gains. To drive money out of deceitful means is the motive of doing this crime. White collar crimes are also known as public welfare offences or socio economic crimes. Society has a lot of rules. If these rules or laws are broken, especially in fraud and cheat, the losses will be very high. The targeted money will be enormous. The target will be high in White Collar.

- Occupational Crimes- Involves crimes committed by professionals in the course of their employment, which includes delaying salary, cutting salary for no means etc.
- Corporate Crimes- These crimes are done by big companies and businesses. For example, the rivers and canals are discarded with wastes and hence mending pollution. It also includes crimes committed by companies or businesses such as fraud, corporate manslaughter.
- Due to the strength and power of the politicians the acts committed by them are also powerful.
- Very often states face enormous criminal acts in the form of war. Conducting war is a complete violation of the rights of human beings.

It can be categorized as-

- a. **Bank fraud:** It is to get tangled in felonious exercise that is to fiddle a bank to acquire assets held by financial institution.
- b. **Blackmail:** The act of threatening any individuals to cause corporal detriment or uncloaking his or her sneaky facts in demand for the money.
- c. **Bribery:** It is act of contribution of finance, objects or any presents to someone for having control over the acceptor's actions. Both donating and receiving are crime.
- d. **Computer Fraud:** It is an act of addressing or plundering information of any individual
- e. **Misappropriation:** whilst a person commissioned with cash or belongings makes use of it for his personal use, it's miles misappropriation.
- f. **Defrauding:** It is an act of possessing any person's private property by making use of deceitful methods or menace.
- g. **Insider trading:** It is an act of where esoteric information is being used up to conduct illegal trade for mentoring benefits.
- h. **Money Laundering:** Concealing the source of money.
- i. **Tax Fraud:** It is an act of furnishing deceitful data in forms of tax only with the purpose of evading tax or bestowing property by illegal means to avoid tax.

According to Sutherland,

- Selling adulterated goods or food
- Manipulation in stock exchange
- Commercial bribery
- Bribery of public officials
- Illegal sale of alcohol and narcotics

6. Nature

Non-violence is its significant nature. Crime or an offence is "an incorrect action which will be ascertained with the punishment." Two divergent perspectives concerning the character of white collar crime can be seen. The avidity for possessing financial benefits and the hold and high influence in society are seemed as two factors that compels on to commit white collar crimes.

It is being noticed that the they are-

- regulatory in place of penal in philosophy
- administrative in procedure
- directed typically closer to the enterprise and expert classes of our society.

It is noticed that almost all laws, and statutes dealing with white collar violations are purely administrative behavior. The decision to take whether penal action can be taken is purely based on the discretion of the concerned authority. It is studied underneath the area of criminology, that's justified because of the reality it's far in violation of the legal regulation. Although white collar crimes are considered as crime, they are varied from a typical crime, by considering five aspects.

- **Origin**
- **dedication of obligation**

- **philosophy**
- **enforcement**
- **trial way and sanctions.**

The act of white collar crimes can be relegated as civil as well as criminal acts. The malefactions such as negligence, defamation, trespass etc. may be indexed under the law of torts and they're additionally dealt under the Indian Penal Code, 1860 also. The acts having tortious liability will be analyzed under the Civil Procedure Code, 1908 whereas the litigations having criminal behaviors would fall under Criminal Procedure Code, 1973.

7. Causes

Greed- The exclusive aspect is that the white collar crimes are done due to greed and financial quench. Enormous monetary benefits will be attained by this heinous act.

Traditional crimes include theft, murder etc. The ecstasy that criminals possess in society preclude the victims of White collar crimes to understand their motive. The wrong doers have enough money and time. They have influence with society. They have reputation and good social status. So it is not possible to detect or identify them as criminals.

Not realizable: The loss the White collar crime doers create to the society is so high that it is not possible to realize it at any time. It will end up in high and unmanageable fiscal burden.

Lack of awareness: Common people are not aware of the motive of these executive criminals. They are totally ignorant of their fraudulent minds. The nature of the crime isn't the same as the conventional crimes and those hardly ever recognize it all even though they're the worst sufferers of crime.

Greed: The appetite to be money loaded through any tactis is the reason for the commission of White Collar Crimes. Some human beings believe that others also are violating the legal guidelines and so it isn't always horrific if they'll do the same.

Essentiality: Requirement is every other aspect of committing crimes. People devote white collar crimes with a view to satisfy their ego or help their family.

8. Judicial attitude towards white Collar crimes in India:

The authorities of India have delivered numerous regulatory legislation, The breach of those laws and regulations are called as white collar criminality. The White Collar crimes are initiated to be curbed by different laws and regulations in India, but it has practical difficulties to get enforced. The main legal regulations framed out are

- The Prevention of Corruption Act, 1948
- SEBI Act, 1992
- The Insurance Act, 1938
- The Central Vigilance Commission Act
- Lokayuktha Acts
- Right to Information Act, 2005
- The Reserve Bank of India Act, 1934
- Import and Exports Act, 1947
- Prevention of Money Laundering Act, 2002

Meaningful laws are always subjected to be enforceable. For the harmonious administration of a government, the compiled running of all the legislations, enforcement and judiciary are essential. Laws have adequate meaning only if it is enforced in correct sense. If the Executive is not acted wisely, it affects the efficiency of legislature as well as judiciary. It is the private interest litigations, that preclude and supervise White Collar Crimes.

Santharam Committee-

A distinct committee called Santharam Committee was formulated in 1964, on the Prevention of Corruption. According to the Committee

- Felonies that White collar includes-
 - Smuggling
 - Profiteering
 - Violation of standards, measures, weights
 - Professional misconduct
 - Under or over invoicing
 - Theft and frauds
 - Tax evasion
 - Violation of foreign exchange rules
 - Election malpractices
 - Misuse of position

Suggestions by Santharam Committee

According to committee there is a need to include administrative, legal, socio-economic and educative measures. It means the strict administration of legal rules, vigilant care, when it comes to socio economic causes, and make people aware of their legal rights. It is also needful to apprehend the reach and realm behind corruption.

It is also advised to check the existing practices in order to avoid delays. Veracious implementation of laws and regulations is very monumental to exterminate such kind of habitudes.

The codes of conduct of businesses to be followed religiously and also detailed account of the expenditure of the company should be maintained and audited.

The taxation laws should be warped and bureaucratic spoilage should be minimized.

Corruption trials should be on fast track and to be done very strictly. Strict application of the Prevention of Corruption Act, 1947 has to be welcomed.

9. White Collar crimes in different fields-

- **Medical Profession-** Doctors, who issue false certificates, or does illegal abortion, sex determination, selling sample medicines etc. **comes under the head of White Collar Crimes due to their immoral ethics of mending money**
- **Legal Profession-** Fabricating false evidence, threatening the witness of the other party, engaging professional witness, violating ethical standards of profession, arrangement of professional ethics.
- **Engineering Profession-** Makes an adjustment with the suppliers to get forged documents of the essential materials used charges high and distributing profits.
- **Educational; Institutions-** Impose a huge amount of money as donation for giving opportunities for students of low academic standards, by denying the opportunities of meritorious students.

10. Criticism on white collar crime:

There are no definite criteria to find out who has done this offence. There are no adequate measures to find out who has the sole responsibility of this crime. The explanation given by Sutherland was only absence from commission from crimes

rather than white collar crimes. Another thing that put into confusion is the element of social status. It doesn't possess a wider meaning. The crimes such as theft or fraud committed by middle class or lower class of people are not mentioned in the definition. There were suggestions to call these crimes as occupational crimes, rather than white collar crimes. The socio-economic factors have no impact but the type and the way of commission is dealt with. The main ingredient of commission of a crime, mens rea is absolutely missing in White Collar Crimes.

11. Contributory Factors:

Social, economic, political factors influence its commission. There are enormous circumstances where white collar crimes are influenced by globalization and liberalization. Another factor that influences the change is the change in the socio-economic scenario along with enhanced wealth and prosperity. The development in economics and industry is considered as the potential cause.

It was observed by the Law Commission in its 29th Report that the development in Science and Technology and the trends such as effectuating monopoly in trade is the main reason for the development of White Collar Crimes. The production and distribution of common goods, if are not controllable effectively by government, and if the common people are involved in the trade market, its contribution in the commission of White Collar Crimes is galactic.

There are numerous cases where commission of crimes are necessary for a market to get stability and existence. It is a competitive world and life without having a sense of competition and existence is not imaginable. The nature of job involved is a factor for the commission of crimes as in the case of lawyers, because of its competitive behavior. So in many cases, it becomes mandatory to follow unlawful practices and tactics to remain stable. This includes misrepresentation or concealment of facts. There are cases of making false accounts to submit in order to get financial benefits.

Social status plays an important role. People leading a luxurious life are always well treated, irrespective of the way in which the name and fame are obtained. The criminals possess high social and economic status, which is beyond the reach of a normal layman. They have a large group to support and praise. Life is literally simple and predictable in their cases. It is a fact that these white collar crime criminals have great influence which is sufficient enough to control the governance even. Hence it will be easily possible for them to handle their profession cunningly. The victims hence may not have much awareness about the crime.

Public is apathetic to such crimes and hence there will be obstructions and denial in perpetration and hence the confinement of white collar criminals. The upper strata of criminal law administrators invite sympathy of the officials while deciding the white collar crimes. Present century is witnessing enormous white collar crimes due to the development of cyber facilities. Cybercrimes are those crimes that are computer annihilated.

12. Conclusion-

The whole world will be adversely affected by Commission of White Collar Crimes. Bank-frauds, fraudulent money transaction threatens the economy of the country as a whole. It will end up in a blackball to the financial status of the country. The monetary benefit will be reaped by very limited number of people throwing whole society into financial crisis. In order to make the crisis simple, adequate and proper punitive measures should be taken. Punishments should be awarded strictly to the accused. All the matters should be openly communicated and model punishments should be given.

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