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WHITE COLLAR CRIMES AND POLICE IN INDIA: THEORIES, CHALLENGES, AND REFORMS

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Introduction to White-Collar Crimes in India: With Reference to Demonetisation

Demonetization was recently held to be a good faith practice of the government to curb black money, corruption, terrorism-funding etc. The government was essentially given a clean chit by India's apex court.¹ Supreme Court Justice B.V Nagarathna was the dissenter 4:1 majority judgment. She said the following: -

“If really India wanted to go from paper currency to plastic currency, demonetisation was not a reason for it...I thought it was a way of converting black money into white.”²

One can understand the analysis of J Nagarathna that perhaps the exercise of demonetisation was a way of laundering money, as the reality was not far from what she had estimated. The suspicion towards NDA is legitimate as the same government in the year 2000 started the ‘Mauritius route’ which became a tax haven for anonymous investors.³ It was therefore no wonder that an exercise aimed at curbing black money and corruption by the same government led to money laundering and corruption.

Just three months later from the demonetisation exercise, a report was published by Al-Jazeera pointing to the fact that the rich, i.e., the ones with any real opportunity to launder money had (almost) entirely escaped the consequence. It stated: -

“He contacted his suppliers and purchased fabrics in advance, all in 500- and 1,000-rupee notes. He said that for him, this was the main source of getting rid of old

¹ Vivek Narayan Sharma v. Union of India, Writ Petition (civil) No.906 of 2016

² THB, ‘Demonetisation Was a Way of Converting Black Money Into White: Justice B.V. Nagarathna’ (*The Hindu*) <[³ Ramachandran Vaidyanathan, *Black Money and Tax Havens* \(first published 2017, Penguin Books 2023\) 1](http://www.thehindu.com/news/national/demonetisation-was-a-way-of-converting-black-money-into-white-justice-b-v-nagarathna/article68009833.ece#:~:text=About%2098%%20of%20the%20demonetised,Supreme%20Court%20judge%20Justice%20B.V.> accessed 11 September 2024</p></div><div data-bbox=)

currency notes... He decided to give them all hefty cash advances, also in old notes.”⁴

Thus, payments of salaries in advance, payment of rents in advance, purchase of exorbitant amount of gold, and collaborating with bank officials⁵ — these all were the means involved in escaping demonetisation.

This was not helped by the fact that unlike the earlier predictions of the government, over 99% of the currency was returned back to RBI, making the exercise a practical failure in purging black money from the system.⁶

This case study begs the questions: Why do the people with higher socio-economic status escape consequences of their criminality? Why do the policing agencies fail in their task to check such deviance? What are the challenges faced by policing agencies in dealing with white-collared criminals? And finally, what must be done to do justice in matters of white-collared crimes?

Objectives of the Study

1. To assess the progress of Criminal Jurisprudence on white-collared criminality from its inception to its current status.
2. To find out the challenges faced by policing agencies in dealing with white-collared criminals.
3. To elucidate solutions/suggestions for the problems faced by Indian Enforcement and Investigative agencies.

⁴ Kaytie Nielsen, ‘How Indians Dodged Government’s ‘Black Money’ Clampdown’ (*Aljazeera*, 15 February 2017) <www.aljazeera.com/features/2017/2/15/how-indians-dodged-governments-black-money-clampdown> accessed 10 September 2024.

⁵ ‘Involvement of bank officials in money laundering during post monetization’ (*Press Information Bureau*, 7 February 2017) <<https://pib.gov.in/newsite/PrintRelease.aspx?relid=158174>> accessed 11 September 2024

⁶ Ipsita Chakravarty, ‘The Daily Fix: RBI’s latest report is clinching evidence that demonetisation was a failure’ (*Scroll.in*, 30 August 2018) <<https://scroll.in/article/892428/the-daily-fix-rbis-latest-report-is-clinching-evidence-that-demonetisation-was-a-failure>> accessed 12 September 2024.

Chapter 1. Theories of White-Collar Crime from Discovery to Critical

Legal Study: Relevancy to Indian context

Al Capone called White-Collar Crimes as "The Legitimate Rackets".

White collar crimes are “non-violent, financially motivated offenses committed by individuals in positions of trust or responsibility, often within the corporate or business world. Examples of white-collar crimes include embezzlement, fraud, insider trading, bribery, money laundering, and cybercrime.”⁷

1. Edwin Sutherland’s Discovery of White-Collar Crimes

Edwin Sutherland noticed a research gap in the criminal law of his time, wherein certain behaviors by the economically and socially affluent were not seen as criminal despite having a systemically violent effect on society at large. He coined the term ‘White-Collar crime’ in a speech in 1939.

Sutherland defined white-collar crime as “a crime committed by a person of respectability and high social status in the course of his occupation.”⁸ He emphasized that white-collar crime was different from street crime in that it was committed by individuals in positions of trust and responsibility, often within the corporate or the business world, and involved financial crimes such as embezzlement, fraud, and insider trading.

It is interesting to note that due to his introduction of this concept, his work was seen as a threat to various different corporations whose ‘wrongdoings’ he had compiled into his work. This led to a complete censorship of his work ‘White Collar Crime’, until it was later published by Yale without censorship.

Thus, Sutherland challenged not only future criminal law scholars but also Nation-States to deal with the challenge of criminalizing the most powerful within their society when they exceed their bounds and threaten the system with their vast criminal prowess.

His challenge remains to be fulfilled by the Indian authorities.

⁷ "White Collar Criminal Defense Guide". Law Offices of Randy Collins, 23 December 2016.

⁸ Edwin H. Sutherland, White Collar Criminality, American Sociological Review, Feb., 1940, Vol. 5, No. 1, pp. 1.

2. Dr. Valeria Weis' Theory of Criminal Selectivity and White-Collar Crimes

Analysis of White-collar crime and its criminalization would be inadequate without mention of **Dr. Valeria Vegh Weis**⁹ **theory of History of Criminal Selectivity**. According to Dr. Weis, in our current social order which she describes as a Bulimic¹⁰ social order, certain behaviours are over-criminalised while others such as white-collar crimes and other financial maneuvers are under-criminalised at both primary and secondary levels of criminal system: -

- 1. Primary Under-Criminalization:** Therefore, white-collar crimes are under-criminalised at the primary level (primary under-criminalisation) which constitutes police, taxing officers, and other agents of the State, which are supposedly there to stop such crimes, 'protection of the general populace' being there formal function.
- 2. Secondary Under-Criminalization:** Then, following primary under-criminalisation, courts and other agencies that pass judgments on such crimes also fail to punitively punish the white-collared criminals, or simply take a lenient and liberal approach towards unconventional crimes. Thus, such behaviours though deemed deviant by many are under-criminalised at the secondary level too.¹¹

Weis (2017) also emphasizes the relationship between private and public sector in white-collar crimes, stating a certain 'symbiotic confluence' type of relationship between them that occurs in the neo-liberalizing and globalizing era. She states: -

"The central element of secondary under-criminalization of white-collar crimes had to do with the link between the private and the public sector. From a relationship of mere cooperation between state agencies and perpetrators during the second disciplining phase, white-collar crimes initiated a path towards a symbiotic confluence between public and private interests"¹²

This symbiosis will be further discussed in the next chapter of this paper, giving a realization-focused understanding of the same in the Indian Context.

⁹ Dr. Valeria Vegh Weis is an Argentinian-German jurist, who specializes in criminological jurisprudence.

¹⁰ The word 'Bulimia' means 'inclusion-exclusion'. Dr. Weis uses it to describe a social order within which the marginalized underclass groups are included culturally, but excluded from actual material development.

¹¹ Weis V, *Marxism and Criminology: A History of Criminal Selectivity* (BRILL 2017) 212.

¹² *Ibid.*

Chapter 2. Challenges Faced and Various Reforms

“There is no scene of crime susceptible to forensic examination, no corpse to be identified for clues, no victim witness and rarely any untainted witness.”¹³

In the following section, I have tried to provide a non-exhaustive list of the challenges faced by Enforcement agencies involved in the machinery of white-collared crimes.

1. Legal and Enforcement Pluralism: Opportunity for Conflict or Collaboration?

A cumbersome work was done by Naushad and Raiz (2021) to compile almost all of the contemporary issues and complexities involved in the legal machinery of White-Collar crimes in India. They point out the issue of significant delay in courts that can be caused by a white-collar criminal in the machinery of law with the help of legal know-how of elite lawyers and firms at their behest. They state as such: -

“...accused who are financially sound and aware of the nuances of law often find it easy to prolong criminal proceedings by resorting to filing of multiple appeals and applications, taking adjournments, and so on. Such accused also have the legal teams in their armory which could help improve their chances of prolonging or succeeding in a given case.”¹⁴

The figure (below) represents the legal pluralism involved in laws related with white-collar crimes in India which makes the law extremely fragmented, involving a conflict of a lot of authorities (while also providing opportunities for co-operation), and a pluralism of fines and punishments and enforcement bodies.

The authors however also point out the positive in the legal pluralism as the legislative intent behind the plurality might be to simply not leave any space for the white-collar criminal to escape their legal chains. In other words, the legislative intent¹⁵ behind the phrasing of these provisions may well be to outpace those who engage in white-collar crime, adept at maneuvering through the murky waters of legal ambiguities and gaps to amass their ill-gotten gains.

¹³ Ambrose Lee, *Measuring Corruption (Law, Ethics and Governance Series)* (Charles Sampford, Arthur Shacklock and Carmel Connors eds, Ashgate Publishing 2006) 224.

¹⁴ Susanah Naushad and Mohammed Raiz, *White-Collar Crimes in India: Contemporary Issues and Complexities* (first published 2021, Thompson Reuters 2021) 244.

¹⁵ *Ibid*, 245.



Naushad and Raiz (2021) point out how the texts of these acts are so wide in their connotation that any offence could be molded to be an offence under IPC (now BNS), PMLA, or Companies Act, 2013. They said: -

“The text of certain penal provisions in statutes such as Companies Act, 2013 (see Section 447), and PMLA (see Sections 2(u) and 3), are fluid and wide in nature, so much so that it is still unclear and subject to judicial interpretation as to, for example, which actions could result in an offence of fraud under Companies Act, 2013, or money laundering under PMLA...can bring within its ambit a host of actions which may not currently be considered as amounting to such offences”.¹⁶

Thus, a white-collar crime may at once be a “Criminal breach of Trust” under Section 316 Bhartiya Nyaya Sanhita 2023, “Fraud” under section 447 of Companies Act 2013, and an offence of money-laundering under Section 3 PMLA, 2002. Further, if such Act involves data/accounts manipulation using hacking, then Section 66 and 70 of Information Technology Act 2000 may also be attracted. *Further*, if some hush-money (bribe) has been paid to a public servant, then as a bribe-giver the offender is also punishable under Section 8 of Prevention of Corruption Act, 1988.

The penology of such a crime is theoretically extremely deterrent, involving a variety of punishments, fines, intrusion of privacy by various enforcement and investigating agencies, media backlash, public backlash, market backlash, etc. However, practically due to a variety of reasons that will be discussed in this chapter, these acts by the powerful yet remain under-

¹⁶ *Ibid.*

criminalised (Weis, 2017).

The enforcement and investigation bodies involved in white-collar crimes can be listed as following: -

- I. Central Bureau of Investigation (CBI)
- II. Directorate of Enforcement (ED)
- III. Serious Fraud Investigation Office (SFIO)
- IV. Directorate of Revenue Intelligence
- V. Economic Offences Wing

Other bodies may include local police authorities which will act as a supplementary force to these authorities as per needed. Authorities such as SEBI also are brought into white-collar crime matters, as will be discussed in the case study of Adani-Hindenburg-SEBI in Part 3 of this chapter.

All of these agencies have to deal with certain similar problems inherent in identification of white-collar crimes such as “social position, intelligence, and criminal technique”¹⁷, which leads to an immunity towards being categorized and recognized as a criminal in the first place. This challenge leads to many white-collar crimes not even reaching the stage of investigation, let alone prosecution and incarceration, which have their own sets of different problems.

a) Electoral Bonds Case and Finance Act, 2017.

Naushad and Raiz (2021) have also discussed the problems with the Finance Act which near-constantly brings out amendments for the Indian Legal Mechanism related with white-collar crimes, making the legal pluralism even further dynamic, confusing, and hard to trace.

In the case of *Association for Democratic Reforms v Union of India*¹⁸, the problem stated above is seen. Certain Amendments done by the Finance Act of 2017 were discussed which facilitated the Electoral Bonds Scheme.

This even included an amendment to Companies Act, 2013, removing the ceiling on how much a corporation could donate to a political party of their choosing. This was seen by many

¹⁷ Kam C Wong, 'From White-Collar Crime to Organizational Crime: An Intellectual History' (Murdoch University Electronic Journal of Law, 2005) <<https://classic.austlii.edu.au/au/journals/MurUEJL/2005/14.html>> accessed 14 September 2024.

¹⁸ Association for Democratic Reforms v Union of India 2024 INSC 113

dissenters as an act of state-sanctioned and legalized corruption.¹⁹ This legitimated corruption can be seen as yet another example of the ‘symbiotic confluence’ described by Weis (2017) which complicates the investigation process by creating a pro-establishment bias in the enforcement agencies.

2. Lack of Independence of Enforcement Body

In an era wherein there is a symbiotic relationship between public and private sector with acts such as entire legalized and normalized lobbying present in most nations (Including India) it is now more important than ever that Enforcement Agencies that police corruption and white-collar crimes be exempt from the influence of both public and private sector.

a) Central Bureau of Investigation and Directorate of Enforcement

In the Supreme Court Case of *Dr. Jaya Thakur v Union of India*²⁰, the power of the union to extend the tenure of ED and CBI was upheld. The two Acts, namely, Central Vigilance Commission (Amendment) Act, 2021, and the Delhi Special Police Establishment (Amendment) Act, 2021 were upheld.

Jurist Gauri Kashyap points out the opposition to such effort to monopolize bodies that are involved in machinery of corruption-busting. She states: -

“The Bench noted that there were sufficient safeguards in the functioning of the CBI and ED to ensure that independence of the institutions will be protected. In March 2023, 14 opposition leaders approached the Supreme Court for protection from arrests by the ED. They submitted that since 2014, a whopping **95% of arrests have been of members of the opposition.**”²¹

According to various independent reports by news agencies, Directorate of Enforcement has been used as a tool to quash any opposition to the establishment (especially during the time of elections), thus helping perpetuate the government for as long as possible²², subverting

¹⁹ ‘Constitutionality of the Electoral Bond Scheme’ (*Supreme Court Observer*) <www.scobserver.in/cases/association-for-democratic-reforms-electoral-bonds-case-background/> accessed 11 September 2024.

²⁰ *Dr. Jaya Thakur v Union of India* [2023] INSC 616

²¹ Kashyap G, ‘Supreme Court Upholds Union Power to Control CBI, ED Directors’ Tenure’ (*Supreme Court Observer*, 15 July 2023) <www.scobserver.in/journal/supreme-court-upholds-union-power-to-control-cbi-ed-directors-tenure/> accessed 14 September 2024

²² Ananya Bhardwaj, ‘CBI, ED, IT Probes Against Opposition Politicians — On at Election Time, Off After That’ (*The Print*, 16 April 2021) <<https://theprint.in/india/cbi-ed-it-probes-against-opposition-politicians-on-at-election-time-off-after-that/640596/>> accessed 14 September 2024.

democracy of our nation.

Not just ED, but the premier body of investigation known as Central Bureau of Investigation (CBI) has been dealing with the perception of being a 'caged parrot'. The implication being that it is both parroting the words of the establishment, while being territorialized by the ruling party. In this, I would concur with the opinion of Justice Ujjal Bhuyan in the recent Arwing Kejriwal case²³ that: -

"It is in public interest that CBI must not only be above board, but must also be seen to be so. Every effort must be made to remove any perception that investigation was carried out unfairly and that the arrest was made in a high-handed and biased manner... *Not long ago, this court has castigated the CBI comparing it to a caged parrot. It is imperative that CBI dispels the notion of it being a caged parrot. Rather, the perception should be that of an uncaged parrot.*"²⁴

In other words, only truly independent investigating and enforcement agencies can possibly tackle the problem of corruption, otherwise it would lead to a situation wherein the criminals are vicariously investigating their own offences, giving themselves a clean-chit, all while destroying their opposition in a 'Darwinian Power Struggle'.

3. Lack of International Co-operation: Cross-Border Investigations

As a reaction to many crimes becoming globalized in nature and criminals often fleeing off-shore, (cyber-crime being the most notorious example as of late) many Nation-States have been fueled by the desire for co-operation for the sake of curbing global white-collar crimes.

India followed suit by developing Reciprocal relationships with other Nations using **Section 105 of CrPC**²⁵ (now S. 110 of Bhartiya Nagrik Suraksha Sanhita, 2023²⁶) upon experiencing first-hand how white-collar criminals like Vijay Mallya and Nirav Modi escape accountability by absconding far from the reach of Indian law enforcement agencies like CBI and ED. So far around 42 nations have entered into Mutual Legal Assistance Treaties (MLATs). However, since we do not have a mutual understanding treaty with hundreds of other nations, that only leaves the white-collared criminals more options to escape.

²³ Arvind Kejriwal v. Central Bureau of Investigation, SLP(Crl) No. 11023/2024

²⁴ Debby Jain, 'CBI Shouldn't Be a Caged Parrot': Justice Ujjal Bhuyan Says CBI Arrest of Arvind Kejriwal Was Unjustified' (*LiveLaw*, 13 September 2024) <www.livelaw.in/top-stories/supreme-court-delhi-liquor-policy-case-arvind-kejriwal-cbi-arrest-bail-granted-justice-bhuyan-269489?fromIplLogin=28951.158140306776> accessed 12 September 2024.

²⁵ The Code of Criminal Procedure 1973, s 105

²⁶ Bhartiya Nagrik Suraksha Sanhita 2023, s 110

One more problem that remains with MLATs is that it completely depends on Indian Parliament's willingness to pursue such investigations in a foreign territory. To illustrate the same, let us look at the latest 'scandal' that broke out in relation to Adani group of companies and a U.S.-based Research Firm known as Hindenburg Research.

a) Adani: Hindenburg and SEBI in Conflict

Adani, the 3rd Richest man in India, who has recently rose to power as the richest man in India has been alleged to be involved in one of the largest money laundering schemes in history by a US-based Research group known as Hindenburg Research, and he has been alleged to be using the previously discussed NDA-given 'Mauritius Route' for the same.²⁷

According to the report, many instances of money laundering, fraud and document-forging at the hand of Adani group has been noted: -

“The Adani Group has previously been the focus of 4 major government fraud investigations which have alleged money laundering, theft of taxpayer funds and corruption, totaling **an estimated U.S. \$17 billion**. Adani family members allegedly cooperated to create offshore shell entities in **tax-haven jurisdictions like Mauritius, the UAE, and Caribbean Islands**, generating forged import/export documentation in an apparent effort to generate fake or illegitimate turnover and to siphon money from the listed companies.”²⁸

Despite an MLAT existing between Mauritius and India, as well as U.S. and India, neither of the governments have initiated a co-operative effort to pursue investigation with respect to the Adani group. Instead, conflict has ensued between India's SEBI and U.S.'s Hindenburg.²⁹

b) Cyber-Crime and International Co-operation

In the context of cloud computing, data can be scattered across numerous service suppliers, destinations, and even countries, making it difficult to secure digital evidence for the system of criminal justice. Adopting and implementing such a pluralistic framework might be difficult when there are numerous jurisdictions and sectors to consider.

²⁷ 'Adani Group: How The World's 3rd Richest Man Is Pulling The Largest Con In Corporate History' (*Hindenburg Research*, 24 January 2023) <<https://hindenburgresearch.com/adani/>> accessed 14 September 2024

²⁸ *Ibid*

²⁹ 'Adani Update – Our Response To India's Securities Regulator SEBI' (*Hindenburg Research*, 1 July 2024) <<https://hindenburgresearch.com/adani-update-sebi/>> accessed 14 September 2024.

The Budapest Convention on Cybercrime is currently tackling these challenges. According to the *Council De Europe* website, the purpose of the Convention is stated as such: -

“...permits hundreds of practitioners from Parties to share experience and create relationships that facilitate cooperation in specific cases”³⁰

The agreement is particularly concerned with allowing criminal justice officials to access evidence held in cloud computing systems.

However, India is *neither a party nor a signatory* to this convention, leaving the investigating agencies with even less resources to work with when investigating white-collar crimes that involve a cyber element stored in a global/overseas data system.

4. Informal Sector Economy and The Wage Thieves

One oft-ignored area of white-collar criminality is known as wage theft, in which corporate organizations fail to uphold their promise of salary, benefits, and compensations to the employees or their families by using various shrewd business practices such as not paying. However, India is *neither a party nor a signatory* to this convention, leaving the investigating agencies with even less resources to work with when investigating white-collar crimes that involve a cyber element stored in a global/overseas data system.

overtime salary, paying less than minimum wages illegally etc.

With an abnormally high percentage of informal sector of employment, with more than 90%³¹ being employed without a formal contract and benefits, it becomes easier than ever to commit wage theft in India. Wage theft as a socio-economic crime affects the livelihood of lakhs of families in India and thus has far-reaching consequences.

Many harrowing stories on unpaid back-wages in Karnataka and non-payment of lump sum amount owed to migrant workers have come forward in recent times, brought to light by Workers' Rights' Organisations. The organization Pay Your Workers pointed out in 2020: -

a) Shahi Exports Wage Theft: Case Study

“In April 2020, a minimum wage increase went into effect in the Indian state of Karnataka, one

³⁰ ‘The Convention on Cybercrime (Budapest Convention, ETS No. 185) and its Protocols’ (*Council of Europe*) <www.coe.int/en/web/cybercrime/the-budapest-convention> accessed 13 September 2024.

³¹ Murthy SVR, ‘Measuring Informal Economy in India _ Indian Experience’ (*International Monetary Fund*) <www.imf.org/Files/session-ii-murthy>

of the country's largest centers of garment manufacturing. Garment factory owners producing for leading apparel brands refused to pay. As a result, 400,000 garment workers across over a thousand factories were **cheated of the legal minimum wage – amounting to nearly \$60 million in back wages** owed.”³²

Only after a struggle of independent Worker bodies and activists around the world was a resistance against Shahi Exports (the largest textile producer in India) was built enough to make the company finally pay their dues to the workers.³³

This was one of the worst cases of wage theft in India ever seen and yet no involvement of any State body was present. This points to not just the inefficiency and inability, but the apathy of the State towards the issue of wage theft. As Weis (2017) points out, there exists in white collar crimes a public-private symbiosis, wherein the lines between public and private blurs to a large extent.

Wage Theft is not yet criminalised in India, as all of these are considered mere issues of civil nature, however it must be seen that this issue does not remain within the purview of civil authorities and instead is brought to the purview of Criminal Investigation Bodies such as ED, CBI, SEBI etc.

b) Kerala Labour-line: Case Study

In a pro-labor initiative started by Kochi, a mechanism for redressal and recording of labor complaints has been devised. Within a span of 18 months, around 1000 calls have been received complaining of a total estimated 2 crores worth of Wage Theft.³⁴

This toll-free helpline was targeted towards the workers in the informal economy. The legal issues of these workers are also stated as follows: -

“...the victimised workers... lack evidence of employment or wage dues, leaving little room for legal resolution. Workers cannot complain against the employer as it will invite repercussions in the form of loss of job and accommodation, said Mr. Peter highlighting the

³² ‘Karnataka - Worst Wage Theft’ (#PayYourWorkers) <www.payyourworkers.org/worstwagetheft> accessed 13 September 2024.

³³ *Ibid.*

³⁴ M Praveen, ‘Migrant Workers Lodge Complaints of ‘Wage Theft’ Amounting to ₹2.41 Crore in 18 Months’ (*The Hindu*, 19 May 2024) <www.thehindu.com/news/cities/Kochi/migrant-workers-lodge-complaints-of-wage-theft-amounting-to-241-crore-in-18-months/article68185925.ece> accessed 14 September 2024.

plight of informal workers.”³⁵

Though State-sanctioned institutions such as District Legal Services Authority (DLSA) are present to help the workers, they are clearly tooth-less and claw-less tigers against giant employer corporations. In this very case, corporate impunity has been demonstrated in a harrowing display of criminal apathy: -

“Though 48 cases, in which there were some evidences to back up the claims, have so far been referred to the District Legal Services Authority, not a single case has been resolved yet. In fact, none of the employers turned up at an Adalat organised by the authority last December.”³⁶

Due to a lack of resources, the Kerala Labour-line had to scale down its operations. Lack of State support and care in this case is apparent as migrant workers are left to their own resources yet again.

Conclusion

Through a critical analysis of criminal jurisprudence on white collar crimes, we can see a consonance between the views of Dr. Weis and Edwin Sutherland in their firm assertion that White-Collar Crime is under-criminalised due to theoretical gaps in criminal law and certain systemic issues like ‘symbiotic confluence’ and its technological-institutional complexity, combined with Socio-economic standing of the white-collared individual.

Some of the challenges mentioned in chapter 2 must be overcome by either: -

1. Ensuring the independence of the Current Law Enforcement Agencies from the interference of Political Parties; Or
2. By creation of an independent institution like Hong Kong’s ICAC which functions on the basis of community education/involvement and thorough surveying of State and Private Institutions both.
3. Collaboration of Existing National Agencies
4. Inter-State Collaboration and Co-operation by way of Conventions and Treaties

There is a common theme that runs throughout this paper, which is the theme of ‘deregulation’ and ‘neo-liberalism’ or ‘crony capitalism’, which allows impunity and free reign to the corporates favored by the establishment, blurring the lines between public and private sector. Efforts must be made by the State to create sites of resistance against these tendencies, such as instituting an Independent Commission Against Corruption such as in Wales, using three-

³⁵ *Ibid*

³⁶ *Ibid*

pronged approach of detection, prevention, and education.

However, Amartya Sen's warning in 'The Idea of Justice' must be kept in mind, wherein he pointed out that no perfect institution can be made that stops injustice altogether, instead a realization-focused approach must be taken seeing that not only 'Niti' (organizational arrangements) but 'Nyaya' (real-life effect on people through law) is also seen to be taken into consideration. He emphasizes an accomplishment-based understanding of Justice, wherein emphasis is on enhancing justice and curbing injustice as much as possible.

One such way to do both 'Niti' and 'Nyaya' in case of Wage Theft would be to criminalize such malpractices so they are no longer seen as "shrewd business practices", but crimes worthy of deterrence and retribution. However, in the longer run a shift towards a formal economy would help workers claim their rights with relevant evidence. Similar Toll-free worker helplines must be created in every State for informal workers to register their distress. In this way, not only accessibility of justice would be enhanced, but injustice would be reduced.

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