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*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

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## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **WHITE COLLAR CRIMES IN INDIA**

AUTHORED BY: RUTVIJ RAJESH YEWALE

Roll No. 29

Progressive Education Society's Modern Law College Ganeshkhind Pune

## **ABSTRACT**

White collar crimes are the crimes which cause a harm to the economy of the country as a whole. It threatens the country's economy by bank frauds, economic thefts, evasion of tax etc. It not only affects the financial status of a country or a person but It has also a negative impact on the society. The various crimes such as bribery, corruption, money laundering has affected society in a negative way.

There is no proper definition of White collar crime in Indian laws. These socio-economic crimes should not be taken leniently by the government. Punishment regarding White collar crime should be stricter as harsh punishment can prevent these crimes to a great extent. If the crime is very heinous the punishment might also be extended to life imprisonment.

## **INTRODUCTION AND MEANING**

With the advancement in science and technology there are certain anti-social activities which the person of upper class carries on their occupation or business. These anti-social activities are termed as White-Collar Crime. White Collar Crime has become a political issue as it affects key areas of contemporary life. The harmful activities on the part of upper class have endanger the safety of workers, consumers and passengers and have a wide impact on public health and the environment.<sup>1</sup>

These harmful activities are subject to criminal law and criminal justice but they are not regarded as crime in the same way as murder, robbery or assault. This was the main issue that was raised while studying white collar crime. The existence of white- collar crime questions the way in which crime is defined and treated by criminal justice agencies.

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<sup>1</sup> <https://www.legalserviceindia.com/legal/article-7541-white-collar-crimes-and-contribution-of-professor-sutherland-in-the-development-of-the-white-collar-crimes.html#:~:text=With%20the%20advancement%20in%20science,key%20areas%20of%20contemporary%20life.>

White collar crime encompasses a wide range of harmful activities which are not widely regarded as criminal, raising questions of how it can be compared with other crimes. The analysis of white-collar crime move beyond the traditional concerns of criminology into wide areas of financial regulation, occupational health, consumer affairs and food regulation.

## **Historical Background of White-Collar Crime**

Carrier case was the first case of white-collar crimes which was documented in the year 1473 in England. In this particular case, the agent was entrusted with the responsibility of the principal to transport wool from one place to another. The agent was found guilty of stealing some of wool.

The English court after this case adopted the doctrine of breaking the bulk which means that the bailee who was given the possession of goods tried to break it open and misappropriate the content. In the year 1907 Edward A. Ross was the first to report upon the Sins of the Criminoid in his classical Article in the Atlantic monthly in 1907.<sup>2</sup>

Albert Morris was the first to discuss the abuses of the Criminal of the upper world in the form of book.<sup>3</sup>

In his treatise on criminology (1935) he defined criminals of upper class as:

That numerous but never clearly defined group of criminals whose social position, intelligence and criminal technique permit them to move among their fellow citizens virtually immune to recognition and prosecution as criminals.

The most influential criminologist and sociologist of the 20th Century, Edwin Hardin Sutherland in the year 1939 first coined the term White Collar Crime and worked upon the concept of white-collar crime throughout his career. Sutherland had not only defined the term white collar crime but he had also given his opinion that the criminals who are committing these white collar crime should be differentiated as there are differences between the person belonging to the lower socio-economic status who are committing crimes by violating the regular penal code or violating special trade regulation which are applicable to them or the

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<sup>2</sup> <https://blog.ipleaders.in/white-collar-crimes/>

<sup>3</sup> <https://www.linkedin.com/pulse/concept-origin-scope-white-collar-crimes>

person who are belonging to high social economic status and violating the provision of regular penal code in such a way which are not connected with their occupation and who are committing white collar crime.

## **Definition of White-Collar Crime**

Edwin Sutherland defined White Collar Crime as:

Crime which is committed by a person who is having high social status and also having respectability which is acquired by him in the course of his occupation.<sup>4</sup>

Hartung defined White Collar Crime as:

A violation of law regulating business which is committed for a firm by the firm or its agent in the conduct of its business.

Herbert Edelhertz defined White Collar Crime as:

An act which is illegal or series of illegal act which is committed by using such means which are non- physical and these acts are done for the purpose of concealment or guide for obtaining money or for the purpose of avoiding the payment of loss in respect of money or property or for the purpose of obtaining any business and in some cases the purpose is personal advantage.<sup>5</sup>

## **Contribution of Sutherland Towards White Collar Crime**

Edwin Sutherland defined White Collar Crime as, Crime which is committed by a person who is having high social status and also having respectability which is acquired by him in the course of his occupation Sutherland definition of White- Collar Crime is therefore built upon three overlapping circles of misbehavior.

The first circle represents any crime committed by a person of high status. The second circle represents the crime committed by a person having respectability. The third circle represents the crime committed in the course of occupation.

White- collar crime not only respectable but feasible. He stated the problem clearly and succinctly. He spearheaded the systematic study of the phenomenon. He articulated a distinctive theoretical concept of white-collar crime and provided an operational definition and supported his thesis with empirical data based upon legal and administrative violations of 70

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<sup>4</sup> [https://www.legalserviceindia.com/legal/article-7541-white-collar-crimes-and-contribution-of-professor-sutherland-in-the-development-of-the-white-collar-crimes.html#google\\_vignette](https://www.legalserviceindia.com/legal/article-7541-white-collar-crimes-and-contribution-of-professor-sutherland-in-the-development-of-the-white-collar-crimes.html#google_vignette)

<sup>5</sup> <https://www.cram.com/essay/Herbert-Edelhertz-White-Collar-Crime/FC9XH8M9B2T>

companies. Thus, Sutherland contributions can be best summed up in the following propositions:

Sutherland concept of white-collar crime has put forward the kind of crime committed by powerful and influential members of the elite society

Sutherland pointed out that White-Collar Crime was more dangerous to the society than crimes committed by the members of the lower class because the financial loss were higher and damage is inflicted on public moral.

Sutherland also elaborated the reasons why such crime went unpunished because of their social status and principally due to difference in their social position.<sup>6</sup>

White Collar criminality is real criminality, being in all cases in violation of the criminal law

White Collar criminality differs from lower-class criminality principally in an implementation of the criminal law which segregates white collar criminals administratively from other criminals.

The theories of criminologist that crime is due to poverty, psychopathic and sociopathic conditions are invalid because first they are derived from samples which are grossly biased with respect to socio-economic status; second, they do not apply to white collar crime criminals; and third they do not even explain the criminality of the lower class since the factors are not related to a general process characteristic of all criminality.

A theory of criminal behavior which will explain both white collar criminality and lower-class criminality is needed.

A hypothesis of this nature is suggested in terms of differential association and social disorganization.

Sutherland impact was great and unmistakable. He reoriented the thinking of a generation of criminologists and others to come. He provided personal leadership in theory development and research verification. He inspired others to follow his example. He raised controversial issues and sharpened debates over existing theories and research of crime and delinquencies. Largely because of his influence the period between 1940 and 1960 was described as the classical period in the research and study of white-collar crimes.

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<sup>6</sup> <https://study.com/academy/lesson/edwin-sutherland-the-study-of-white-collar-crime.html>

## **Reasons for the growth of white collar crimes in India**

Greed, competition and lack of proper laws to prevent such crimes are the major reasons behind the growth of white collar crimes in India.<sup>7</sup>

### Greed

The father of modern political philosophy, Machiavelli, strongly believed that men by nature are greedy. He said that a man can sooner and easily forget the death of his father than the loss of his inheritance. The same is true in the case of commission of white collar crimes. Why will a man of high social status and importance, who is financially secure, commit such crimes if not out of greed?

### Easy, swift and prolong effect

The rapid growing technology, business, and political pressure has introduced the criminals to newer ways of committing white collar crimes. Technology has also made it easier and swifter to inflict harm or cause loss to the other person. Also, the cost of such crimes is much more than other crimes like murder, robbery or burglary, and so the victim would take time to recover from it. This would cut down the competition.

### Competition

Herbert Spencer after reading 'On the Origin of Species' by Darwin, coined a phrase that evolution means 'survival of the fittest'. This implies that there will always be a competition between the species, and the best person to adapt himself to the circumstances and conditions should survive.

### Lack of stringent laws

Since most of these crimes are facilitated by the internet and digital methods of transfer payments, laws seem reluctant to pursue these cases as investigating and tracking becomes a difficult and complicated job. Why it becomes difficult to track it is because they are usually committed in the privacy of a home or office thereby providing no eyewitness for it.

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<sup>7</sup> <https://blog.ipleaders.in/white-collar-crimes/>

### Modern technology

With modern technology ease of business is one of its expectations, in a sense, it also applies to white-collar crimes which have allowed them to reach out to a larger number of people and commit large scale crimes without being noticed by the law. Many have fallen victim to different scams such as the credit card scam, moreover, the pandemic opened up a new market for them by exploiting the medical field and creating a black market for Covid medications such as “Remdesivir” and over a hundred cases were lodged against the illegal sales and use of this medicine and in most cases, the Doctors and Hospital staff were involved. The need and greed of people have driven them to the extent of exploiting any possible field. It doesn't stop there the development in technology is so rapid that people can acquire nuclear weapons with a click of a button, this was the case in Mumbai when authorities seized two people acquiring 7kgs of natural uranium which is highly radioactive and dangerous to human life. This makes us question the level of threat that these cartels and organizations impose on the nation and the level of sophistication these crimes have reached for the personal gains of their lives.

### Lack of awareness

The nature of white collar crimes is different from the conventional nature of crimes. Most people are not aware of it and fail to understand that they are the worst victims of crime. People who are victims of these crimes fail to comprehend the notion of the crime and understand the exact offence which has been committed and whom to approach or lodge a complaint against because most of the time it involves a large corporation and there may be little or no evidence to essentially produce a criminal and in certain crimes such as scam or fraud people may not even realise that they have fallen victim to a crime such as a bank fraud where yearly there are over thousand cases registered. And in a scam, such as a double-dip scam the victim may fall prey again because the information of the victim is stored and passed on to another scammer. Especially in metropolitan cities these cases are rising but we lack the awareness to become victims of such crimes, a wider reach is required and awareness campaigns by the government may help people understand the severity of these crimes and the loopholes these criminals use and may help reduce the rate of white-collar crimes in future.

### Competition

We live in a fast pace world where only the fittest can survive and it has grown to such an extent that crimes are committed for survival especially belonging to the lower socio-economic classes their work environment is poorly designed and they are often underpaid so in order to

earn more and make a decent living their moral and ethnic values may be compromised and just to move out of poverty or to make more gains their behaviour cannot be rationalised and is often out of greed that they have no limits. Criminal organizations and cartels are also multiplying and advancing in their methods due to this competition.

### Necessity

People also commit white collar crimes to meet their own needs and the needs of their family. But the most important thing that the people of high social status want to feed their ego.

## **Common Types Of White Collar Crime In India:**

1) Bank Fraud: Fraud is a crime committed with an intention to deceive and gain undue advantage. Bank Fraud is a fraud committed on the banks. It is committed by the fraudulent companies by making fake representations. It is also related to the manipulation of the negotiable instruments like cheque bouncing, securities, bank deposits etc. Bank fraud is concerned to the public at large because there is a relation of trust between the banks and the public. It is the most common type of white collar crime and also a corporate crime. It harms public as well as the government of the country.

2) Bribery: Bribery is also a very common type of white collar crime. By bribery we mean giving money or some goods to the person at a high position in return of a favor. In simple words bribery is when one man gives money to the other which is in authority. It is done for the purpose of insisting him to do something or to prevent him from doing something. It is the most common income of most of the public officials of our country.

3) Cybercrime: Cybercrime is the biggest cause leading to these types of crime in India. It is the latest problem prevailing in the cyber world. Cybercrime is the crime which is related to 'computer networks'. With the rapid increase of advancement of technology there is also a rapid increase in the crime related to the technology. Cybercrime involves the persons who are expert in computer related technology. And it is committed against the victim directly or indirectly to cause a harm to his reputation or to harm in physical or mental way using internet, networks and other technological sources.

Cybercrime threatens the nations as well as the person's security and financial status. Cybercrime can cause huge financial loss to the country. Not only the financial loss but it can

also threaten the privacy of a person. Disclosure of confidential information can create privacy problems. Also cybercrime against women is also rising. By the use of telecommunication networks, mobile phones cyber stalking, sending obscene messages and pictures by criminals to women is also increasing.

# Hacking,

# Child pornography,

# Copyright infringement,

# Cyber terrorism,

# Cyber stalking are some of common examples of cybercrime.

4) Money Laundering: Money laundering is a crime in which the criminals disguise the identity of the money. In this crime, criminals try to hide the original ownership of the money and the place where they obtained that money by illegal means. Laundering is done with the intention of making that money come from legal sources. In simple words money laundering means to show the illegitimate money as legal money. For instance if a person obtain money from black marketing, trafficking of illegal goods the money will be considered 'dirty' and he cannot deposit into the banks as it may seem suspicious if he directly deposit money into the financial institutions because he had to create statements and records stating that where the money came from. Money laundering involves three steps:

# Firstly, the owner of the money obtain the money from some illegal means and deposit into the bank by some way.

# Then through multiple transactions the transfer of money is being done.

# Lastly, they return the money into banks to make it legitimate.

5) Tax Evasion: Tax evasion is committed with an intention to conceal one's actual taxable income and one's original position to the authorities. This concealment of income is done to reduce the tax liability in the eyes of government. In simple words it means to hide the money obtained from the illegal means in order to reduce one's liability to pay tax and to show low income to the tax authorities. Tax evasion has a negative impact on the social values as it

demoralized honest tax payers and they might also want to do tax evasion also it gives economy power in the hand of few undeserving people.<sup>8</sup>

6) Identity Theft: Identity theft is one of the easiest type of crime these days. Due to advancement of technology it is very easy to access personal information of anyone. Identity theft is the crime in which the criminal access unauthorized information such as name, address, phone number etc. and use this information to gain money. In simple words identity theft is committed by using some other person identity to commit fraud or to gain money by illegal means.

White Collar Crime In Different Professions:

1) In Medical And Health:

- # Making of false medical certificates by the doctors.
- # Fake and intended prolong the treatment in order to increases the bills.
- # Sex discrimination of the child by the doctors on the compulsion of the patient to gain money.
- # Delaying of time by doctors to increase the amount of money in the bills.
- # Sale of sample medicines which are not allowed to the chemists.

2) In Legal Profession:

- # Fabrication of forged documents.
- # Threatening the witnesses of the other party.
- # Violation of ethical standard of legal profession to gain money.

3) In Education:

- # Collecting huge sums of money in the name of donations by students in order to give them admission.
- # Merit based admission is replaced by donations.
- # Collect huge amount of money in the name of government grants.<sup>9</sup>

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<sup>8</sup> <https://corporatefinanceinstitute.com/resources/esg/white-collar-crime/>

<sup>9</sup> [https://blog.ipleaders.in/white-collar-crimes/#White\\_collar\\_crime\\_in\\_other\\_professions](https://blog.ipleaders.in/white-collar-crimes/#White_collar_crime_in_other_professions)

### Legislations Against The White Collar Crime In India:

Government has made various legislation for identifying white collar crime. These legislation contains punishment regarding these crimes.

- # Companies Act, 1960.
- # Income Tax Act, 1961.
- # Indian Penal Code, 1860.
- # Commodities Act, 1955.
- # Prevention of corruption Act, 1988.
- # Negotiable Instrument Act,
- # Prevention of money laundering Act, 2002.
- # IT Act, 2005.
- # Imports and Exports (Control) Act, 1950.

## **Sutherland's Legacy**

The cumulative effect of Sutherland's contribution has given earth breaking concept to white collar crimes with defined body, substantive content and renewed focus to gather the momentum. Sutherland's concept of White- Collar Crime provided conceptual tools, theoretical foundations and database for later researchers to build upon. Thus, Sutherland's legacy by virtue of his pioneer quality set the tone, pace, texture, direction of later research and debate in the field.

## **Criticism of Sutherland's Definition Of White- Collar Crime**

Sutherland definition of White- collar crime:

A crime committed by person of respectability and high social status in the course of his occupation was fraught with objective ambiguity and has not given subjective value judgement. The term respectability and high social status was not capable of precise definition and is subjected to much less objective measurements.

Many scholars raised issues with regard to the definition given by Sutherland on the concept of white-collar crime. Lack of conceptual clarity how important is social status in finding white collar crime criminality and what is the exact meaning of occupational activity are some key points where Sutherland faced criticism with regard to his definition on white collar crime.

While some scholars criticized Sutherland's definition because the definition has included deviant behaviour and has covered a broad range of diverse and inconsistent behaviours that did not considered them as criminals.<sup>10</sup>

## Conclusion

It is clear from the above discussion that white-collar crime are different from the other type of offences as these offences cause harm in a greater magnitude if compared to the magnitude of the traditional crime and these offences do not represent the cases of positive aggression or the cases of invasion, though these offences generally do not create a direct or immediate injury but actually they create such type of great danger which may hamper the economic growth of the country.<sup>11</sup>

After discussing the ambit of white-collar crime and contribution of Sutherland towards White Collar Crime there is a need for the establishment of some special courts that would particularly and exclusively deal with these types of offences and there should be effective and speedy disposal of these types of cases so that the offender cannot get away from the purview of justice.

While concluding it is pertinent to note that in India there are several problems of ill nourishment, corruption, poverty, illiteracy and exploitation that are coming in the way of economic development of the country. If white-collar crimes continue to harm the economic development of the country then we will not be able to develop as whole.

White collar crimes are the crimes which cause a harm to the economy of the country as a whole. It threatens the country's economy by bank frauds, economic thefts, evasion of tax etc. It not only affects the financial status of a country or a person but It has also a negative impact on the society. The various crimes such as bribery, corruption, money laundering has affected society in a negative way.

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<sup>10</sup> <https://www.legalserviceindia.com/legal/article-7541-white-collar-crimes-and-contribution-of-professor-sutherland-in-the-development-of-the-white-collarcrimes>

<sup>11</sup> <https://blog.iplayers.in/white-collar-crimes/>

There is no proper definition of White collar crime in Indian laws. These socio-economic crimes should not be taken leniently by the government. Punishment regarding White collar crime should be stricter as harsh punishment can prevent these crimes to a great extent. If the crime is very heinous the punishment might also be extended to life imprisonment. People are not aware about most of these crimes so the public awareness through any communication medium is also necessary.