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**Sub-Topic-** Historical Background, Definition of White-Collar Crime, Classification of White-Collar Crimes, Contributing Factors, White Collar Crime in India

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## Conception of White Collar Crime

It is common knowledge that certain professions offer lucrative opportunities for criminal acts and unethical practices which hardly attract public attention. There have been crooks and unethical persons in business, various professions and even in public life. They tend to become unscrupulous because of their neglect at school, home and other social institutions where people get training for citizenship and character building. These deviants have scant regard for honesty and other ethical values. Therefore, they carry on their illegal activities with impunity without the fear of loss of prestige or status. The crimes of this nature are called 'white-collar crimes' and they are essentially an outcome of the competitive economy of mid-twentieth century.

### **Historical Background:**

The concept of white-collar crime is usually associated **Sutherland** whose penetrating work in this area focused the attention of criminologists on its demoralizing effect on the total crime picture. Sutherland pointed out that besides the traditional crimes such as assault, robbery, dacoity, murder, rape, kidnapping and other acts involving violence, there are certain anti-social activities which the persons of upper strata carry on in course of their occupation or business. These activities for a long time were accepted as a part of usual business tactics necessary for a shrewd professional man for his success in profession or business. Thus, any complaint against such tactics often went unheeded and unpunished.

It must, however, be stated that Sutherland was preceded by other writers who focused attention on the dangers to society from the upper socio-economic group who exploited the accepted economic system to the detriment of common masses. Sutherland through his pioneering work emphasize that these 'upper world' crimes

which are committed by the persons of upper socio-economic groups in course of their occupation violating the trust, should be termed "White Collar Crime" so as to be distinguished from traditional crime which he called, "Blue Collar Crime".

Sutherland further pointed out that white collar crimes differ from the crimes committed by criminal syndicates. This distinction could be based on the respectability. For instance, if a person who belongs to a respectable of and possesses some degree of good reputation, sells shoddy goods. he is committing a white-collar crime, but if a group of persons unknown to their sell the same type of shoddy goods, that would not be a white-collar crime.

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

The concept of "white collar crime" found its place in criminology for the first time in 1941 when Sutherland published his research paper on white collar criminality in the American Sociological Review. **Sutherland** defined white collar crime as a "crime committed by persons of respectability and high social status in course of their occupation". A white-collar criminal belongs to upper socio-economic class who violates the criminal law while conducting his professional qualities. For example, misrepresentation through fraudulent advertisements, infringement of patents. copyrights and trade-marks etc., are frequently resorted to by manufacturers, industrialists and other persons of repute in course of their occupation with a view to earning huge profits

Sutherland further pointed out that a white-collar crime is more harmful to society than ordinary crimes because the financial loss to society from white collar crimes is far greater than the financial loss from burglaries, robberies, larcenies etc.

**Sir Walter Reckless**, an eminent American criminologist suggests that white-collar crime represents the offences of businessmen who are in a position to determine the policies and activities of business.

Some authorities suggest that white collar crimes are committed by persons of status not for need but for greed.

It must be emphatically stated that white collar criminality thrives because of public apathy to it. The reason for this public insensibility is that firstly such criminals operate within the strict letter of the law and exploit the credibility of their victims; and secondly, the legal battles involved are dragged out for years in the courts, with the result the gravity of the offence is completely lost in the oblivion. That apart, the impact of white-collar crime is so much diffused in the community that the individual victims are only marginally affected by it. and. therefore, they conveniently forget all about it.

### **Classification of White-Collar Crimes**

The main crimes that have attracted attention in the USA under the head of white-collar crimes may be summarized as follows:

- (a) frauds in business in relation to sale of bonds and investments;
- (b) adulteration of foods and drugs and misleading advertisements;
- (c) malpractices in the medical profession, such as illegal sale of alcohol and narcotics, abortion, illegal services to underworld criminals, fraudulent reports and testimony in accident cases, extreme cases of unnecessary treatment, fake specialists, restriction of competition and fee splitting;
- (d) crimes by lawyers, such as guiding criminal or quasi-criminal activities of corporations, twisting of testimony to give a false picture, fake claims (bogus liability in accidents), etc.;

- (e) trusts, cartels, combines, syndicates, etc. formed to combat competition, or to raise prices or otherwise to interfere with the freedom of trade to the detriment of honest businessmen or the consuming public. This has now become a branch of law by itself and is usually dealt with under the topic of "anti-trust legislation";
- (f) bribery and graft by public officers.

Since Sutherland limits the concept to unlawful behavior engaged in for the purpose of furthering the financial or strategic interests of legitimate callings, crimes by respectable people committed for other purposes are not white-collar crimes: murder of his spouse by a businessman or bribery of a traffic officer by a motorist who happens to be a physician are not encompassed by the concept.

### **Criticism of Sutherland's views on White Collar Crime**

Sutherland's definition of white-collar crime has evoked criticism from certain quarters. **Coleman and Moynihan** pointed out that the lack of definite criteria for determining who are 'persons of respectability and status' has made Sutherland's definition of white-collar crime most controversial. It seems likely that what Sutherland meant by this is absence from convictions for crimes other than white collar crimes. The element of 'high social status' as used in the definition also leads confusion: Clearly it has far narrower meaning than is given to that term in very day usage.

Some critics have suggested that such crimes should have been called as 'occupational crimes' instead of being termed as 'white collar-crime'. It is further argued that in fact the important element in the definition of white-collar crime is not the socio-economic status of the individual, but rather the type of crime and the

circumstances of its commission. These usually include pilfering, false accounting, bribery, embezzlement etc.

Another criticism quite often advanced against Sutherland's definition of white-collar crime is that it includes even those violations of law which are not committed in course of occupation or profession and these violations do not necessarily belong to upper strata of society or the so-called 'prestigious groups'. For example, tax evasion is not committed only by persons of high status but it can be committed by persons belonging to middle or even lower strata of society.

### **Contributing Factors**

Of all the factors, the economic and industrial growth throughout the world has perhaps been the most potential cause of increase in white collar crimes in recent years. The changing socio-economic scenario of the society coupled with increase in wealth and prosperity has furnished opportunities for such crimes. Commenting on the growing incidence of white-collar crime in India, the Law Commission in its Twenty-ninth Report observed that modern scientific and technological developments and monopolistic trends in business world have led to enormous increase in white collar crimes.

The post-independence period in India ushered an era of welfare activities which necessitated regulatory (Examples are Essential Commodities Act, 1993; the Prevention of Food Adulteration Act, 1954; the Prevention of Corruption Act, 1988; Foreign Exchange Management Act, 1974; The Competition Act, 2002; Consumer's Protection Act, 1986; The Prevention of Money Laundering Act, 2002 as amended in 2012 etc.) measure on the part of government to control means of Production and distribution so as to sub serve the common good as defined in Art

39(b) and (c) of the Constitution of India. The Contravention of such regulatory measures generally gives rise to white-collar criminality.

One more reason for the multiplicity of white-collar crime is relatively high socio-economic status of white-collar criminals. They belong to an influential group which is powerful enough to handle their occupation tactfully and persons affected thereby hardly know that they are being victimized. Moreover, the public in general is also somewhat apathetic to such crimes thus causing obstruction in prosecution and punishment of white-collar criminals.

The recent developments in information technology, particularly during the closing years of the twentieth century, have added new dimensions to white-collar criminality. There has been unprecedented growth of a new variety of computer dominated white-collar crimes which are commonly called as cyber-crimes. These crimes have become a matter of global concern and a challenge for the lawenforcement agencies in the new millennium. Because of the specific nature of these crimes, they can be committed anonymously and far away from the victim without physical presence. Further, cyber-criminals have a major advantage: they can use computer technology to inflict damage without the risk of being apprehended or caught. It has been predicted that there would be simultaneous increase in cybercrimes with the increase in new internet web sites. The areas affected by cybercrimes are banking and financial institutions. energy and telecommunication services, transportation, business, industries etc.

### **White Collar Crime in India**

White collar criminality has become a global phenomenon with the advance of commerce and technology. Like any other country, India is equally in the grip of white-collar criminality. The reason for enormous increase in white collar crime

in recent decades is to be found in the fast-developing economy and industrial growth of this developing country. The Santhanam Committee Report in its findings gave a vivid picture of white-collar crimes committed by persons of respectability such as businessmen, industrialists, contractors and suppliers as also the corrupt public officials.

The Commission broadly classified white collar and socio-economic crimes into eight categories and suggested insertion of a new chapter on white collar crimes in the Indian Penal Code.

The matter was referred by the Government to the Law Commission of India for consideration. The Law Commission, however, disagreed with the proposal and observed that "such offences are better left to be dealt with by special and self-contained enactments which supplement the basic criminal law."

Interestingly, the Report of the Vivin Bose Commission of Inquiry into the affairs of Dalmia-Jain group of companies in 1963 highlights how these big industries indulge in white collar crimes such as fraud, falsification of accounts, tampering with records for personal gains and tax-evasion etc.

## **Sources**



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