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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ECONOMIC OFFENCES IN INDIA AND USA

AUTHORED BY- SHEFALI JHA

ABSTRACT

In today's financial environment, economic offences, sometimes referred to as white-collar crimes, are becoming a bigger concern. Several crimes, such as embezzlement, money laundering, insider trading, and fraud, can have a major negative impact on the stability of economies and financial institutions. This paper explores the historical aspect of economic offences in India, different types of economic offences, their effects on both national and global markets, and the difficulties in detecting and prosecuting these crimes. By looking at real-world examples and legal systems, the study discusses how economic offences have evolved, especially with the rise of digital technologies that both enable and help fight these crimes. The paper also examines how well current laws and regulations work and suggests ways to improve them to better prevent and deal with economic offences. Overall, this research aims to provide a clearer understanding of these crimes and help develop stronger methods to combat them.

Keywords: Economic offences, white-collar crimes, fraud, embezzlement, money laundering, corruption, and insider trading.

1. Introduction

In our society, crimes come in many forms and they affect the human beings deeply. They weaken the advancement of democracy, society, industry, and economy. Comprehensive crime is the roadblock to progress and acts as a strong hindrance to it. Every nation needs development now more than ever. The most important development is economic development since it improves international well-being and the give-and-take relationships between nations.

Economic offences encompass a wide range of illicit activities that undermine the nation's economic stability, growth, and welfare. The effects of economic offences are far-reaching and can have serious consequences for society. They can destabilize financial markets, weaken public trust in institutions, and cause significant financial losses for investors, employees, and consumers. Moreover, these crimes often worsen economic inequality. Those in positions of power may exploit system weaknesses for their benefit, while ordinary people bear the brunt

of the damage.

Despite their severe consequences, economic offences often receive less attention compared to other types of crimes. This is partly because these crimes are complex, involving complicated financial transactions that require specialized knowledge to understand. Additionally, the people who commit economic offences often have significant resources and influence, which they use to defend themselves in court, sometimes avoiding prosecution altogether. This has created a perception that powerful individuals and corporations can commit crimes without facing serious consequences.

However, in recent years, there has been growing awareness of the need to tackle economic offences more effectively. Governments, regulatory bodies, and international organizations are increasingly working to strengthen laws, improve enforcement, and promote transparency in financial transactions.

2. Historical Aspect of Economic Offences

2.1. American Concept

E. H. Sutherland, who coined the term "white collar crimes" in a speech to the American Sociological Review, is commonly associated with socioeconomic offences. Sutherland claims that "people of high status in society and respect in the way of their profession" are the ones who carry out these crimes.

After E.H. Sutherland's groundbreaking study on the contemporary modern cover, the anti-social activities of upper-class people in their line of employment—now known as "white collar crimes"—have paid off greatly in recent times. The notion of socioeconomic offences is commonly linked to E. H. Sutherland, who introduced the concept of "white collar crimes" in a speech to the American Sociological Review. According to Sutherland, these crimes are "performed by the people of high status in society and respect in way of their profession."

Subsequently, he clarified the definition by stating that white collar criminals are those from a certain socioeconomic class who violate the law by riding themselves in the course of their employment. Through his groundbreaking research, he highlighted that members of the top socioeconomic class commit these crimes as part of their professional misconduct. Sutherland found in his 1941 analysis and research paper on White Collar Crime that well-known members

of society occasionally engage in antisocial behavior while pursuing careers in business and other fields. These crimes are not the same as traditional crimes such as rape, murder, robbery, assault, kidnapping, and other violent crimes.

After which, he attached a clarification to the to the definition by defining white collar criminals are the people who belong to socio economic class and break the laws by riding themselves in the path of their job or profession. With his pioneering work he emphasized that these crimes are done by the persons of upper social-economical batch, during the course of their profession breaching the faith. In 1941, Sutherland published his analysis/research paper on White Collar Crime in which he concluded that there are anti-social activities which are attempted by highly reputed people of society in the path of business, job. These crimes are different from the conventional crimes like kidnapping, robbery, assault, murder, rape and other tasks that has violence in it. Other authors who focused on the mainstream economic system at the expense of the general population preceded E. H. Sutherland. Thus, Edwin C. Hill's article "Criminal Capitalist," which was read in front of International Congress 10 in 1872 by Albert Morris, is referenced. This paper highlights the growing incidence of organized crime and its detrimental effects on society, as highlighted by the learned writer.

E. H. Sutherland demonstrated that White Collar Crimes are crimes perpetrated by members of the High Socioeconomic Group in the course of their employment through his pioneering study. This makes it easy to distinguish them from more conventional crimes, which he dubbed "Blue Collar Crimes." It is possible to base this distinction on the degree of assumed respectability.

According to E.H. Sutherland, white collar crimes pose a greater threat to society's members than other types of criminal activity because they undermine public morality and cause financial damages that are not as great as those caused by more commonplace crimes. Robberies, larcenies, and burglaries, which are committed by members of the lower socioeconomic level, inflict less financial harm than white collar crime, which results in far greater financial loss. According to E.

H. Sutherland, there is less harm to social associations but more financial loss since mistrust, a decline in morality, and the creation of chaos affect a larger population. Regular criminal activity

has very little negative societal impact and minimal impact on our social structures.¹

E. H. Sutherland made a contribution to criminology that was unparalleled in later years, extending its scope to include the study of white-collar crimes. Before concentrating on white-collar crime, criminologists only studied and researched blue-collar crimes, or conventional crimes like theft, robbery, murder, assault, and violent acts committed by members of higher socioeconomic groups. The enduring value of Sutherland's work on white collar crime, according to Cressy, is in its illustration of a pattern of crime that exists outside the purview of both the general public's obsession with crime and the field's scientific studies of criminality and crime.²

2.2. Indian Concept

Crimes performed by honorable persons with the intention of promoting the economic engrossment of legal summons are not considered white collar crimes, as Sutherland limits the idea to unlawful behavior engaged in that motive. For example, a businessman killing his spouse or a traffic cop bribing him.³ When a well-known member of a respected social class sells inferior goods, it is considered white collar crime; nevertheless, selling the same inferior items to someone in anonymity for their own misery is not considered white collar crime.

The Sutherland idea on white collar crime was embraced in India. However, prior to the idea of

E.H. Sutherland, if eastern and accidental literature—particularly Kautilya⁴—is examined, it demonstrates widespread offenses involving currency, weight, measurements, forgeries, property, and offenses pertaining to trade associations and customs. Because they have been contracted to recommend strict preventive measures. A small number of criminologists then began doing various study projects on white collar crimes.

After India's independence, modern economic, political, and social procedures had to be implemented ceremoniously and sincerely. People's lives were impacted by vast famine, illiteracy, and ignorance. White collar crimes are a byproduct of economic offenses and their origins, which stem from the inability of social divisions to value each other fully. New forms

¹ Manorama Year Book, 1994.

² Donald and Gressey "White Collar Criminality"

³ N.V. Paranjape, E.(2015). Criminology, Penology and Victimology, (16th ed.) Central Law Publications.

⁴ Kautilya;s Arthashastra, Encyclopaedia of Religion and Ethics

of economic offenses were also discovered as a result of the quick industrialization. A new group of people started manipulating accounts and abusing official licenses and permits in order to obtain illicit financial benefit.

The two wars also had a role in the rise of socioeconomic offenses and white collar crime in India. The lack of objects and higher orders makes the traditional rituals and moral self-control obviously arrogant. Following the Second World War, India gained its independence and became a self-proclaimed welfare state. Welfare nations have considerable control over the production and distribution of goods and services, assuming that these powers are exercised in the interest of the group. However, the reality remains that administrative powers contribute significantly to the prevalence of white-collar crimes in society, which are characterized by widespread dishonesty, persistent scarcity, and disorganized state activity management.⁵

Control and scarcity during the war, followed by the postwar money boom and inflation, have created an unfavorable environment for integrity. Following independence, a concerted effort is being made to implement reforms in an attempt to alter these circumstances. The emphasis on purposeful urbanization and the waning of simpler social mores are characteristics of the emerging society. These include materialism, the value placed on status as a result of wealth and power, group loyalty, economic and social ethics, and a professed belief in the rule of law, which is disregarded when following the law is not practical. The state's responsibility for the ownership and allocation of the nation's resources and riches will be clear from the successive supply of constitution of India.

"The country should specifically focus its strategy on ensuring that the group's possession and power of material assets are distributed in a way that best serves the interests of all, and that the operation of the economic system does not lead to the accumulation of treasury and production methods at the expense of all."⁶

The Indian constitution also requires the state to ensure the welfare of the people by giving everyone the same position and opportunities, regardless of caste, sex, ethnicity, or religion.⁷

The aforementioned mindset paved the door for the creation of many regulatory laws, which

⁵ J.S.P. —Socio Economic Offences — 2005 Ed

⁶ Art. 39 of the Constitution of India.

⁷ Art. 14, 15, 16, and 17 of the Constitution of India

in turn greatly aided India's white-collar and socioeconomic criminal industries (such recent laws include:

- The 1939 Essential Commodity Act
- The 1951 Industrial (Development and Regulation) Act
- Companies Act of 1956, the export and Import control Act of 1973

Vivian Bose, a report commission tasked with investigating the operations of the Dalmia group of firms discovered that fraud and inappropriate use of the relevant company's finances by management resulted in an estimated loss of 3.5 crores rupees. India's annual revenue tax loss due to tax invasion was projected to be 300 crores in 1956.⁸ More than 1500 crores were declared as the invasion's total under the voluntary disclosure program, which was launched in December 1975. It constituted a sizeable portion of wealth or hidden income that the Wanchoo Committee estimated, putting the total in its report at about 1000 crores. Every year, under-invoicing in the import and export of commodities is discussed about 40 to 50 crores. This offence is merely an illustration of how illegally one type of deception can aggregate foreign trade.⁹

The French criminologist and sociologist Gabriel Trode contributed a significant idea regarding the role that economic success plays in the creation of crime. He contends that subjective socioeconomic deprivations and aspirations, rather than real economic requirements, are what drive criminal action. In a society that is becoming more and more affluent, the root cause of crime cannot be found in absolute poverty, money, or even welfare; rather, it must be found in the relative states of contentment and discontent, satisfaction and discontent, the growth of artificial requirements, and the personal stimulation of ambitions. The more contemporary authors demonstrate the nearly universal recognition of the economic reality and its socio psychological ramifications.

On the other hand, because advertising may take on so many different forms, contemporary companies are constantly pushing for the creation of new demands. However, there are instances of the leisure class openly taking use of every benefit offered by contemporary society. It's also important to keep in mind that the rise of democracy has destroyed the caste system, which technically excluded a person from the benefits of the class above him.

⁸ Prof. Nicholas Kalders: Indian tax Reforms (1956) p.105

⁹ Economic Review. 1964, p. no. 21

According to his interpretation of the democratic principle, every man is created equal and has an equal right to enjoy life's blessings. Following independence, the Indian government took on new responsibilities at a time when the administrative apparatus had been severely weakened by:

Administrative procedures have multiplied as a consequence of the government taking on additional duties. Since there is a wide range of administrative authority, it is possible to operate outside the strict bounds of appropriateness and the law without the harmed citizen being able to seek effective redress of experience and ability.¹⁰

3. DEFINITIONS OF ECONOMIC OFFENCES:

"Criminal acts committed alone or in concert with associates or groups, to obtain wealth through unlawful means and engage in unlawful activity that violates local laws and other regulatory statutory provisions governing the economic activities of the Government and its administration, are referred to as economic crimes."

3.1. Problem in Definition

There are obstacles in controlling and dealing with crimes, even common ones. Among the prominent ones are:

It is still lacking a precise legal definition and understanding of economic crime.

These types of illegal activity are often seen as "civil" crimes, existing in a gray area between "crime" and "tort".

- It can be difficult to prove mens rea, criminal intent, or malfeasance; instead, one can effectively conceal them by asserting negligence, procedural flaws, supervision, the pretense that one was unaware of the consequences, the transfer or distribution of guilt, and diminished liability.
- Although the idea of individual accountability for crimes is widely acknowledged, statutes and the law have not yet firmly established collective or vicarious liability. These are the murky areas of the law.

The strict judicial doctrine of evidence beyond a reasonable doubt is applied. It is nevertheless not acceptable to weaken the concept to accept the adverse presumption of the accused's conduct

¹⁰ Law Commission of India 14th Report.

and the shifting of the burden of proof.

These types of crimes are sometimes treated as if they merely carry fines; nevertheless, given the deliberate planning, organization, and execution of these crimes, jail sentences should be mandatory in addition to fines and forfeitures.

Due to a general lack of legal education, the people is generally less aware, which leaves them vulnerable to being taken advantage of. Despite having learned their lessons, they are still caught in their frenzy to become wealthy quickly.

Numerous organizational concerns, like information exchange, the availability of skilled labor, group motivation, effort coordination, law enforcement agency confidence, etc., are equally significant.

The government has a vast array of regulations, some of which are incompatible. This, together with the division of different enforcement and regulatory actions, makes it simple to take advantage of and commit economic crimes. Economic crimes are by their very nature hidden from view for a long time, and it is difficult to find evidence of them—oral, documentary, or circumstantial.

Moreover, the information that has been disclosed only represents a small portion of the problem; many others remain unreported and unaddressed.

3.2. Economic offences in India

The escalation of socio-economic offenses in India can be linked to the post-World War II shortage of necessities, which fueled demand for such goods and made businesspeople avaricious. Due to inadequate judicial and administrative oversight following independence and partition, this issue got worse. These crimes increased in frequency as a result of urbanization, and the government began to realize these issues. It established committees to look into the matter and attempted to bring the situation under control by putting such measures in place. In India, socio- economic offenses were first conceptualized in the 29th Law Commission Report. This led to the identification of the following characteristics of socioeconomic offenses:

- The victims of the offenses are typically unknown individuals from the neighborhood

or the state.

- Members of society's "upper classes" commit crimes.
- Because the upper classes define moral norms for society, these offenses are not regarded seriously.

The 29th Law Commission Report of 1962 also suggested reading the Santhanam Committee Report. This research claims that because of the specific circumstances surrounding the commission of these crimes, the penal law does not adequately address the kinds of behaviors that could be considered social offenses. Unjust enrichment and financial advantage are the two main traits of socioeconomic offenses. The 29th Law Commission of India Report disagreed with the Santhanam Committee's recommendation to add a new chapter to the Indian Penal Code, stating that "such offences are better left to be dealt with by special and self-contained enactments which supplement the basic criminal law."

After reviewing numerous cases in the context of the current social context, social changes, and economic objectives—all of which contributed to the growth of these types of offenses—the committee recommended changes to the legal framework in order to ensure the prompt trial of cases involving bribery, corruption, or criminal misconduct, which can help to make the law more effective.

These offenses can be broadly categorized as follows:

- tax evasion and avoidance that is properly levied;
- misuse of positions by public personnel; offenses that really impede a nation's economic development and hence constitute a threat to that nation's economic health;
- supply of such goods in violation of agreed specifications by people or industrial & commercial undertakings in order to satisfy entered contracts,
- offenses including profiteering, stockpiling, and black marketing,
- tampering with food and medication,
- misappropriation and theft pertaining to finances and property owned by the government,
- Violations pertaining to the trafficking of licenses, permits, etc.

A new composite category of socio-economic offenses was later formed in the 47th Law Commission Report. These include evading paying taxes to the government or fulfilling

financial obligations, as well as illicit economic activities and associated transactions. This report illustrated several characteristics of socioeconomic offenses:

- (1) The criminal's motivation is rapaciousness or avarice, not lust or hate.
- (2) The offense has no emotional background, in contrast to rape, murder, slander, etc. There is no emotional response between the perpetrator and the victim.
- (3) The victim is typically the government or a segment of the populace, especially the consuming public (i.e., the group that purchases shares, stocks, or other intangibles).
- (4) The more significant component of an offense is injury to society, even in cases where there is a single victim.
- (5) The perpetrator uses fraud, not force, as their mode of operation.
- (6) The action is typically purposeful and intentional.
- (7) Two types of interest are safeguarded:
 - (a) The desire of society to protect and maintain:
 - i. The Resources Of The Country, The Property, Income, And Health Of Its Individual Members, And
 - ii. The Overall Economic System As A Result Of (I) Waste Or (ii) Exploitation By People Or Organizations.
 - (b) A social interest in increasing the nation's wealth through the enforcement of laws pertaining to taxes, duties, foreign exchange, commerce, industries, and similar matters.

The Supreme Court noted in **Ishardas v. State of Punjab**¹¹ that the Law Commission's 47th report suggested excluding socioeconomic offenses from the Probation Act's application. Furthermore, the Prevention of Food Adulteration Act aims to eradicate and prevent such ills as well as protect public health; in such circumstances, the courts should not lightly grant the benefit of the Probation of Offenders Act provisions.

In a related case, **Nimmagadda Prasad v. CBI**¹², the appellant was charged with economic offense for allegedly transferring certain lands to specific private corporations while using deceit to conceal them for development. The court ruled that, in contrast to other crimes, socioeconomic crimes are carried out with careful planning, careful calculation, and the goal of personnel advantage, all while ignoring the negative effects on society or the community. The court ruled that granting bail was inappropriate.

¹¹ Ishardas v. State of Punjab 312 1973 SCC

¹² Nimmagadda Prasad v. CBI 2013 (7) SCC 466

4. Research Methodology

The Doctrinaire technique of research—which involves compiling data from both primary and secondary sources—will be mostly utilized in this work. Writing in the descriptive, comparative, and analytical styles is used in this study. Statutes, rules, committee reports, conventions, treaties, and secondary sources such as books, comments, and articles published in newspapers, publications, magazines, and journals, as well as assessments and internet resources, are the fundamental sources that the researcher would mostly rely on. Various strategies should be taken into account to further the research, with greater care being taken to fully investigate the issue and craft the entire study in a way that is considerate, perceptive, and thoughtful to the audience.

5. Conclusion and suggestion

The physical, environmental, or social anomalies of the perpetrator led to the typical criminal behavior. Remedial actions can be taken to address such irregularities. However, socioeconomic crime is not caused by any other kind of dysfunction; rather, it is perpetrated out of greed and the need for money. The damage caused by these transgressions is bigger than the damage caused by typical offenses. They have a negative impact on people's morals, general wellbeing, and health, and they pose a threat to the economy's stability. Thus, harsh and horrifying punishment is considered justified in these situations, and reformist measures ought not to be used. Crimes pertaining to socioeconomic status can have a big effect on society.

Law enforcement and public awareness campaigns are two strategies that can assist prevent these violations. People can be trained and educated to assist prevent socioeconomic infractions. It is important to inform people about the repercussions of these acts. The public should have access to appropriate education and training in order to improve their economic circumstances. It is necessary to craft policies that support moral corporate conduct. To make sure that justice is done, more actions can be taken, such as passing new legislation or changing current ones, stiffening the penalties for offenders, and enhancing the effectiveness of the judicial system. The media, by presenting an accurate picture of these situations, can also be very helpful in reducing these kinds of offenses.