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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated 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

A CRITICAL ANALYSIS OF WHITE-COLLAR CRIME AND THEIR LEGAL INVISIBILITY*

AUTHORED BY - SWATHIKA KADIESWARAN

ABSTRACT:

White-collar crime, often non-violent and concealed within occupational settings, remains largely undetected due to its integration into professional routines. Unlike conventional crimes, these offenses are difficult to identify and prosecute, with only a few perpetrators facing legal consequences. As a result, white-collar crime is frequently overlooked in public discourse and criminal policy. This paper critically analyses the scope, impact, and systemic failure to fully criminalize offenses committed by powerful individuals and organizations. Driven primarily by financial gain—through wealth accumulation, asset protection, or competitive advantage—white-collar crimes often cause significant economic and social harm.

The study is structured in two parts. The first traces the conceptual development of white-collar crime, clarifying historical ambiguities and categorizing offenses into three types: fraud, corruption/self-dealing, and regulatory violations. It also examines the role of organizations in enabling these crimes. The second part addresses key research questions and theoretical approaches to detecting, preventing, and controlling white-collar crime, stressing the need for more robust regulatory frameworks and enforcement mechanisms.

KEYWORDS:

White-collar crime, financial gain, corruption, organized crimes.

INTRODUCTION:

White-collar crime refers to non-violent, financially motivated offenses committed by individuals or organizations in positions of power and trust. The term was first coined by Professor Edwin H. Sutherland in the late 1930s, highlighting crimes committed by the upper strata of society, particularly within business, corporate, and professional settings. Unlike

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traditional "blue-collar" crimes, which involve physical violence or direct harm, white-collar crimes are often sophisticated, hidden within legal frameworks, and difficult to detect. These offenses include fraud, embezzlement, insider trading, money laundering, bribery, tax evasion, and corporate misconduct.

Historically, business malpractices and financial deception have existed for centuries, but they were often dismissed as part of shrewd commercial dealings rather than criminal acts. Society largely viewed these activities as ethical lapses rather than punishable offenses. The doctrine of caveat emptor ("let the buyer beware") reflected a prevalent attitude that victims of fraudulent business practices bore the responsibility for their losses. However, the consequences of white-collar crimes extend far beyond individual victims, affecting economies, financial institutions, and public trust in governance.¹

Professor Sutherland revolutionized criminology by shifting the focus from lower-class street crimes to crimes committed by the wealthy and influential. His work demonstrated that white-collar crimes follow systematic patterns and cause significant social and economic harm. Unlike conventional crimes, these offenses are often underreported, as victims may not immediately recognize the fraud or fear reputational damage. The legal system, historically lenient toward corporate offenders, has struggled to hold powerful individuals accountable.

Understanding white-collar crime is crucial for developing effective legal frameworks, regulatory policies, and preventive measures. Strengthening enforcement mechanisms, corporate governance, and ethical business practices is essential to curbing these offenses and ensuring accountability at all levels of society.

HISTORICAL BACKGROUND:

The roots of white-collar crime can be traced back centuries, with one of the earliest recorded cases being Carrier's Case in 1473, England. In this case, an agent entrusted with transporting wool for his principal betrayed that trust by stealing a portion of the goods. The English court punished the agent under the doctrine of breaking the bulk, establishing that a bailee who misappropriates entrusted goods commits a crime. This early recognition of trust-based offenses laid the groundwork for legal responses to economic crimes. With the rise of industrial

¹ Harry Elmer Barnes and Negley K. Teeters, *New Horizons in Criminology*(3rd Edition) 43-44.

capitalism, corporate and financial misconduct became more prevalent. Driven by greed and the pursuit of wealth, powerful institutions increasingly engaged in exploitative and monopolistic practices. In response, the United States introduced the Sherman Antitrust Act (1890) to combat monopolies and restrict anti-competitive business activities. Similarly, Great Britain implemented penalties and enacted competition laws to curb corporate misconduct.

The modern conceptualization of white-collar crime emerged in 1939 when criminologist Edwin Sutherland coined the term, defining it as offenses committed by individuals of high social status during the course of their occupation. This marked a significant shift in criminology, which had previously focused on blue-collar crimes such as theft and violence. Earlier, in 1934, Albert Morris emphasized the need to recognize and punish illegal activities committed by elites under criminal law. Sutherland's work² distinguished white-collar crime from traditional street crimes, leading to its formal recognition in criminology by 1941. His research underscored the societal harm caused by financial and corporate offenses, shaping modern legal frameworks for addressing economic crimes.³

NATURE OF WHITE-COLLAR CRIMES IN INDIA:

White-collar crime, as conceptualized by Professor Edwin Sutherland, refers to offenses committed by individuals of high social status and respectability in the course of their professional or occupational activities. In his 1949 address to the American Sociological Society, Sutherland emphasized that these crimes are often more detrimental to society than conventional street crimes. This is due to their massive financial impact and their corrosive effect on public trust and institutional integrity. Sutherland highlighted the stark disparity in financial losses between white-collar crimes and traditional crimes such as burglary, robbery, and larceny. While the financial damage from a typical burglary is often minimal—rarely exceeding fifty thousand dollars—white-collar crimes such as embezzlement, fraud, and corporate misconduct frequently result in multi-million or even billion-dollar losses. Large-scale financial scandals, investment frauds, and corporate malpractices have a far-reaching economic impact, sometimes leading to economic recessions and financial crises.⁴

² Donald R. Cressey, "Foreword" in Sutherland, *White-Collar Crime* (Holt, Rinehart Winston, New York 1961) xii.

³ Ibid.

⁴ Sutherland, (1941) 217 *Crime and Business*, *The Annals of the American Academy of Political and Social Science*, 112.

Beyond economic losses, white-collar crime erodes public morale and undermines trust in legal and financial institutions. Sutherland argued that the social damage caused by corporate misconduct is more profound than that of traditional crimes. When business executives, corporate leaders, and professionals engage in fraudulent activities, they set a precedent for lawlessness among the elite, fostering a culture of impunity. Marshall B. Clinard illustrated this point by referencing wartime black-market crimes, where supposedly reputable businessmen blatantly violated the law, undermining legal authority more than typical street crimes. Unlike violent crimes, white-collar offenses often remain undetected or are downplayed due to the perpetrators' influence, legal loopholes, and weak enforcement mechanisms. This invisibility makes them harder to prosecute, reinforcing public cynicism toward justice systems. Strengthening regulatory oversight, corporate ethics, and stricter legal frameworks is essential to combating the widespread and damaging effects of white-collar crime.⁵

Corruption, fraud, and bribery are among the most prevalent white-collar crimes in India, mirroring global trends. A report published by Business Standard on November 22, 2016, titled "The Changing Dynamics of White-Collar Crime in India," highlighted the alarming rise in such offenses. Over the past decade, the Central Bureau of Investigation (CBI) uncovered 6,533 cases of corruption, with 517 cases registered in just two years.

The statistics further revealed massive financial frauds, including ₹4,000 crores worth of trading facilitated through fake or duplicate PAN cards. Maharashtra, in particular, saw a sharp increase in online fraud, with 999 cases reported. A significant case of financial cybercrime involved the theft of card details from YES Bank ATMs managed by Hitachi Payment Services, affecting 3.2 million people.

The rapid advancement of technology and e-commerce has contributed to the rise of cybercrime, a sophisticated form of white-collar crime. These offenses are increasing at an alarming rate due to the low risk of detection and prosecution. While India's ranking on Transparency International's Corruption Perceptions Index (CPI) has shown gradual improvement—moving from 85th place in 2014 to 76th in 2015, and 78th in 2018—the country continues to struggle with widespread financial misconduct.

⁵ Sutherland, "White-Collar Criminality" (1940) 5 No. 1 American Sociological Review 2-3.

As a developing nation, India faces significant challenges such as poverty, healthcare deficiencies, and economic disparities. White-collar crimes further hinder economic progress, eroding public trust in institutions and impeding foreign investments. Addressing these issues requires immediate government intervention, not only through stricter laws but also through robust enforcement mechanisms. Effective legal frameworks, enhanced corporate governance, and increased public awareness are essential in curbing financial crimes and ensuring sustainable economic development.⁶

CRITICISM OF SUTHERLAND'S DEFINITION:

The concept of white-collar crime, introduced by Edwin Sutherland, has been the subject of significant debate and criticism, particularly from legal scholars who argue that criminality should be strictly defined by violations of penal law adjudicated in criminal courts. One of the primary criticisms is that many white-collar crimes, despite violating penal statutes, are adjudicated not by regular criminal courts but by administrative bodies, commissions, and tribunals. This raises concerns that white-collar offenders do not undergo formal criminal trials and, therefore, do not acquire the legal status of a "criminal." He illustrated this point by highlighting that violators of the Office of Price Administration (OPA) regulations did not perceive themselves as criminals—nor did the general public. The enactment of the Emergency Price Control Act of 1942 and the Second War Powers Act abruptly criminalized previously acceptable business practices, yet there was no widespread societal effort to denounce or stigmatize offenders as one would burglars, robbers, or forgers.⁷ Public sentiment, government response, and media coverage lacked the same level of condemnation typically associated with criminal offenses. Moreover, a significant portion of the population actively engaged in black-market transactions, much like they had during the Prohibition era. Only a small percentage of OPA violators faced imprisonment, and even then, their sentences were notably lenient compared to those imposed for conventional property crimes.⁸

However, Mannheim counters this perspective by asserting that criminal law cannot be entirely contingent on an offender's subjective perception of their actions or their belief in whether

⁶ White Collar Crimes in India. Available at: <https://blog.ipleaders.in/white-collar-crimes/> (Accessed: 11th Feb, 2025).

⁷ Office of Price Administration.

⁸ Herman Mannheim, *Comparative Criminology*, Vol II (1965) at p.479.

Mens Rea and the Traditional Notion of Crime

A fundamental principle of criminal law is mens rea (guilty mind), which holds that an individual must have a criminal intent to be held liable. Many white-collar crimes, particularly regulatory offenses, do not require proof of mens rea, making them strict liability offenses. Scholars such as Jerome Hall contend that without the element of intent, white-collar crimes cannot be equated with traditional crimes like theft, robbery, or murder, which require clear evidence of criminal intent.

Sociological Criticism: The Perception of White-Collar Offenders

From a sociological perspective, a major critique is that white-collar criminals do not perceive themselves as criminals, nor does society view them in the same way as traditional offenders. Hartung and Burgess, in their debate during the early 1950s, highlighted that many corporate offenders, such as black-market traders during wartime, did not see themselves as criminals, nor were they widely condemned by the public. Burgess argued that criminality should be defined based on societal perception, meaning that those not socially stigmatized as criminals should not be categorized as such. This argument, however, was countered by Hermann Mannheim, who pointed out that criminal law cannot be made dependent on an offender's self-perception or society's subjective view.⁹

Corporate Liability and the Problem of Attribution

Another strong critique of Sutherland's theory came from Dr. Gilbert Geis, who argued that Sutherland failed to distinguish between corporate liability and individual liability. While Geis acknowledged that corporations and executives can commit crimes, he rejected the idea that an entire corporation should be considered a criminal entity solely because of violations committed by its executives. He likened this to declaring an entire state criminal because one of its citizens is a criminal, thereby questioning the logical foundation of corporate criminality.

Support for Sutherland: The Broader Definition of Crime

Despite these criticisms, scholars like Donald J. Newman defended Sutherland's approach, asserting that white-collar crimes share essential characteristics with traditional crimes. He argued that both involve deception, fraud, and violations of trust, with the only difference being the socioeconomic status of the offender. Newman emphasized that white-collar offenses are

⁹ Parank E. Hartung, "White-Collar Offences in the Wholesale Meat Industry in Detroit" (1950) 56 *American Journal of Sociology* 26.

often adaptations of common-law crimes like theft and fraud to modern economic systems.

White-Collar Crime in India: A Legal Perspective

In India, white-collar crimes are explicitly defined as crimes under various laws, making them legally punishable under the Indian Penal Code (IPC) and other special statutes. Unlike the Western debate over the classification of white-collar offenses, Indian law treats offenses such as fraud, bribery, forgery, and corruption as criminal acts, regardless of the perpetrator's social status.

Additionally, India has enacted special laws to address corporate and financial crimes, including:

1. The Prevention of Corruption Act, 1988 – Addressing bribery and corruption.
2. The Companies Act, 2013 – Regulating corporate fraud and mismanagement.
3. The Information Technology Act, 2000 – Governing cybercrimes, including online fraud.
4. The SEBI Act, 1992 – Monitoring securities fraud and financial misrepresentation.

These statutes ensure that corporate wrongdoings are criminally prosecuted, reinforcing the view that white-collar crimes in India are no different from traditional crimes in terms of legal treatment.¹⁰

Sutherland's concept of white-collar crime revolutionized criminology by shifting focus from street crimes to financial and corporate offenses. However, the debate over its legitimacy as a "crime" continues, primarily due to differences in legal procedures, mens rea requirements, and societal perceptions. While some critics argue that white-collar offenders do not fit the traditional definition of criminals, others contend that their actions cause significant harm and must be treated with equal severity. Despite criticisms, Sutherland's work remains a cornerstone in criminology, prompting legislative reforms and greater scrutiny of corporate misconduct worldwide.

RAPID GROWTH OF WHITE-COLLAR CRIMES:

The rise of white-collar criminality has closely paralleled economic and industrial progress in many countries. This correlation is unsurprising, as most white-collar crimes are directly or indirectly linked to the production and distribution of wealth. According to Friedmann, the

¹⁰ Ahmad Siddique's Criminology & Penology, Eastern Book Company, 6th edition (2009) p.463.

Industrial Revolution triggered profound social and economic transformations. The shift from tangible, immovable property to intangible assets such as shares, trademarks, patents, and copyrights led to the emergence of large corporations, replacing individual entrepreneurs. This resulted in economic and political power being concentrated in a few hands, fostering absentee ownership, monopolistic practices, and a diminished sense of social responsibility among the wealthy.¹¹

The Law Commission also identifies key factors contributing to the rise of white-collar crimes. Advances in technology and scientific development have given rise to a "mass society" characterized by a vast workforce and a small, controlling elite. The emergence of monopolies, the rise of managerial classes, and complex institutional mechanisms have increased opportunities for economic offenses. Without strict adherence to ethical standards, these structural changes have fuelled the growth of white-collar and financial crimes.¹²

Additionally, the two World Wars played a significant role in weakening traditional moral constraints due to scarcity and rising demands. In India, the post-war period coincided with independence and the establishment of a welfare state, where government control over production and distribution created fertile ground for corruption, exacerbated by chronic shortages and bureaucratic inefficiency. The Indian Constitution mandates the equitable distribution of national wealth to prevent economic disparities. However, despite regulatory laws, widespread corruption has thrived, particularly in government-led development projects. Over the past three decades, significant portions of public funds intended for national progress have been misappropriated by white-collar criminals, hampering economic development and social justice.

¹¹ Friedmann, *Law in a Changing Society* (1951) at p.186.

¹² Twenty-Ninth Report, Law Commission of India (1966) at p.3.



COMMITTEE REPORTS ON WHITE COLLAR CRIME IN INDIA:

1. The Santhanam Committee and the Establishment of the Central Vigilance Commission (1964)

In response to the recommendations of the Committee on Prevention of Corruption, chaired by Shri K. Santhanam, the Central Vigilance Commission (CVC) was established in 1964. The CVC functions as the apex body for vigilance in India, operating independently of executive control. Its primary mandate is to combat corruption in government offices and oversee vigilance activities within the Central Government. Various organizations consult the CVC for guidance on planning, executing, and reviewing their vigilance measures.

The key responsibilities of the Central Vigilance Commission include:

1. Supervising the Delhi Special Police Establishment (DSPE) in cases related to offences under the Prevention of Corruption Act, 1988.

2. Directing the DSPE in fulfilling its statutory responsibilities under Section 4(1) of the Delhi Special Police Establishment Act, 1964.

2. Commission of Inquiry on the Dalmia-Jain Group (1963)

The Dalmia-Jain Group, originally founded in the 1930s through the merger of Ramkrishna Dalmia and Jaidayal Dalmia's businesses with the Sahu Jain family, eventually split in 1948. However, allegations of financial misconduct and corruption within the group led to the formation of the Vivian Bose Commission of Inquiry in 1963.

The commission investigated the group's accumulation of black money, undisclosed assets, and unresolved income tax liabilities, which made the dissolution process so complex that it was unclear whether the split had been officially completed. Initially led by Justice S.R. Tendulkar, and later by Justice Vivian Bose, the inquiry resulted in Ramkrishna Dalmia's conviction in 1962 on charges of tax evasion, perjury, and criminal misappropriation of funds.

3. The LIC-Mundhra Scandal and Justice M.C. Chagla Committee

One of the first major financial scandals of independent India, the LIC-Mundhra case in the 1950s, involved Haridas Mundhra, a stock speculator accused of misusing Life Insurance Corporation (LIC) funds.

The controversy gained traction when Feroze Gandhi, a Member of Parliament and son-in-law of Prime Minister Jawaharlal Nehru, exposed financial irregularities within LIC, questioning whether policyholders' premiums were misused. This led to the formation of a committee headed by Justice M.C. Chagla, which concluded that Mundhra had engaged in fraudulent financial dealings. As a result, he was convicted and imprisoned, with 124 cases filed against him, of which 113 resulted in convictions.

4. The Das Commission Report (1964): The Case Against Pratap Singh Kairon

The Das Commission examined allegations against Pratap Singh Kairon, then Chief Minister of Punjab, in the case of **R.P. Kapoor v. Pratap Singh Kairon**.¹³ Kairon was accused of amassing wealth through unethical means and using public resources to elevate his family's status.

¹³ AIR1966ALL66

However, the commission ruled that a father cannot be held liable for the actions of his grown children, clarifying that while a son may pursue business interests independently, he must not exploit his father's political position for personal gain. Consequently, the petition against Kairon was dismissed.

5. Administrative Reforms Commission (ARC) and Ethics in Governance

The 4th Report of the Administrative Reforms Commission (ARC), titled "Ethics in Governance," introduced significant amendments to curb white-collar crimes and corruption in India. Some of its key recommendations included:

- State-Funded Elections – A provision for partial state funding in elections to reduce illicit and excessive spending by political parties.
- Amendments to the Representation of the People Act, 1951 – Prohibiting individuals facing charges of grave offences or corruption from contesting elections.
- Formation of a Collegium for Election Commissioners – A selection body comprising the Prime Minister, Speaker of Lok Sabha, Law Minister, and Deputy Chairman of Rajya Sabha to ensure transparent appointments.
- Establishment of an Ethics Commissioner – Each House of Parliament was advised to create an Ethics Commissioner's office, regulated by the Speaker or Chairman, to uphold ethical standards and maintain records.
- Recognition of Collusive Bribery as an Offence – The commission recommended amending Section 7 of the Prevention of Corruption Act to recognize collusive bribery as a distinct offence, deterring public servants from engaging in corrupt practices that harm public welfare.
- Implementation of the Benami Transactions (Prohibition) Act, 1988 – To curb fraudulent property transactions.
- Whistleblower Protection – Safeguards for whistleblowers, ensuring confidentiality and legal protection against retaliation.
- Media Regulation and Transparency – Encouraging self-regulation in the media and allowing the government to disclose corruption cases to the press to promote accountability.
- Enhanced Vigilance by Senior Officials – Assigning heads of government offices the responsibility of proactive vigilance against corruption.

6. Law Commission's 47th Report: Corporate Liability and Punishments

The 47th Report of the Law Commission examined the legal framework for penalizing corporate entities. Since corporations lack physical bodies and personal intent, conventional punishments like imprisonment were deemed ineffective. The commission concluded that the most effective deterrent against corporate crime would be reputational damage.

Key recommendations included:

1. Monetary Penalties – In cases where corporate offences warranted imprisonment or a combination of imprisonment and fines, the court could impose financial penalties alone.
2. Alternative Punishments – If a crime necessitated punishments other than fines, the court could substitute them with financial penalties.
3. Expanded Corporate Liability – The term “corporation” was defined broadly to include incorporated companies and other business entities, ensuring both individuals and corporations were held accountable for wrongdoing.

These reports and commissions have played a pivotal role in shaping India's anti-corruption and governance policies. They laid the foundation for institutional frameworks like the Central Vigilance Commission (CVC) and legal provisions targeting corporate fraud, political corruption, and electoral malpractices. The Santhanam Committee's insights into white-collar crimes, coupled with the Law Commission's recommendations on corporate liability, continue to influence contemporary legal reforms in India.

CASE ANALYSIS:

A. Rana Ayyub vs Directorate of Enforcement¹⁴

The petitioner, Rana Ayyub, initiated an online crowdfunding campaign from April 2020 to September 2021. The Enforcement Directorate (ED) began an investigation under the Foreign Exchange Management Act (FEMA), 1999, leading to an FIR under the Indian Penal Code (IPC), Information Technology (Amendment) Act, 2008, and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Following inquiries, ED provisionally attached her bank account in Navi Mumbai and filed a complaint under the Prevention of Money Laundering Act (PMLA), 2002, before the Special Court, Ghaziabad, which then issued a summons. The petitioner challenged the jurisdiction of the Special Court,

¹⁴ Rana Ayyub vs Directorate of Enforcement 2023 3 SCR 892.

arguing that the alleged offence occurred in Maharashtra.

Issues:

1. Whether the trial for money laundering must follow the scheduled offence or vice versa.
2. Whether the Special Court, Ghaziabad, exercised extraterritorial jurisdiction despite the alleged offence occurring outside its territorial limits.

Held:

The Supreme Court held that under PMLA, an offence of money laundering is triable only by a Special Court in the area where the offence occurred. However, since money laundering involves multiple processes across different locations, the question of jurisdiction involves factual disputes. The Court ruled that such issues should be raised before the Special Court and dismissed the writ petition, granting the petitioner liberty to contest jurisdiction before the Special Court, Ghaziabad.

B. Harshad Mehta Securities Fraud¹⁵

Harshad Mehta, a stockbroker, manipulated stock prices by borrowing large sums from banks and investing in select stocks, artificially inflating their prices. This created a false market boom, leading investors to follow his trades blindly. His actions caused a major financial disruption in the Indian stock market.

Issues:

1. Whether the funds obtained from banks were legally utilized.
2. Whether stock price manipulation amounted to fraudulent activity under securities law.

Held:

The scam led to significant stock market reforms. The Securities and Exchange Board of India (SEBI) tightened regulations on stock trading, and the Banking System underwent reforms to prevent unauthorized fund transfers. Mehta was arrested in 1992 and later convicted.

C. Satyam Scandal (2009)¹⁶

Ramalinga Raju, founder of Satyam Computers, confessed to falsifying financial statements by inflating assets and understating liabilities, misleading investors. The fraud amounted to approximately ₹14,000 crores and significantly impacted investor confidence.

¹⁵ Harshad Mehta Securities Fraud ILR1993DELHI274.

¹⁶ Writ Petition No.37487 of 2012.

Issues:

1. Whether the manipulation of financial statements amounted to fraud under corporate laws.
2. Whether SEBI had adequate regulations to prevent insider trading and fraudulent accounting.

Held:

SEBI found Raju and nine associates guilty of insider trading and fraud. They were barred from securities markets for 14 years and ordered to repay ₹3,000 crores. The scandal led to stricter corporate governance laws and increased scrutiny over financial disclosures.

D. Ketan Parekh Securities Scam ¹⁷(1999-2001)

Ketan Parekh manipulated stock prices through circular trading, using funds borrowed from Global Trust Bank and Madhavpura Mercantile Co-operative Bank. He focused on select "K-10" stocks, inflating their prices before exiting. The scam caused a loss of approximately ₹1,250 crores.

Issues:

1. Whether the practice of circular trading violated securities laws.
2. Whether banks failed in their due diligence while lending to Parekh.

Held:

Parekh was convicted, sentenced to one year in prison, and banned from trading until 2017. SEBI imposed stricter surveillance on market transactions, and banking regulations were strengthened to prevent fund misappropriation.

E. Saradha Chit Fund Case (2013)

The Saradha Group, consisting of 200 companies, operated an illegal Ponzi scheme, collecting approximately ₹30,000 crores from 17 lakh investors, promising high returns. The scheme collapsed, causing widespread financial loss. Political involvement was also suspected.

Issues:

1. Whether Saradha Group's investment schemes violated SEBI regulations.
2. Whether the government had sufficient oversight over chit funds and Ponzi schemes.

Held:

SEBI found Saradha Realty guilty of running unauthorized collective investment schemes. The

¹⁷ Ketan Parekh Securities Scam CIVIL APPEAL NO. 10301 OF 2011.

group's assets were frozen, and its managing director, Sudipta Sen, was arrested. The case led to stricter laws on non-banking financial schemes and increased SEBI's regulatory powers.

F. Punjab National Bank (PNB) Fraud (2018)¹⁸

Jewellery designer Nirav Modi, in collusion with PNB officials, fraudulently obtained Letters of Undertaking (Lou's) without proper authorization. These Lou's were used to secure loans from foreign banks via the SWIFT messaging system. The funds, meant for diamond trading, were allegedly misused, leading to a ₹11,400 crore fraud—the biggest in Indian banking history.

Issues:

1. Whether PNB employees facilitated fraudulent transactions.
2. Whether the banking system had adequate safeguards against Lou misuse.

Held:

The fraud exposed weaknesses in banking oversight. Nirav Modi fled India, and legal proceedings, including extradition efforts, were initiated. The case prompted stricter banking regulations and improved scrutiny over Lou's.

G. 2G Spectrum Scam¹⁹ (2008)

Telecom licenses for 2G spectrum were allocated at fixed prices instead of being auctioned, leading to a revenue loss of ₹1.76 lakh crores. Then-Telecom Minister A. Raja granted licenses to ineligible applicants who provided false information. Some companies later sold their stakes at high premiums to Indian and foreign firms. The scam was exposed by the Comptroller and Auditor General (CAG) in 2010.

Issues:

1. Whether the non-auctioning of spectrum violated public resource allocation principles.
2. Whether ineligible companies were wrongly awarded licenses.

Held:

A charge sheet of 80,000 pages was filed, but in 2017, a special CBI court acquitted A. Raja and other accused due to lack of evidence. The case led to stricter telecom regulations and spectrum auctions.

¹⁸ Punjab National Bank (PNB) Fraud (2018) CRL.M.C. 2696/2019 & CRL.M.A.31239/2019

¹⁹ Subramanian Swamy vs A. Raja AIR 2012 SUPREME COURT 3336

H. Commonwealth Games (CWG) Scam (2010)²⁰

The organizing committee, led by Suresh Kalmadi, was accused of awarding inflated contracts, including a ₹2141 crore contract to Swiss Timings for timing equipment worth ₹295 crores. Substandard accommodations were provided to athletes, and funds were misused. The Central Vigilance Commission (CVC) flagged financial irregularities. The estimated loss due to corruption was ₹70,000 crores.

Issues:

1. Whether CWG funds were misappropriated through inflated contracts.
2. Whether public officials engaged in conspiracy and fraud.

Held:

Kalmadi and others were arrested on charges of cheating, conspiracy, corruption, and forgery. The case led to calls for greater transparency in public project funding and stricter anti-corruption laws.

CONCLUSION:

White-collar crimes, despite their non-violent nature, pose significant threats to economic stability, corporate integrity, and public trust. These crimes mainly include fraud, embezzlement, insider trading, and corruption are often committed by individuals in positions of power, making them difficult to detect and prosecute. Unlike traditional street crimes, white-collar offenses can have far-reaching consequences, affecting businesses, investors, and even national economies. One of the primary challenges in fighting against white-collar crime is the complexity of financial transactions and legal lacunae that allow perpetrators to evade justice. Additionally, the perception that these crimes are less serious than violent offenses has led to lenient penalties, further encouraging corporate misconduct. Strengthening regulatory frameworks, increasing transparency, and enforcing stricter penalties are essential to deterring such crimes. Moreover, advancements in technology have enabled sophisticated financial crimes, making it crucial for law enforcement agencies to develop digital forensics capabilities and enhance cybersecurity measures. Public awareness and whistleblower protection laws also play a vital role in uncovering fraudulent activities and holding offenders accountable.

In conclusion, white-collar crimes must be treated with the same level of seriousness as other criminal offenses. A stricter law, better enforcement mechanism, corporate accountability, and

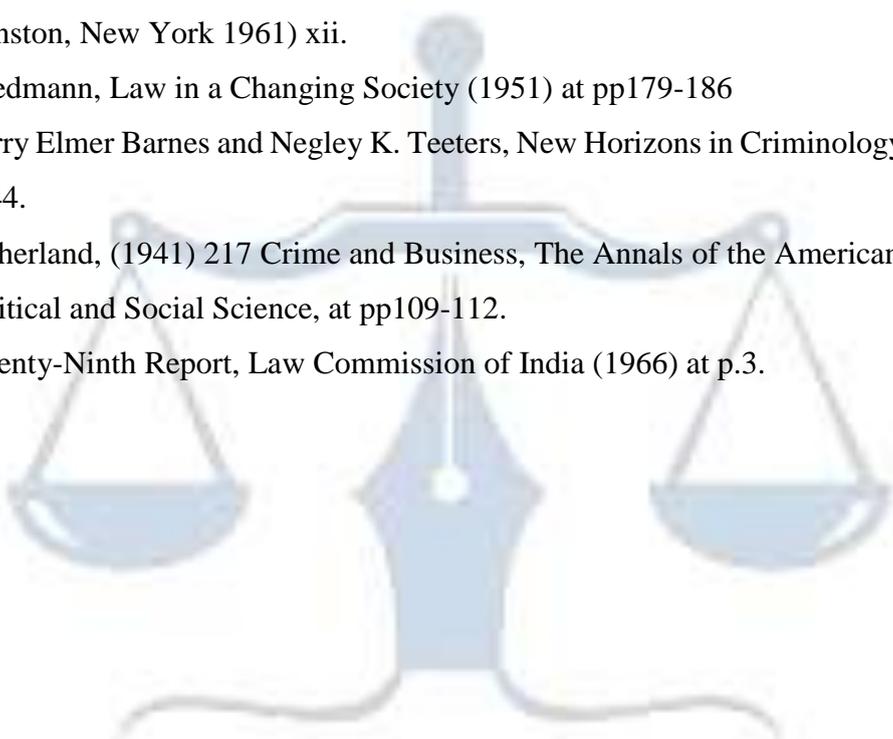
²⁰ Commonwealth Games (CWG) Scam (2010).

public vigilance is necessary to curb these offenses and restore trust in financial and corporate institutions. Only through collective efforts society can effectively mitigate the impact of white-collar crime and promote ethical business practices.

"The worst crimes are the crimes of the powerful." – Noam Chomsky

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