**WHITE COLLAR CRIME V. VIOLENT CRIME**

**By:**

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**Abstract**

Crime is any act that is prohibited by any enactment of the law and an instrument for ratification of social disorder through punishment. The important elements of the crime include the presence of a human being, mensrea, actusreus, and an injury. It has often been termed that where there is money, there is deceit, and where there is lots of money, there is lots of deceit.The number of crimes committee has increased significantly with the technological avalanche in the modern period bringing up newer modes of committing crimes either through the use of force or without the use of force. The most common mode of committing a crime is the use of force on the victim to cause injury or harm to their body, property, reputation or mind, such a crime is known as a violent crime. Nowadays the mode of commission of crime has become smarter for all intents and purposes as there is minimal use of force causing financial loss to the victimthrough debit-credit card frauds, accounting transaction frauds, money laundering,etc.

The innovating world has led the development of technology, which in turn has brought the concept of white-collar crime and it is no more an unpopular phenomenon now. Further, the growth of industrial and economical background has constructed various new methods through which the white-collar crimes can be committed easily. Also in various professions and companies to gain more and more, they rapidly indulge in unethical practices, which keep them going unnoticed.

**White Collar Crimes**

The term *“White Collar Crime”* has been coined by one of the most renownedcriminologists and also a sociologist **Edwin Hardin Sutherland[[1]](#footnote-2)** in the year 1939. According to him, the term white-collar crime means the crimes committed by people of high social status, who enjoy a great reputation, power and respect in their occupation.

In short, they are the ones who owe a dominant position in society, they may be big entities and corporations, etc. These people have a significantly higher understanding of technology in their respective field or disciplines, etc., since they are involved sophisticatedly in their due course of business. These crimes are generally committed for having a significant financial benefit. This set of crimes includes fraud, embezzlement, bribery, and money laundering have destroyed shareholder value at highly repudiated multi-national companies such as Alstom,Odebrecht, Teve Pharmaceutical, Volkswagen (foreign brands), and Volkswagen even incurred legal penalties and was hit with $20 billion.

**For example:**As in the above example it was stated that when A and B sell liquor in a dry state is a crime. When A sells alcohol to C and C while going home is caught by a police officer Z. Z rather than taking C in custody, gives the option to C that give the alcohol and extra Rs.5000 to get free from any legal process.C gives the expected amount and bottle to Z. Here, Z being a reputed person during his occupation is police authority commits bribery that is the white-collar crime.

Many people like them keep going unnoticed and *no whistleblower*is expected in such cases.

The next question that naturally comes in one's mind is that who can be called the whistleblower. He is the person who exposes information related to such wrongdoing or fraud happening, which may be in a government organization or any other private institution. As the name itself suggest he is the one who blows the whistle related to the wrongdoings or blows the cover of such an act. The disclosure within the organizational setup is knownas internal whistleblowing while the disclosure to the outside world (public domain) in forms of reports to the media or sting operation through appropriate authorities is known as external whistleblowing.

**Reasons for the commission of white-collar crime:**

1. **Greed:**Greed of a person can force him to do act for his selfish desire for money and power even against his belief. Most of the high-class people aim to become more and more powerful and wealthy because of the greed to earn more. Therefore, they choose unethical and illegal ways to gain finances. They tend to elicit less sympathy and a sense of immorality in an individual.
2. **Necessity or need**:Certain strata of people to meet their needs and lavish lifestyle starting committing white-collar crime. The example of this can be seen in the government sectors where the workforce is paid less compared to those jobs in foreign countries, which may be a reason for having corrupt practices by officers and public servants.
3. **Competition**:This is the main reason as people why people commit a white-collar crime, they want to be at the top with power and money with whatever means as possible. Since making money through honest methods will not make go a lot above others, methods like employing black money, Benami transactions, and money laundering take centre stage.
4. **Lack of strict rules**: The mode of such activities is online. Since these technologies are still very much in their development governments does not impose stricter restrictions on them which allows people having a good understanding of them exploit the loopholes of existing laws and bypassing the proceedings. Since, there are no eyewitnesses of such transactions strategies such as fake bills, false balance sheets of their company and no debit-credit transaction of cash work easily. This will help the culprits to evade tax duties and saves big sums of money.

**Some of the white-collar crimes**

1. **Blackmailing**:When a higher social status people start commit blackmailing it is considered in white-collar crime because the stacks are very high here. Blackmailing amounts to Criminal Intimidation, this is well defined in section 503 of Indian Penal Code, 1860.It means making a demand of money or any other consideration by the imposition of a threat to cause any physical injury or harm, or damage to person or property, or to accuse one of a crime, or to expose somebody's secret.
2. **Corruption**:The Oxford Advanced Learner's dictionary definesCorruption as a means dishonest or illegal behaviour, especially from people in authority. Corruption is something, which is forbidden by law; it is an act or intent of a person to earn wrongfully, which is no doubt contrary to duty and the rights of others. In Government of India Report, **Santhanam Committee** on Corruption stated that White-collar crimes are committed by people of respectability such as businessperson, industrialists, contractors, and public officers.
3. **Bribery**: This is arguably one of the most common types of white-collar crime in developing countries like India. Bribery in simple terms means giving something in kind or cash to persons who are in an influential position, popularly referred to as being at a higher position in the society in return of some favour.

**For example**, A, who is in custody for murder, through some contacts gives Rs.10,00,000 to judge 'B', who is in charge of deciding his case.If B accepts such an amount in the response of freeing A, then he is liable for bribery.

1. **Bank frauds and scams**:This is probable the modern version of all white-collar crime which includes debit and credit card frauds, email frauds, online payment frauds, loan frauds, etc. Fraud is a crime committed intentionally to deceive a person and gain undue advantage from it. Bank fraud is a corporate as well as a white-collar crime. Debit/Credit frauds which have gained a lot of appeal among cybercriminals is high as well as efficient for them considering the lack of understanding of bank-related activities of common peoples. This means using someone else' card without his consent to purchase or withdraw money. This can usually be committed through sending fake scheme text messages, mobile calls and emails to the other person from whom to obtain CVV number and card/account number.

**For example**, A very recent employment fraud in HDFC bank is a good example. The consultancy agency managed the fraud by presenting resumes of candidates, which are fraudulent documents, along with fake salary slips, forged certificates and documents, as well as non-existent reference.

1. **Money laundering**:It is a crime in which the offender changes the identity of the money. In short, it is the turning of black money into white. Laundering is done of the money obtained from an illegal source such as drug cartels, selling of objects or equipment illegal in India or selling of alcohol in dry states. Such an act intends to change the appearance of that money as if they have come from a legal source.

Money-launderingusually involves multiple steps and is therefore not a single day process. The black money is aimed to be deposited in the bank in some way or the other and then a transfer is made to the original owner.

Let us take an example, A and B are partners in a financial investment company. A being the account of drug cartel XYZ, he usually manages the accounting book and makes it seem that the money comes from a legal source i.e. the making fake entries in the books of accounts.

Further, when A starts investing the money as his own money of XYZ into other businesses such as ice cream shop, bar or a club, building of a church or casino, etc. This leads to the conversion of black money into white money.

1. Some other white-collar crimeTax evasion, Counterfeiting, Telemarketingfrauds, Forgery, Insurance, and healthcare fraud,etc.

**Some laws against white-collar crime**

The Prevention of Corruption (Amendment) Act, 2018 was a crucial amendment because now the authorities are granted the power to prosecute commercial organizations.**If any person associated with such commercial organization gives or promises to give any undue advantage to a public servant**. However, there is a provision of prior permissions before conducting investigations on the public servants to maintain the dignity of the office and officer. Such approval can be given by the relevant state or union government under whose employment the public servant committed the offence.

Further, the criminal codes include and provide punishment for offences of Criminal Intimidation (S. 503), Cheating (S. 415), Criminal breach of trust (S. 405), Forgery (S. 465), Bribery as giving or accepting any type of reward for exercising the electoral right (S. 171-B).

**Violent Crime**

Violent crimes are more dangerous and harmful to the person and property of an individual as they can materially affect their life for a long time. Whereas white-collar crime is considerably less harmful to the people in general as it incorporates only financial losses since financial lossesare considered insignificant as compared to the precious life of a person. Financial losses can be recovered later as well. Violent crime includes the use of force or violence to cause injury or harm to the person. Injury can be of any degree ranging from harm to body, mind, reputation, and property to murders, rapes, assaults, domestic violence etc.

**For example**, Domestic violence, which is very common in India. Rural India is heavily dented with this social evil however very little to no resistance can be seen against it. Violent crimemostly affects females because of the male-dominant ideology of the society where women are not confident enough to be interdependent, how will they take care of financial requirements of their children among many others due to their lack of education and skills.

One of the key characteristics of the violent crime is that if the commission of this is not opposed it gives encouragement to the criminal and they become fearless. We see that such crimes are committed wither for money and in the rage of revenge. The people committing such a crime can be family members or even strangers too.

**Reason for the commission of violent crimes**

1. **Lack of education and poor background**– The most common cause of violent crime is the poor background of the person committing it. They lack proper knowledge of things, relations, and behaviour. Since they are not taught in their early ages the art of managing relationship and family, therefore it makes an acute case of identity crisis for them in the end. Lack of education would mean that they would be unemployed, which in turn means lack of money and frustration that force them to commit crimes like kidnapping, robbery, theft with murder assault, domestic violet, rape etc. Peer pressure plays an important role here.
2. **Family conditions and parental relations**:Young people are generally influenced by the things going on in their family. To take an illustration, in a family of A, B, C, &D, A and B are father and mother while C and D are son and daughter. When C (son) sees A and B fighting and A beating B.Either the son will have a feeling for his mother or will feel that every woman should be treated like that, which is not right.There is a genuine need for families to maintain their houses better and teach their children to respect the men and women equally. Lack of love and affection in the family make people violent and such behaviour reflects in acts like murder, rape, assault, etc.
3. **Alcohol and other drugs**:Alcohol is treated as a source of chilling and freeing from stress and tension. However, they often lead to the commission of an offence because the individual loses control of oneself and indulge in violent activities leading to crimes.

For example, A and B who were boyfriend and girlfriend were drinking alcohol in a party. They ended up with the fight with each other with aggression and violence. A in aggression pushed B out of the balcony, which leads to her death.

Other drugs such as Marijuana, heroin, cocaine or any other, sometimes may end up making a simple fight into a crime such as rape after-party, domestic violence at home since the parties are not in control of the situation.

1. **Person's Behavior**: The general conduct of a person also plays a significant role as to the commission of a violent crime. People who tend to get aggressive on little things are more exposed to such a commission since they have less sympathy towards others. Revenge is also an expression of one's behaviour. Behaviour includes thinking capacity, mode of behaving, and manner of talking to others. Persons of soft nature and better understanding are generally inclined to use the legal process to fight for their rights or against any wrong happened to them whereas aggressive people behave differently. The can employ illegal methods like murder, robbery, rape, kidnapping etc.

**Some types of violent crime:**

1. **Domestic violence**:Domestic violence is also called intimate partner violence, which occurs between people who are in an intimate relationship that is husband and wife. It can be of either description of emotional, sexual, physical abuse etc. In a violent crime, domestic violence mostly means the use of force by a husband on his wife. The current pandemic situation has shown an increase in the cases of domestic violence, this shows that domestic abuses are an opportunistic commission and therefore more time at home has led to increased stress and frustration in the mind of male workers about their earning, increasing the number of the crime.
2. **Rape**:Rape is a violent and unlawful sexual act typically involving forcible sexual intercourse against the will of a person under threat of injury, it can even go the extent of inserting any object such as a stick or penetrating his penis into the vagina or anus or mouth of a woman causing extreme pain to the victim. The females are mostly the pray of such offences however sexual offences against men is also a cause of serious concern. Rape is not only a physical act rather it has a long-lasting consequence including psychological trauma, stress, facing regular insults from unsupportive society and family, loss of jobs and financial resources. It has been defined in section 375 of the Indian Penal Code, 1860.Rape is one of the fastest-growing crimes in India, to counter this National Database on Sexual Offenders (NDSO) was launched on September 20, 2018, which is maintained by National Crime Record Bureau. The database makes regular entries of offenders convicted under charges of rape, gang rape,eve-teasing, or under the POCSO Act. As of now, it contains 440,000 entries of cases reported from 2008.
In **Independent Thought v. Union of India[[2]](#footnote-3)**, it was held that sexual intercourse with wife below the age of 18 years constitute rape.
3. **Murder**:The term murder is derived from the German word **morth**, which means **secret killing**. Murder refers to homicide crime thatis defined as the intentional killing of one person by another with malice intent. In short, it is the unlawful killing of human beings with malice. Mens Rea and Actus Reus are important elements of murder.Actus Reus means the act of killing whileMens Rea denotes malice i.e. intention to kill or intention to cause sufficient bodily injury, which results in the death of the victim. An intent of malice before the incident refers to the guilty mind or bad intention, required to make homicide or murder. Murder is such a violent crime, which can be committed against people of any age and gender of society.

Revenge, money, or hiding other earlier crimes such as rape, kidnapping are few reasons for murdering as we have seen in the case of Ryan International School case.

1. **Aggravated robbery**:Itrefers to the use of dangerous weapons for committing an act of theft or extortion wherein the victim suffers injury. It is a violent crime with the use of weapons such as guns are used to commit robbery successfully along with causing injury to people present at the place where it is committed. **For example**– A, B&C who were part of a gang entered a bank with heavy guns to commit robbery. While committing robbery, people of gang harmed the customers of the bank. This is known as an aggravated robbery which is a violent crime.
2. Some other violent crimes areKidnapping, Assault, Battery, etc.

**Some laws against violent crime**

Protection of Women from Domestic Violence Act, 2005 – The was enacted in the year 2005 with the purpose of protection against domestic violence. Under section 3 of this Act, Domestic Violence is defined in a very comprehensive way, comprising of physical, mental, verbal, economical, sexual and economical abuse, harassment for dowry, threatening acts to abuse the victim or any person related to her.

A victim of domestic violence will have the right to several services provided by the government such as police, shelter homes, medical establishments, etc. This act not only protects women who are in a live-in relationship but also extends protection to other women in the house such as sisters, mothers, and daughters.

The Protection of Child from Sexual Offences (Amendment) Bill, 2019 (POCSO):The originalAct was brought in 2012. It seeks to protect children from offences such as sexual assault, sexual harassment, and use of minors for pornographic purposes. Registration of FIR is mandatory for police. This Act has also increased the age of consensual sex under the Indian Penal Code from 16 to 18. It means any person (including a child) can be prosecuted for engaging in a sexual act with a child without their consent.

The Indian Penal Code, 1860:Culpable homicide and Murder (S. 299 & 300), Grievous hurt (S. 320), Criminal Force and Assault (S.350 & 351), Kidnapping (S.359), Rape (S. 375), Gang Rape (S.375-D), Robbery (S.380).

**Conclusion**
It can be concluded saying that the major difference between the two forms of offences is the use of force, it is therefore submitted that white-collar crime is less harmful. They generally result in financial losses, which can even go unnoticed, hence, it is high time that strict legislativeare brought in to prevent them. On the other hand, violent crimes are significantly more harmful than any other crimes due to the involvement of force in it, which can make the life of the victim much more difficult and struggling. These crimes occur left, right, and center in our societies which are rarely disclosed due to the fear of shame in the society. It is now up to the institution like family and community to curb these through effective measures.

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