

*Law Audience Journal, Volume 3 & Issue 4, 13th April 2022,
e-ISSN: 2581-6705, Indexed Journal, Published at
<https://www.lawaudience.com/volume-3-issue-4/>, Pages: 238 to 253,*

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Cite this article as:

MS. SONAL GARG & MS. NIVEDITA SINGH, “A Study on White Collar Crimes in India”, Vol.3 & Issue 4, Law Audience Journal (e-ISSN: 2581-6705), Pages 238 to 253 (13th April 2022), available at <https://www.lawaudience.com/a-study-on-white-collar-crimes-in-india/>.

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Publisher Details Are Available At:

<https://www.lawaudience.com/publisher-details/>

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(E-ISSN: 2581-6705)

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*“Men commit murder and all sorts of mayhem, in a few years they’re back on the streets.
Highway robbery and white-collar crime and they laugh at the system they beat”*

~Waylon Jennings

ABSTRACT:

“There is a rapid change in the world that world not like to talk to people by face to face they prefer talking to people online. The online mode has made people to come together but they actually getting to far from each other. This online world has changed the situation of the world somewhere it is good and somewhere it’s bad as it changes the mentality and behavior of the people. The world is changing same as the crime in this world are changing first there was all work related to cash so there was theft or robbery done but now the world is coming online so the crimes are also changing like blackmail, fraud, morphing etc. some people think white collar crime is a crime done by wearing a white shirt but it’s not like that white collar crime means crime done by the educated, the officers and illiterate person in online mode. This paper is for normal people to aware about the white-collar crime or in literal sense the crime of new world. This paper also makes the study related to the growth of the crimes and rapidly changing of the crimes with new world of internet and online. This paper includes the history and the reason for growing of the crime”.

Keywords: White collar crime, History, Reason for growing, judicial precedent, Punishment.

I. INTRODUCTION:

“The practitioners of evil, hoarders, the profiteers, the black marketers, and speculators are the worst enemy of our society. They have to be dealt with sternly. However well placed important and influential they maybe, if we acquiesce in wrongdoing, people will lose faith in us.”

-Dr S Radhakrishnan

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We all know where is a system there is a loop hole is the system that makes the world to be threatened of this threatening is called the crime. Crime is the word that we are familiar with.

Collar Crimes are of two types:

- a. Blue collar crime- this is the crime committed by limited means of people it is the criminal activity that criminal access.
- b. White collar crime- this is the crime committed by the people more often in a position. It is a non violent crime that is financially motivated.

This paper is on white collar crime which was coined by sociologist and criminologist Edwin Sutherland. He describes white collar crime as a crime commonly committed by persons of respectability. Person of respectability means people who are recognized as possessing a high social status. White collar crime can be perpetrated by individual or at corporate level. In today's world the technology is very sophisticated that's the reason for white collar crime results in million of loss of victim.

To understand more about white collar crime lets us discuss the definition given by different scholar or organization. Some of them is:

According to the FBI, a key agency that investigates these offenses, "these crimes are characterized by deceit, concealment, or violation of trust." The motivation for these crimes is "to obtain or avoid losing money, property, or services or to secure a personal or business advantage."¹

In simple words white collar crime is a crime committed through online mode by a reputed person that can cause a victim a high damage to mental status and higher loss of money. White collar crime harm society more than other normal offences because of financial loses that public would incur in fact. In 15th century white collar crime was tracked in UK and in US during civil war which takes over the large monopoly which led to enforcement antitrust laws to protect consumer and allow fair competition. White collar crime can be conducted

¹ Federal Bureau of Investigation. "White collar crime" accessed March 27,2022

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across the borders. For example, people sitting in US can fraud the people in India due to the online means.

II. HISTORICAL BACKGROUND:

II.I FIRST CASE:

In 1473 the first case of white-collar crime was recorded in US named the Carriers case² in this case the agent was entrusted to transport some part of wool from one place to another. The person trusted or agent was found guilty for stealing wool for his own use. The English Court after this case adopted the doctrine of ‘breaking the bulk’ which means that the bailee who was given the possession of goods tried to break it open and misappropriate the contents.

II.II IN AMERICA:

During the civil war when it was founded that the crimes related to the white-collar crimes are increasing then the congress passed many laws like antitrust laws, false claims act and the ponzi scheme were introduced to reduce the crimes related to the white collar or crime done by the reputed persons.

II.III IN INDIA:

White collar crimes emerged in India with the advent of the British colonization during the period of industrial capitalism. Prior to that, instances of men working with the District treasury embezzling with the money kept under his safe custody or bribing practiced among the officials were found. Therefore, the white collar crimes were confined to this limit. Thus, the people indulging in the white collar crimes then can be said to be mere grass eaters‘ the people in the modern times have reached the stage of ‘meat eaters‘. The street crime, specially snatching and motor vehicle theft, relatively down as compared to 2010, the year 2011 truly belonged to the faceless white collar criminals. Many numbers of the criminals of white collar crime was arrested that also brings with them the money they acquire by doing white collar crime and the phones and the vehicles that has all the evidence related to the crime they have committed that make easy for the police to make or put them behind the bars. Meanwhile the economic offences wing of Delhi police arrested more than 16 criminals in

² Anonymous v. The Sheriff of London

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1,358 cases ranging from those of land grabbing to fake job rackets and attached property valued at amounts estimated to be between Rs. 350 to Rs.500 crores. White collar crimes are to be considered as a global phenomenon to which India is no exception.

III. PROJECT REPORT:

To solve the problem related to the white-collar crime India form many committees that gave advices how we can eliminate or make laws related to the white-collar crime for the society.

Some of the committees are:

1. **Report on commission on preventive of corruption, 1964:** This committee was headed by Shri K. Santhanam, the Central Vigilance Commission was created in 1964. The Central Vigilance Commission is now the apex institution for vigilance, independent of any executive authority. This committee works under the vigilance of the central government and its main function is to keep an eye on the government officer in relation to the corruption. This organization seeks its advice in planning, executing and reviewing their vigilance work.

The role that the Central Vigilance Commission plays is

- a. To supervise the work of Delhi Special Police Establishment only in the offence committed in the prevention of corruption act, 1988.
 - b. To direct the Delhi Special Police Establishment in discharging their responsibility given to them under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1964.
2. **Report on commission of inquiry on the administrative of Dalmia Jain companies, 1963-** In the 1930s Dalmia Group run by brothers, Ramkrishna Dalmia and Jaidayal Dalmia, merged with Sahu Jain Family to form Dalmia-Jain Group. This business was ultimately split between the two families and again between the two brothers in 1948. On the allegations of corruption against the group, Vivian Bose Commission of Inquiry into the affairs of Damila-Jain group of companies was set up in 1963.The committee said that because of the group’s collection of black money, undisclosed assets and undetermined income tax

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liabilities, the dissolution or split had become so complicated that it could not be officially said that the groups had split. The Commission headed by Justice S.R. Tendulkar and after his death by Justice Vivian Bose, sentenced Ramkrishna Damia on charges of tax evasion, perjury and criminal misappropriation of funds in 1962.

3. **Report on LIC Mundra affairs-** in 1950 the first financial scandal was done by haridas mundhra, who later got arrested. At that time, Jawaharlal Nehru was the Prime Minister of India. His daughter Indira Nehru was married to Feroze Gandhi, who was also a Member of Parliament. Feroze Gandhi was the driving force behind the anti-corruption movement which led to the imprisonment of Ramkrishna Dalmia. When Feroze Gandhi finally came to power he questioned whether the newly established Life Insurance Corporation had used premiums from the policyholders. Ultimately a committee was set up which was headed by the retired judge of the Bombay High Court, Justice M.C. Chagla which came to the conclusion that Mundhra be sent to jail on the ground of, as many as 124 prosecutions against him and 113 of them resulting in convictions.
4. **Das commission report, 1964-** In the case of R.P. Kapoor v/s Pratap Singh Kairon³, Pratap Singh Kairon, who was the Chief Minister of Punjab, was accused of using wealth to boast his high status of and also of his family at public expense. The Commission exempted him on the ground that a father could not be held liable for actions of his grown-up children. The Commission clarified that a son cannot be stopped from carrying out a business of his choice except that the son cannot use his father’s political position and power to exploit others. The petition was therefore dismissed by the court.
5. **Law commission 47th report-** in 47th report law commission in its report said that the corporation is not the physical entity. And to make the realization of the mistake of the corporation the new norms and punishment must be made to make the corporation realize their mistake of illegal and wrongful act. The commission

³ 1964 AIR 295 SCR(4)224.

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suggested to curtail their reputation to make them feel disgrace. Not only the managers or directors should be punished but the corporation as well.

The commission suggested some inclusion in the Indian penal code:

- a. In every one of those cases where the offence has been committed by the corporation and the punishment includes imprisonment or fine and imprisonment both, the court will have the power to impose on these offender fines only.
- b. In every one of those cases where the offender is the corporation and the punishment for his offence can be either imprisonment or any other punishment other than fine, than in that case the court shall have the power to impose on such offender's fine only.
- c. In this section, 'corporation' should mean an incorporated company or other body corporate. It would also include firms and other association of individuals.

IV. EFFECT:

There are many persons and entity that get effected from the white-collar crime like the company employees' customers and many other persons get effected by this type of crime.

Some of the effects to the person are:

IV.I ON COMPANY:

This type of crime brings a huge loss of reputation and a loss of money. To recover the loss of money the company increase the cost of the product that decrease the number of customers as according to the law of demand which states that if price increases the demand decreases and if the price decreases the demand increases. Since the company is in loss, the salaries of the employees are lessened. Sometimes the company cut down the jobs of several employees. The investors of that company and its employees finds it difficult to repay their loans. Also, it becomes hard for people to obtain their credits.

For example, a US-based IT cognizant landed up paying 178 crore rupees to settle the charges levied on it under the Foreign Corrupt Practices Act by the Securities and Exchange

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Commission. The company had bribed an Indian Government Official from Tamil Nadu to allow the building of a 2.7 million square feet campus in Chennai. Apart from loss in paying 2-million-dollar bribery amount, the company also had to bear extra charges of 25 million dollars to get free from the charges.

IV.II ON EMPLOYEES:

The employees have the worst situation as they get less pay and they are in big problem of whether they are safe or not and threatened of losing their jobs.

IV.III ON CUSTOMERS:

There is the doubt in the mind of the customer whether the product is safe or not. This doubt increases in the rate the white collar crime increases.

IV.IV ON SOCIETY:

White collar crimes are harmful to the society for those people who should be cited as a moral example and who must behave responsibly are one committing such crimes. The society thus becomes polluted. When the former director of Andhra Bank and the directors of a Gujarat based pharma company, Sterling Biotech, were arrested for their involvement in 5000 crore fraud case.

They used to withdraw money from bank accounts of several benami companies. This was one big scam which put the people in fear. Also, in 2018 the Punjab National Bank (PNB) found that fraudulent transactions of value 11, 346 crore rupees have been taking place in its Mumbai branch. *“The Staff there used to fake LoU (Letter of Understanding) for the buyer’s credit to the company of Nirav Modi and Gitanjali Group”*, as published in the Business World.

V. TYPES OF WHITE-COLLAR CRIME:

V.I CORPORATE FRAUD:

Corporate fraud can damage the economy as well as investor confidence, the FBI points out. Many corporate fraud cases are committed in finance or accounting. The goal is to mislead investors, auditors, and other stakeholders about the financial success of a company. This is

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done through manipulation of data, share price, and other measures of financial health.

Types of corporate fraud include:

- Falsification of financial information
- Self-dealing by corporate insiders
- Fraud in connection with an otherwise legitimately operated mutual hedge fund
- Because of the prevalence of corporate fraud along with its implications, this type of white-collar crime is a top priority for law enforcement.

V.II SECURITIES AND COMMODITIES FRAUD:

More and more people are investing in the securities and commodities market through brokerage, college savings, and retirement accounts. “This growth has led to a corresponding rise in the amount of fraud and misconduct seen in these markets,” according to the FBI. One of the most common types of securities and commodities fraud is investment fraud, in which financial assets are illegally sold. Criminals commit this type of crime by offering low-risk investment opportunities, guaranteeing returns, and other tactics. Broker embezzlement, another category of securities and commodities fraud, involves “illicit and unauthorized actions by brokers to steal directly from their clients,” the FBI says. This is carried out through forging documents, altering account statements, illegal trading, and more.

V.III MONEY LAUNDERING:

Criminals launder money by making illegal sources of income appear to come from legitimate sources. This allows them to accumulate wealth while avoiding law enforcement and evading taxes. Money laundering also enables criminals to fund illegal activities such as drug trafficking, healthcare fraud, international and domestic public corruption, and more. They might launder their money through real estate ventures, international trade, financial institutions, or other methods. The FBI says that there are three different steps involved in the process of laundering money: placement, layering, and integration. “Placement represents the initial entry of the criminal’s proceeds into the financial system,” the FBI explains. “Layering is the most complex and often entails the international movement of funds. Layering separates the criminal’s proceeds from their original source and creates a

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complex audit trail through a series of financial transactions. And integration occurs when the criminal’s proceeds are returned to the criminal from what appear to be legitimate sources.”

VI. PUNISHMENTS:

VI.I PUNISHMENT FOR FRAUD:

Section 447 of the Companies Act, 2013 provides punishment against the commission of fraud. It states that in case a person is found guilty of an offence of fraud he would be imprisoned for a period not less than 6 months and which extend to 10 years. And he will also be subject to fine which should not in any case be less than the amount involved in fraud and which may extend to 3 times the amount involved in the fraud. In case the fraud has been committed against the interest of the general public than the term of imprisonment would not be less than 3 years.

VI.II PUNISHMENT FOR FALSE STATEMENT:

Section 448 of the Companies Act, 2013 states that: if a person deliberately makes a false statement, knowing it to be false or deliberately omits any material fact, knowing it to be material than he would be held liable for his wrongful act. This false statement can be made either through return, report, certificate, financial statement, prospectus, statement or any other documents required for the purpose mentioned under this Act or any rules made under it.

VI.III PUNISHMENT FOR FURNISHING FALSE EVIDENCE:

Section 449 of the Companies Act, 2013 provides for punishment for furnishing false evidence. **It states that if any person gives false evidence in a court of law:**

Either upon an examination on oath or solemn affirmation; or when any company is about to dissolve or otherwise also in case of any matter arising under this Act, in any affidavit, deposition or solemn affirmation, He shall be punished with imprisonment and fine both. The imprisonment will not be less than 3 years and may extend to 7 years and fine may extend to 10 lakh rupees.

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VI.IV PUNISHMENT WHEN NO SPECIFIC PUNISHMENT OR PENALTY HAS BEEN PROVIDED:

Section 450 of the Companies Act, 2013 states that in case a punishment or penalty for a crime, which has been committed either by an officer of a company or by any other person who contravenes any of the provisions of this act, then under this section he would be penalized with a fine which may extend to 10 lakh rupees. In case the contravention continues the person would be asked to pay a fine which may extend to 1,000 rupees everyday till the intervention continues.

VI.V PUNISHMENT WHEN THE DEFAULT HAS BEEN REPEATED:

Section 451 of the Companies Act, 2013 lays down that, when a company or any officer of that company commits an offence for which he has already been penalized and has also faced imprisonment, in case commits the same offence again within a period of 3 years, than that company and every one of those officers involved in the commission of the offence for the second time shall be punished with twice the amount of fine, in addition to the term of imprisonment provided in the act for that offence. But, in case the offence was committed after a period of 3 years of commission of the offence for the first time then this rule would not be applicable.

VII. REASON FOR INCREASING WHITE COLLAR CRIME:

There are several reasons behind a steep increase in white-collar crimes namely-

VII.I LENIENT LAWS:

Various laws have been passed in India, but they are not implemented properly due to which these crimes are increasing recklessly day by day.

VII.II GROWING COMPETITION:

Because of the growing competition, people often find wrong paths to reach the path of success, and the person who leaves behind everyone and adapts to the circumstances survives.

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VII.III MODERN TECHNOLOGY:

Modern technology has led to an increase in white-collar crimes which have allowed them to reach out to a larger number of people and commit large-scale crimes without being noticed by the law. Like online banking scams i.e., taking a person's bank details fraudulently and taking out all their money. During the covid times also, many scams took place, when the second wave came in India there was seen a spike in these scams like illegal injections.

VII.IV LACK OF AWARENESS:

Lack of awareness can also be considered as the biggest reason behind these crimes as people are not so aware and educated due to which they get looted by greedy people and get stuck in cyber scams.

VIII. CASE LAWS:

VIII.I HARSHAD MEHTA SECURITIES FRAUD:

In 1990, Harshad Mehta was a stockbroker and established the security firm, “Grow More Research and asset management limited”. He was considered as the ‘sultan of Dalal street’. He was blindly followed by many of the investors. He took a loan of huge amount from the bank and purchased the scrips at high prices, thereby creating a false market. He misused his status and manipulated the stock prices of certain scrips for his gain. This resulted in unnatural pumping of money in the stock markets causing an abnormal rise in the price of these shares. This act of Harshad Mehta though being immoral was not illegal. The problem arose when Mehta obtained capital to invest in the stock market by misappropriating bank's money. This misappropriation of money falls in the purview of money laundering. He earned approximately ₹ 5000 crores. The then renowned journalist Sucheta Dalal exposed this scam. This unabated selling caused the market to lose ₹ 0.1 million in a day. This was the biggest ever crash which the Indian stock market had ever experienced. To curtail such transaction various changes were brought in SEBI rules and regulations.

VIII.II SATYAM SCANDAL:

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This scam came into light on 7th January, 2009 by way of a confession letter written by B. Ramalingam Raju (Founder and chairman of Satyam Computers Services Limited) published in Times of India. The letter confessed to manipulating his books of account by overstating the assets and understating liabilities. The books of accounts are the reflection of the company’s financial standing. They act as an important tool on which investors can rely on before investing their money. Accounts books were manipulated to cheat investors and shareholders. The whole scam cost approximately ₹14,000 crore and is considered to be an important factor which contributed to the recession of 2009. In this scandal, SEBI hit back strongly, holding Ramalinga Raju and nine major associates and guilty of insider trading, indulging in fraudulent and unfair trade practices. SEBI directed the accused to pay approximately ₹3000 crores within 45 days and also debarred them from accessing the security markets in any way for 14 years. SEBI managed to lash back strongly to ensure such a scam never happened again.

VIII.III KETAN PAREKH SECURITY SCAM:

Parekh was involved in circular trading and stock manipulation from 1999-2001. He borrowed from banks like Global Trust Bank and Madhavpura Mercantile Co-operative bank and manipulated a host of stocks known as K-10 stocks. The scandal amount was approximately ₹ 1,250 Crore. He has spent only one year in jail, but he has been debarred from trading in the Indian Stock market till 2017. Although his name continues to haunt the street as he has been accused of playing from backstage. An Intelligence Bureau Report alleged Parekh and his associates to be engaged in circular and insider trading through front entities.

VIII.IV SARADHA CHIT FUND CASE:

Saradha Group financial scandal was a major financial scam and alleged political scandal caused by the collapse of Ponzi scheme run by Saradha Group, a consortium of 200 private companies that were believed to be running collective investment schemes popularly and wrongly referred to as Chit Fund. This group collected around ₹200 to ₹300 billion from over 1.7 million depositors, promising a multiplied hefty sum in return in the form of cash or real estate and other assets. At least 10 Saradha group entities were alleged for committing fraud

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through public money-pooling activities. Amidst continuing public protest against the group’s alleged fraudulent activities, SEBI barred Saradha Realty India and its managing director Sudipta Sen from the securities market till it winds up all the Collective Investment Schemes (CIS) and makes the refund, as the same amounts to CIS Violation.

The central government through the income tax department and Enforcement Directorate launched a multi-agency probe to investigate the Saradha Scam and similar Ponzi scheme. Later, in May 2014 Supreme Court of India, alleging possible international money laundering, severe regulatory failures, and alleged political nexus, referred this case to CBI, India’s federal investigation agency. Many prominent personalities were arrested for their involvement in the scam including two Members of Parliament- Kunal Ghosh, Srinjoy Bose, former West Bengal director general of police- Rajat Majumdar, a top football club official Debabrata Sarkar, Sports and Transport minister in the Trinamool Congress government Madan Mitra. This scam is often compared to the Sanchayita investment scam, a multi-crore rupees scam that occurred in West Bengal in the 1970s, complaints related to the same have led to the formation of Prize Chits and Money Circulation Schemes (Banning) Act, 1968.

VIII.V PUNJAB NATIONAL BANK FRAUD:

Nirav Modi is a diamantaire, elite jewelry designer and India’s 85th richest person. Bank said that Modi and the companies linked to him colluded with its officials to get guarantees or Letter of Undertaking to help fund buyer’s credit from other overseas banks. PNB’s preliminary investigation showed that two officials of the bank had fraudulently issued Lou’s to the said firms without following the due procedure. These Los were then transmitted across the SWIFT messaging system, based on which the credit was offered to the said firms. PNB alleged that the funds ostensibly so raised for the purchase and sale of diamonds were not used for the purpose. PNB issued to the stock exchange, about the detection of fraudulent and unauthorized transactions. PNB has incurred \$1.8 billion in fraud, one of the largest to be detected in the Indian Banking Sector.

VIII.VI 2G SCAM:

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This scam involves the sale of the 2G spectrum licenses using a fixed price. And, A Raja did so as the option of auction led to less profit. He gave licenses to those applicants that were ineligible for it. These applicants not only lied but also gave false documents, submitted incomplete details, and hidden them as well. As a result, this led to a loss of 1.76 lakh crore rupees. Further, the Comptroller and Auditor General of India gave the report of their crime on 16th November 2010. Also, it was such a heinous crime that the charge sheet was 80,000 pages long. In addition to it, the CAG report mentioned that these important stakes to Indian as well as foreign companies at a large amount of premium. Next, they did so in a very short period of time. Finally, they also claim that the real value of the spectrum and the value earned by these ineligible applicants were totally the same.

VIII.VII CWG SCAM:

Commonwealth Games is an international event where the athletes from the commonwealth of nations play multiple sports. It takes place once a year. Commonwealth games federation conducts it. Suresh Kalmadi did the Commonwealth Games scam. He was the Chairman of the organizing committee of the Games. As a result, he gave the contract of 141 crore rupees to the Swiss Timings. And these timing equipment by Swiss Timings were costly by 95 crore rupees. Furthermore, the chairman asked the sportspersons to live in rooms which were not in a very good condition. This is when the Central Vigilance commission found out about the CMW scam. In addition to the decreased facilities to the sportspersons, the pilferage of 70,000 rupees took place due to this scam. They were arrested for their crime under the charges of cheating, conspiracy, corruption, and forgery for purpose of cheating. This is totally a major white-collar crime in India.

VIII.VIII AGUSTAWESTLAND SCAM:

Former Air Chief Marshal S P Tyagi and Christian Michel were major ones involved in the AgustaWestland VVIP chopper scam. They paid the middlemen as well as politicians to buy 12 AgustaWestland helicopters. Italian defense manufacturing giant Finmeccanica built these helicopters and the cost of it was 3600 crore rupees. And President of India, other important persons as well as the prime minister of India were going to use these special helicopters. And, surprisingly, Italy uncovered one of the top white-collar crimes in India. Further, the

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Congress government canceled the deal in the year 2014. CBI arrested S P Tyagi in the year 2016 because he suggested the decrease in the operational ceiling from 6000 meters to 4500 meters. And, CBI also mentioned in the report that the IAF opposed these changes. But when the Tyagi became the chief, he highly recommended it. Finally, they also arrested Christian Michel is the middleman hired by Agusta Westland along with Guido Haschke and Carlos Gerosa.

VIII.IX NATIONAL HERALD CASE:

One of the white-collar crimes that fall under the corruption category and is an ongoing case. Subramanian Swamy is an Indian economist and politician who filed a case in the Delhi court against Sonia Gandhi and Rahul Gandhi. He did so because of the reason that the Associated Journals Limited (ALJ) borrowed the loan of 90.25 crores from the Indian National Congress. In addition to it, this loan was interest-free. Furthermore, a company named Young Indian was started in 2010. And, it had a capital of 50 lakh rupees. Not only the capital of 50 lakh rupees is surprising but also the point that this company acquired the shares of ALJ. The worth of these shares was 5000 crore rupees. Finally, in the year 2019 Enforcement Directorate permanently attached the properties of Gandhi's. These properties were worth 64 crore rupees. Thus, it is indeed one of the white-collar crimes in India involving a huge amount of money.

IX. CONCLUSION:

White collar crime is a crime done from the advent of British in India. White collar crime is the crime committed by the reputed person to make fool and disturb the other people and make money. White collar crime is the fastest growing crime in all the country some countries have a good norm related to the white-collar crime then also the crime happens but in India the crimes are so lenient how it can be decrease in India.

White collar crime laws are suggested by many committees then the laws are made and crime related to white collar crime are included in cyber crime as it is done by internet and mobile phone in India there is separate cell that deals with the crime related to white collar. The crime related to white collar are done with banks, individuals and the government and the

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criminal run from the country and seek asylum in some other country to be save from the punishment that is bringing more rise in the case related to the white-collar crime. To stop this, I have suggestions that the government should make strict rules and bring the defaulters back to the country and the punishment related to the crime should not be lenient. The punishment related to the crime should be fear from the punishment and should not be committed by someone else.

The money taken by the accused must be the life of the victim or the life time earning of the victim or the solution to many of his problem and can be something else for the victim so, the government should make the laws that can stop this.

