

**WHITE COLLAR CRIMES: THE GLOOMY REALITY OF SCAMS IN INDIA****\*NAEESHA YUSUF HALAI<sup>1</sup>****I. INTRODUCTION**

*“Prisons are fascinating places, especially when the inmates are educated white-collar types”*

-John Grisham

White collar crime refers to those wrongdoings that are designed to produce fiscal dividend using some form of artifice. This type of crime is usually committed by the hotshots of the business world who are able to gain access to other people’s riches. White collar crime does not involve violent, drug-related, or overtly illegal activities.<sup>2</sup> They may be holding admirable positions in the community prior to their eye-opener shrewd schemes. People involved in white collar crimes usually have money or muscle power. White Collar Crime involves deception or duplicity of trust. It is committed by persons of respectability and high social status in the course of their occupation. They are a greater threat to society than street crime because the former promotes cynicism and distrust of basic social institutions.<sup>3</sup> People who are involved in white collared crimes are commonly known as Meat Eaters. These criminals are being protected by professionals who are finding loopholes in the judiciary and are supported by the administration indirectly. Not much rigorous actions have been taken to curb this peril.

**II. DEFINITION**

Sutherland defined it as *“a crime committed by a person of respectability and high social status in the course of his occupation.”*<sup>4</sup> The Advanced Law Lexicon defines it as, *“The crime committed by a person of high socio-economic status and respectability in the course of his occupation or profession. The criminal behaviour must be directly related to the occupational activities of the person.”*<sup>5</sup>

*“Crime that is committed by salaried professional workers or persons in business and that usually involves a form of financial theft or fraud.”*<sup>6</sup> White collar crime as defined by the Federal Bureau of Investigation: *“Illegal acts characterized by deceit, concealment or violation of trust, which are not dependent upon the application or threat of physical force or violence.”*

The FBI goes on to state that in cases of white collar crime, *“individuals and organizations commit these acts to obtain money, property or services; to avoid the payment or loss of money or services; or to secure personal or business advantage.”*<sup>7</sup>

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<sup>2</sup> <https://www.hg.org/white-collar-crime.html>

<sup>3</sup> White Collar Crime, 1949- a book by Edwin Sutherland, a criminologist

<sup>4</sup> Edwin Sutherland, an American Sociologist

<sup>5</sup> P Ramanatha Aiyar Advanced Law Lexicon

<sup>6</sup> P Ramanatha Aiyar: The Major Law Lexicon

<sup>7</sup> <http://www.onlinelawyersource.com/white-collar/recent-cases/>

The Supreme Court of India, in *Ram Narain Poply v. CBI*<sup>8</sup>, has observed that the white-collar crimes are nothing but cases of private gain at the cost of the public, and lead to economic disaster.

These white collar crimes by nature are such that the injury or the damage caused by them is widely spread out in the large body of citizens. White-collar crime occurs when an individual commits crime against an organisation within which they work.

### III. ORIGIN

In the late 1930s, criminologist Edwin Sutherland<sup>9</sup> first coined the term “*white collar crime*” in his address to the American Sociological society to describe the criminal activities of the rich and powerful. White collared criminals are intrinsically termed as Meat Eaters. The meat eaters are the ones who want to attain maximal satisfaction by fulfilling their desires through wrongful means. They have a lust for power. They can go to any extent to suffice their greed. The offense is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community.<sup>10</sup> White collar crime is also known as illegal, non-violent behaviour of employees of businesses. It is the crime committed by persons of relatively high social or economic status in connection with their regular occupations.<sup>11</sup>

### IV. WHITE COLLAR CRIMES THAT SHOOK THE NATION

White collar crimes are the unwarrantable or shady activities of people and organizations whose authorized purpose is emoluments through lawful business enterprises. White collar crime involves unlawful business practices like embezzlement, price-fixing, bribery and so on.

The following types of white collar crime are recognized today:

#### *i. Corporate malfeasance*

Usually occurs when a strongly competitive business environment stimulates corporate irregularities. There are various corporate malfeasances in India like:

#### ➤ *Ketan Parekh Securities Scam*

Ketan Parekh was a stock broker from Mumbai who was convicted in 2008. He was involved in the Indian stock market manipulation scam in late 1998-2001.

He had been debarred from trading in the Indian stock exchanges till 2017.<sup>12 13</sup> In March 2014 he was convicted by a special CBI court in Mumbai for cheating and sentenced to two years rigorous imprisonment.<sup>14</sup>

<sup>8</sup> Ram Narain Poply v. CBI, 2003 Indlaw SC 51

<sup>9</sup> Edwin Sutherland, an American criminologist

<sup>10</sup> State of Gujarat v. Mohanlal Jitmalji Porwal and Anr (AIR 1987 SC 1321)

<sup>11</sup> <http://marketbusinessnews.com/financial-glossary/white-collar-definition-meaning/>

<sup>12</sup> “India court gives Ketan Parekh 1yr prison in 1992 scam.” Reuters 1 April 2008

<sup>13</sup> “SEBI finds Ketan Parekh funds in markets, seeks ED probe.” The Hindu, 4 June 2009. Archived from the original on 17 January 2011.

<sup>14</sup> “Ketan Parekh sentenced to 2 years RI by CBI court”. Financial Express. 2012-06-12.

➤ *Speak Asia Scam*

Speak Asia was an online survey marketing company which sold web subscriptions for Rs.11,000 each. Ram Sumiran Patel was one of the masterminds of the 2,200 online marketing fraud. More than 24 Lakh investors had been duped by this company.<sup>15</sup>

➤ *Home Trade Scam*

The Home Trade scam was a Rs.600-crore scam. It revealed that investments in cooperative banks are vulnerable to misuse as long as regulatory control of these banks.

➤ *Sahara Scam*

Sahara chief Subrata Roy was the mastermind of the scam. He was arrested in a culmination of a nearly four-year account of alleged irregularities in fund raising schemes by two Sahara Group firms. The Securities and Exchange Board of India (SEBI) had asked Sahara to refund over Rs.20,000 crore to investors but it failed to do so despite repeated reminders by the court of law.<sup>16</sup>

ii. *Government enormity*

Illegal and socially injurious cooperation between governments and corporate institutions.

➤ *Common Wealth Games Scam*

Another feather in the cap of Indian scandal list is Commonwealth Games loot. Yes, literally a loot! A number of concerns and controversies surfaced before the 2010 Commonwealth Games in New Delhi, India, which received widespread media coverage both in India and internationally. It was one of the major Indian scams involving around Rs.70,000 crores. The Commonwealth Games was severely criticised by several prominent Indian politicians and social activists.

➤ *Indian Coal Allocation Scam*

Coal allocation scam is a major political scandal. The scam involves Indian government's allocation of the nation's coal deposits to public sector enterprise and private companies. Coal mining controversy is major fraud in 2012, which involved Rs 1,86,000 Cr loss to exchequer.

➤ *2G Scam*

DMK chief M Karunanidhi's daughter and MP Kanimozhi were being named by the CBI as the masterminds with A Raja Shahid Balwa, the promoter of Swan Telecom for the 2G spectrum scam. The 2G spectrum scandal was an Indian telecommunications scam and political scandal in which politicians and government officials under the Indian National

<sup>15</sup> <http://timesofindia.indiatimes.com/india/Speak-Asia-promoter-held-for-Rs-2200-crore-scam/articleshow/26434497.cms>

<sup>16</sup> <http://www.dnaindia.com/topic/sahara-scam>

Congress (Congress) coalition government undercharged mobile telephone companies for frequency allocation licenses, which they used to create 2G spectrum subscriptions.

➤ *Sai Prasad Group Ponzi scam*

It was a multi-crore scam probed by the Mumbai police's economic offences wing. Over 20 lakh depositors were duped across the country of Rs.2000 crores.

➤ *Tornado Ponzi scam*

The Social trade Ponzi scam was a ponzi scheme in India run by Anubhav Mittal. This was a Gujarat based company named Tornado Software Pvt Ltd.

iii. *Occupational breach*

Usually occurs when employees come across an opportunity to make extra money by bending or breaking the rules (theft, pilfering).

➤ *National Spot Exchange Limited (NSEL) scam*

NSEL scam took place in 2013. It relates to a payment default at the National Spot Exchange. The case was under the investigation. The suspects comprised of brokers, defaulters, investors and key decision makers.

➤ *Satyam Scam*

The scam at Satyam Computer Services is something that will shatter the of Indian investors and shareholders. It is one of the biggest frauds in the corporate history to the tune of Rs.14000 crore. Ramalinga Raju, the chairman at Satyam computers confessed that the company's accounts had been falsified and so, he along with his two brothers and seven others were convicted for a term of seven years in this fraud.

➤ *Saharadha Chit Fund scam(2013)*

Saharadha chit fund scam was a scam that accounted to almost 6 Billion USD. The investors paid huge incentives to the agents. Incentives as high as 40% of the total money collected from villagers.

This helped in establishing a rapid network of investors, agents and word of mouth beneficiaries. It lured lakhs of investors to deposit money in its schemes with glossy brochures and the promise of abnormally high returns.

An official estimate says Saradha had mopped up about Rs.1200 crore through its chit funds, but some calculations put that the figure closer to Rs.4000 crore.<sup>17</sup>

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<sup>17</sup>“Chit fund scam: How Saradha duped its investors” Edited by Janaki Fernandes; Updated: April 24, 2013 12:15 IST  
<https://www.ndtv.com/india-news/chit-fund-scam-how-saradha-duped-its-investors-520076>

iv. *Professional breach*

People or groups of people who systematically set out to look for opportunities to make money illegally.

➤ *Dinesh Dalmia Scam*

Dinesh Dalmia Scam was a Rs.595 crore scam. It shook the capital market. The software company under the leadership of Dinesh Dalmia came under the scanner. Mr. Dalmia was accused of criminal breach of trust, cheating and fraud and was alleged to have induced National Securities Depository Limited (NSDL) to dematerialise and credit 130 lakh equity shares of the software company as fully paid shares.<sup>18</sup>

➤ *Lalit Modi Gate*

The Enforcement Directorate began investigating Lalit Modi in 2010. They issued 15 show cause notices against him and the BCCI. On the basis of an FIR filed against Modi in Chennai by former BCCI chief N Srinivasan, the ED had registered a case of money laundering against Modi. The ED served 12 show-cause notices on Modi for alleged forex violation to the tune of Rs 1,350 crore during IPL-2 in 2009.<sup>19</sup>

➤ *King Fisher Scam*

Vijay Mallya the main accused of the King Fisher Scam has a total debt of Rs 7000 Crores. His company owes a sum total of approximately 890 crores to all its fuel suppliers. He is known as the self-anointed *King of Good Times*.

➤ *Chikki Scam*

BJP MLA Pankaja Munde was under the scanner for the Rs 206 crore 'chikki' scam in Maharashtra. The minister had allegedly cleared purchase of chikki, mats and books for Rs 206 crore without floating tenders for the same. According to rules, any government purchase above Rs 3 lakh has to be done through e-tendering.<sup>20</sup>

## V. LAWS TO GOVERN THIS MISDEMEANOR

There is a need for stringent laws to govern such malpractices. These can be governed under legislations like the Essential Commodities Act 1955, the Industrial (Development and Regulation) Act, 1951. Even the Import and Exports (Control) Act, 1947, the Foreign Exchange (Regulation) Act, 1974, Companies Act, 1956, Prevention of Money Laundering Act, 2002 can help us curb white collared crimes. The Indian Penal Code contains provisions to check white collared crimes like Bank Fraud, Insurance fraud, credit card fraud etc. Due to advancement in

<sup>18</sup> [www.thehindu.com/tp-national/stock-scam-dinesh-dalmia-arrested/](http://www.thehindu.com/tp-national/stock-scam-dinesh-dalmia-arrested/)

<sup>19</sup> Sunday Story: The Lalit Modi Sarkar, Written by Sriram Veera; Updated: June 21, 2015 6:48 pm

<http://indianexpress.com/article/india/india-others/the-lalit-modi-sarkar/>

<sup>20</sup> "Rs 206 crore 'chikki' scam hits Maharashtra government, BJP MLA Pankaja Munde under scanner" *News 18* Updated: June 24, 2015, 5:24 PM IST

technology and increasing cases of hacking the government has come up with the Information Technology Act, 2000 to handle such cases.

There is a need to create the masses aware of such malpractices and help the public at large to save them from the clutches of such offenders.

Special tribunals and fast track courts should be set up with power to sentence the offenders for at least 5 years with a heavy fine rather than just arrest and detention.

## VI. ONLINE SURVEY

The researcher conducted an online survey. The findings are as follows:

1. 90% people are aware of white collar crimes.
2. Everyone feels that white collar crime is committed by a person of high social status
3. Everyone knows that white collar criminals are called Meat Eaters.
4. 90% respondents are aware of the Common Wealth Games Scam whereas 10% are aware of Speak Asia Scam.
5. 80% respondents feel Pankaja Munde was involved in the Chikki Scam whereas 20% feel Anubhav Mittal or Vijay Mallya were involved in the scam.
6. 80% respondents opine that Satyam Scam was a government enormity whereas 20% feel that it is corporate malfeasance.
7. 90% respondents are aware of the laws governing white collar crimes.
8. 50% respondents opine that the status of India in relation to scams is very bad whereas 40% feel its improving. 10% refused to comment.

## VII. CONCLUSION

One of the crucial reasons for the ineffective enforcement against white collar crimes is the social status of the criminal. These offenders have the social, political and economic power to influence such charges against them. Rampant corruption also leads to such criminals moving scott-free. The social wrong underlying the white collar crimes need much more drive on the part of the regulatory and enforcement authorities as compared to the ordinary crimes.

The need of the hour is to bring these traitors to their knees and show them that the law of the land is no way influenced by such criminals and they must be punished for their misdemeanor.

## APPENDIX

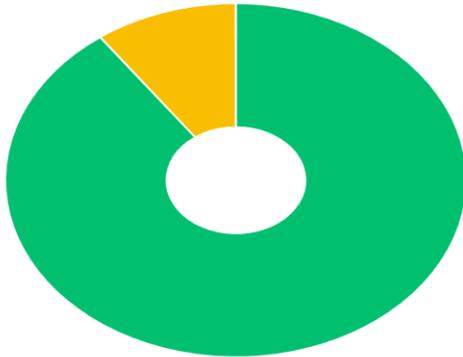
**1. Name**

Responses 10

**2. Occupation**

Responses 10

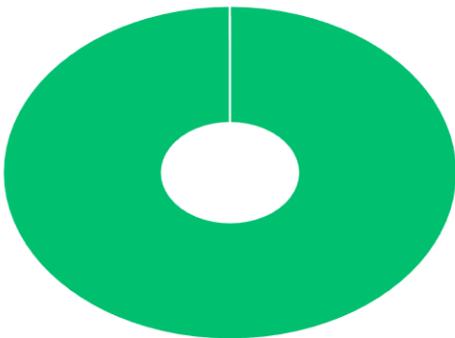
**3. Do you know what are white collar crimes?**



Answered: 10 Skipped: 0

Yes	90%	9
No	0%	0
Maybe	10%	1
Can't say	0%	0

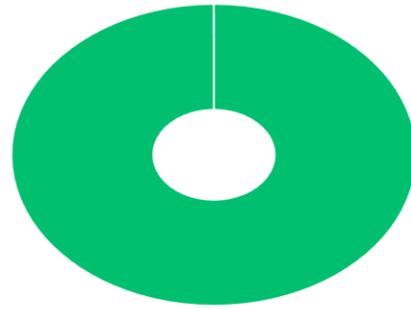
**4. According to you what is white collar crime?**



Answered: 10 Skipped: 0

A crime committed by a person of high social status	100%	10
A crime committed by a person of low social status	0%	0
Either A or B	0%	0
Both A or B	0%	0

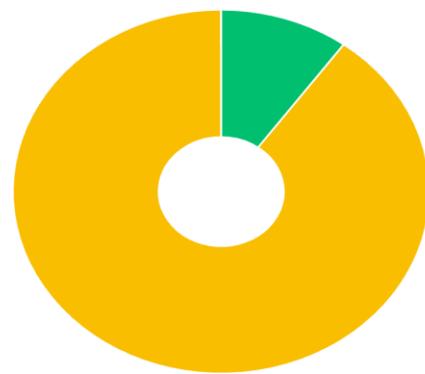
**5. What are white collar criminals called?**



Answered: 10 Skipped: 0

Meat Eaters	100%	10
Beef Eaters	0%	0
Either A or B	0%	0
Both A and B	0%	0

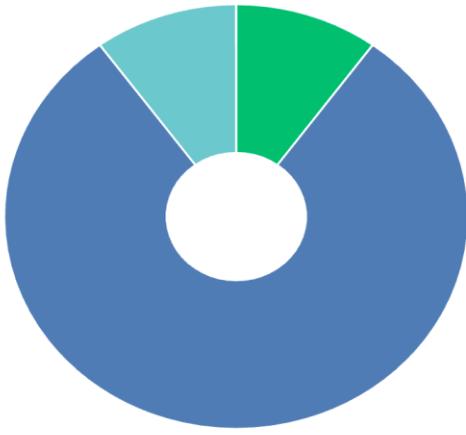
**6. Which of the following white collar crimes are you aware of?**



Answered: 10 Skipped: 0

Speak Asia Scam	10%	1
Home Trade Scam	0%	0
Common Wealth Games Scam	90%	9
Sao Prasad Group Ponzi Scam	0%	0

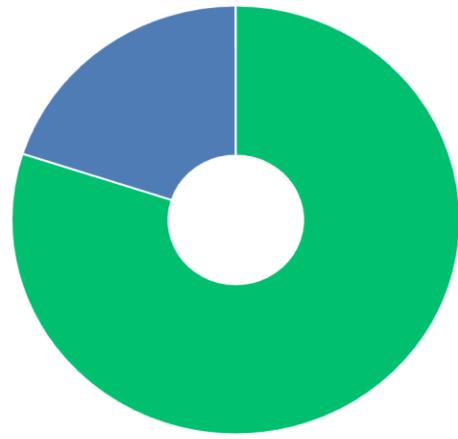
7. Identify the person involved in the Chikki Scam.



Answered: 10 Skipped: 0

Anubhav Mittal	10%	1
Pankaja Munde	80%	8
Subrata Roy	0%	0
Vijay Mallya	10%	1

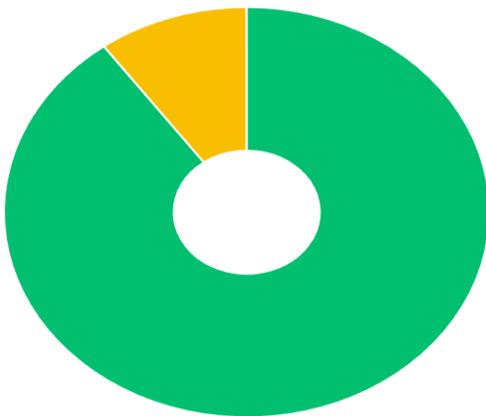
8. Identify the type of scam-Satyam Scam



Answered: 10 Skipped: 0

Government Enormity	80%	8
Corporate Malfeasance	20%	2
Professional Breach	0%	0
Occupational Breach	0%	0

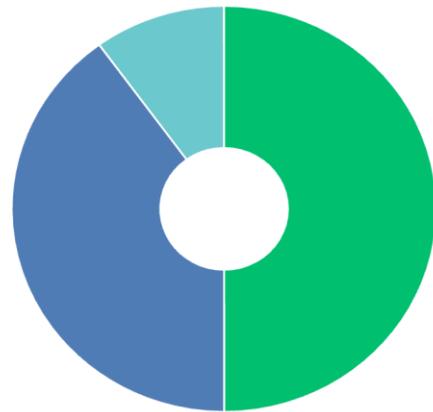
9. Are you aware of the laws governing white collar crimes?



Answered: 10 Skipped: 0

Yes	90%	9
No	0%	0
Maybe	10%	1
Can't say	0%	0

10. What is the status of India in relation to scams?



Answered: 10 Skipped: 0

Very Bad	50%	5
Improving	40%	4
Better	0%	0
Can't say	10%	1