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White Collar Crimes and Existing Legal Framework in India

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Abstract

The criminal justice system of the country provides for criminality in white collar crimes. The mere existence of such laws has a symbolic impact on the society. Though criminal sanctions have been imposed for violation of white-collar crimes but the strategy has not worked as a deterrent or a tool for achieving compliance. Both the substance and the picture of policing be lost on the off chance that crook and withdrawn movement is not perceived, forestalled and indicted. If the society is protected from traditional crimes, then people get freedom to heighten their level of social and economic interaction thus enhancing their quality of life and if the society is free from white collar crimes, then it adds reliability to this quality. To disregard middle-class wrongdoing is to undermine the trustworthiness of our general public, similarly as we overlook the security of society when we neglect to adapt to normal wrongdoing. Deferring or delaying activity in middle-class violations is a surrender of policing. The High Court once said that the nature of a country's civilization can be to a great extent estimated by the strategies it involves in the implementation of criminal regulation.

Keywords: Criminal justice, white collar crimes, globalisation, corruption, offender, law enforcement

INTRODUCTION

White collar crimes are committed in case fraud is committed in the course of occupation. The person who is defrauded may be government or an individual or group of individuals or consumers or the society as a whole. There are different kinds of white-collar crimes like corruption, insider trading, criminal breach of trust, cartel offences, tax evasion, black marketing and profiteering etc. While the types of middle-class violations, for example, exploitative, expects significance at one phase, at another stage it could pale into inconsequentiality, and different types of middle-class wrongdoings, for example, charge misrepresentation could become a force to be reckoned with [1]. Middle-class violations are unavoidable in practically every one of the callings and occupations in our general public.

As the wellsprings of middle-class wrongdoings are dissipated, there can be no single or omnibus regulation to manage the threat. The significance appended to every type of middle-class wrongdoing has differed now and again. Likewise, the legitimate structures created to battle these wrongdoings are scattered in correctional regulations, financial regulations, charge regulations and different administrative components. Also, the kind of proceedings that can be initiated against the wrongdoer varies from one case to another depending upon the facts of the case. There is no exhaustive list provided by the legislature enumerating the instances of white-collar crime.

In the ever-growing economy newer opportunities for committing white collar crimes emerge. The legislation, in order to address the problem posed by new regime, pass more laws. The researcher has not come across any work which

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exhaustively lists white collar crimes. Therefore, to enlist all the offences, figuratively speaking, is a minefield. However, an attempt has been made to enlist various statues dealing with white collar crime along with the criminal sanctions that can be imposed in case of violation.

LEGAL FRAMEWORK FOR SENTENCING IN INDIA

The sentencing procedure starts after the accused is convicted for an offence. In India, it is mandatory so that the court might hear the blamed-on quantum for sentence except if it discharges him waiting on the post-trial process of acceptable conduct or rebuke. The general procedure for post-conviction hearing is set out in Section 235 of the Code of Criminal Procedure, 1973. The object of hearing is to give accused an opportunity to adduce before the court the evidence that should be kept in mind while deciding the quantum of sentence. Accordingly, here the different disturbing and moderating conditions are considered by the court.

The judge has to adjudicate upon relevant aggravating and mitigating factors, with limited guidance from judicial experience and limited submissions from counsel [2]. If the sentencing judge is of the opinion that his legal powers are not so great enough to provide for the imposition of a sufficiently severe sentence, then the judge can commit the case to the Chief Judicial Magistrate [3]. However, there is no guidance in the section as to how the judge will form his opinion.

In order to determine the appropriate sentence, the sentencing judge should keep in mind that the punishment should fit the offence. For this, the judge has to keep in mind the aim of punishment, i.e., he has to strike a fine balance between the different theories of punishment. In addition to it, other factors such as the nature of offence and of the offender are to be considered. The aim of punishment is reflected in the theory of punishment. The judge should decide the sentence in accordance with the aim that the punishment seeks to attain in that particular case or class of cases.

There is no universal theory of punishment and different theories have evolved over times. These are: impediment hypothesis, retributive hypothesis, preventive hypothesis and reformative theory. In deterrence theory, reliance is placed on threat and fear for preventing further happening of such crime. Deterrence is based on the ‘utilitarianism’ theory which was propounded by Jeremy Bentham and refined by his economist successors that depicts punishment as a policy aimed at creating efficient behavioural incentives [4]. In this way, obstacle hypothesis is considered for of accomplishing government managed retirement.

The theory of retribution traces its lineage to Kant, who discussed punishment briefly in the course of laying out his theory of justice in the first half of The Metaphysics of Morals [5]. According to Kant, in order to behave morally, people must adhere to a social contract; they must be free to act as they want, but in order to act as autonomously as possible, they must agree to certain limitations on freedoms in the form of a criminal justice system [6]. Punishment is thus retribution for having broken that social contract. This theory justifies punishment on the ground that the criminal should not benefit himself from the harm done by him to the society. Retributive theories have two key features. First, the law should punish only those who deserve punishment because of the acts that they have committed. Secondly, punishment must be proportional to the offense [7]. Retaliation hypothesis depends on 'Appropriate reward' that implies how much discipline ought to be proportionate with the reality of the offense [8]. That means the offender should suffer for his wrong.

EXISTING LEGAL FRAMEWORK PERTAINS TO WHITE COLLAR CRIME

The main step involved in effective enforcement of white-collar crime is investigation and prosecution. The investigation of white-collar crimes is far more complex than most other traditional offenses. The events in issue usually have occurred at a far more remote time and over a far more extensive period. The crime is not only dynamic but is also multifaceted. A number of events are interwoven and need to be proved in the court. An agent needs to go through volumes to find the one chunk he really wants to demonstrate his case.

Offences Under the Indian Penal Code, 1860

The Indian Penal Code, 1860 does not provide punishment for white collar crimes. Neither has it criminalised ‘fraud’ as such which is a fundamental constituent of every white-collar crime. However, there are provisions in the Code which are invoked for penalising white-collar crimes. As the Code is a substantive criminal law code, the proceedings are criminal in nature. The different arrangements of the Code which are conjured to manage middle class wrongdoing are talked about hereunder.

Income Tax Act, 1961

Income tax is the tax levied on the annual income of previous year of a person. An individual incorporates an individual, Hindu unified family, organization, relationship of people, collection of people, firm and so on. It is the main direct expense. In India, this expense is controlled through the Annual Duty Act, 1961 which came into force in 1962. Anyway, this Act goes through change consistently with increments and cancellations achieved by the Money Demonstration of that year. In the event of infringement of the arrangements of the Demonstration, an individual can expected simultaneously to take responsibility for the accompanying as referenced hereunder.

In the event that an individual willfully endeavours to dodge the instalment of any duty, punishment or interest imposed under the Personal Expense Act, 1961, or misrepresents books or reports and so on to prompt or abet any individual to sidestep any assessment, punishment or interest imposable under the arrangements of the Demonstration, then he will be obligated for discipline which will not be under 90 days yet may reach out to 2 years and fine.

Central Excise Act, 1944

Excise is derived from Latin word which means to ‘cut out’. It is an obligation demanded on a maker or maker in regard of the wares delivered or fabricated by him. It is a duty on production of merchandise and tons of merchandise. "Obligation of Extract" has been renamed as 'Focal Worth Added Duty'. The Focal Extract Act came into force in 1944 and solidified every one of the earlier individual Demonstrations. The term produce in a real sense means to make manually. Notwithstanding, with regards to the present mechanical world, the term incorporates making articles by machines too. The duties are levied on the goods as specified in the schedule of the Central Excise Tariff Act, 1975.

Corporate Fraud

Over the years, the corporate form has emerged as the preferred mode of doing business and of mobilizing resources. Companies bring people together for economic activity and mutual gain, facilitate rising of capital, invest resources in viable activity and provide employment to millions of people. The corporate structure and its governance have evolved over a long period of time to enable the companies operate with transparency and accountability and in a manner that harnesses and makes the best use of individual talent and merit.

Corporate Veil

An organization is a lawful substance discrete and particular from its individuals. Where there is a gathering of organizations, each organization inside that gathering is viewed as a different lawful substance consisting of independent legitimate freedoms and liabilities. In cases of corporate fraud, the company is the vehicle through which fraudulent activities take form and shape. In such cases, individual culpability may be obscured by actions taken on the behalf of the company and the real perpetrators may take shelter behind the corporate veil. Here, the company is a mere cloak or a sham and the fraudster operate through the entity to conduct his deceitful activities. The fraud is not ‘by the company’ for which it can he indicted. Rather its structure is used to project an image based on statute and to make certain representations and projections to persons dealing with it that disguise the real intentions of the promoters. The reality behind the corporate veil is quite different.

In Delhi Development Authority v. Captain Development Organization (Private) Restricted, the High Court noticed that the idea of corporate substance was advanced to energize and advance exchange and trade however not to commit wrongdoings or to swindle individuals. Where, subsequently, the corporate person is utilized for the reason of committing wrongdoing or for cheating others, the Court would overlook the corporate person and will take a gander at the truth behind the corporate shroud to empower it to pass fitting requests to do equity between the gatherings concerned [9].

Companies Act, 2013

The Companies Act, 2013 provides the statutory code for the structure of a company, its governance and regulation. The Act came into force on 29th August 2013, but all the Sections have not been notified. At present, companies are regulated by the present Act together with its predecessor that is the Companies Act, 1956. The new Act was passed in the backdrop of Satyam scam which is the biggest corporate scam in India so far [10]. The Act of 2013 for the first time has recognized 'fraud' as an offence in itself and has provided punishment for it [11]. Together with it, the Act also recognizes certain situations which may arise as a result of fraud and seeks to address them in a manner that is supportive to the main object of the Act.

Money Laundering

With the growing financial strength of the country, India is becoming vulnerable to money laundering activities. Tax evasion is the cycle by which unlawfully got cash is moved into genuine monetary channels. Money laundering helps criminals disguise the true nature of their ill-gotten gains and allows them to use these gains without risk of detection and seizure. Money may be laundered in a number of ways, such as reinvestment in other criminal activities, purchase of goods for personal use, or investment in real estate or legitimate businesses [12]. Tax evasion represents a serious danger not exclusively to the monetary arrangement of the nation, yet additionally to its honesty and sway. In view of the need to have comprehensive law dealing with prevention of money laundering and connected activities, the Prevention of Money Laundering Act was passed by the Legislature in 2002.

The Counteraction of Tax evasion Act, 2002 was authorized in 2003 and was brought into force on 1st July 2005 to forestall illegal tax avoidance and to accommodate connection, and seizure of property acquired or determined, straightforwardly or by implication, from or associated with tax evasion. Illegal tax avoidance implies the projection of spoiled cash (continues of the wrongdoing) as untainted either straightforwardly or by implication or aiding such demonstration. Nonetheless, it is anything but an autonomous wrongdoing and relies on another wrongdoing (predicate offense), the returns of which is the topic of the wrongdoing in tax evasion.

Securities Fraud

Securities fraud is a white-collar crime which has developed with the growth of the Indian economy and the infusion of private capital into the market. The number of players associated with the market has also increased manifold. The investors invest on the basis of information received by them through different sources. In this manner, in protections, market misrepresentation is executed when an individual or an organization, for example, a stockbroker, and business firm, and partnership or venture bank distorts data or utilizes inner data for exchanging protections.

However, in order to promote growth in the economy it is necessary to instill the confidence of the investors in the market. Thus, laws have been framed to regulate the market. The laws which prohibit fraud in securities market are discussed hereunder.

Protections and Trade Leading body of India Act, 1992 is the principal regulation controlling the protections market. This law was developed pursuant to changes in policy framework, i.e., recognition of the importance of developing the Indian securities market and transaction from control-based regime to disclosure-based regime. A person who violates the provisions of the Act exposes himself to civil liability as well as criminal liability.

Cartel Offences

Business involves a number of activities like sale, purchase, manufacturing, trading etc. In order to regulate these activities, associations are formed. These associations or groups are known as cartels. Consequently 'cartel' signifies a relationship of makers, vendors, merchants, dealers or specialist co-ops who, by arrangement among themselves, cut-off, control or endeavour to control the creation, circulation, deal or value of, or exchange products or arrangement of administrations [13]. Cartels are formed from ancient times and are very useful in regulating business activities. However, at times cartels collude to form anti-competitive agreements and abuse their dominance through predatory pricing or erection of entry barriers. This is known as 'Cartel Offence'. Cartel offence is a white-collar crime as it is antithesis of fair competition. It also adversely affects the interests of consumers and freedom of trade.

In the early 90's of the last century, the Indian economy moved towards globalisation and liberalisation. As a consequence of liberalisation, the space for market forces widened and the role of government in business was reduced. The Indian market needed to confront contest from inside the nation and from outside. In this way, the previous Demonstration, to be specific, imposing business models and Prohibitive Exchange Practices Act, 1969 was cancelled and the Opposition Act, 2002 was welcomed on the sculpture book.

Competition Act, 2002

The Demonstration expects to safeguard fair contest in India by precluding exchange rehearses which cause unfriendly impact on market in India. The Demonstration guarantees fair rivalry by forbidding specific kind of arrangements [14]. What is more, in the event of contradiction of the arrangements of the Demonstration, it accommodates responsibility as talked about hereunder.

The Opposition Act, 2002 denies development of hostile to serious arrangements. As per the Demonstration, no venture, individual or relationship of undertakings or people will go into any enemy of cutthroat understanding which causes or is probably going to cause an apparent unfavourable impact on rivalry inside India. An understanding will be attempted to affect rivalry if it straightforwardly or by implication decides buying or deal costs; cut-off points or controls creation, supply; shares the market or wellspring of creation or arrangement of administrations via designation of geological area of market, or kind of labour and products, straightforwardly or in a roundabout way brings about bid fixing [15] or collusive bidding [16].

Foreign Contribution

To control the receipt and usage of unfamiliar commitment and acknowledgment of unfamiliar neighbourliness by people and affiliations working in significant areas of public life, the Unfamiliar Commitment Guideline Act, 2010 was passed. This Act has revoked the Unfamiliar Commitment (Guideline) Act, 1976. The great goal of the 2010 Demonstration is to manage the acknowledgment and usage of unfamiliar commitment and unfamiliar accommodation by people and affiliations working in significant areas of public life. The focal point of the Demonstration is to guarantee that the unfamiliar commitment and unfamiliar friendliness is not used to influence or impact constituent governmental issues, local officials, judges and others working in the significant areas of public life like writers, printers and distributers of papers, and so on. The Demonstration additionally tries to manage stream of unfamiliar assets to willful associations with the target of forestalling any conceivable redirection of such assets towards exercises negative to the public interest. Therefore, the Act prohibits certain categories of persons and associations from accepting foreign contribution and hospitality [17]. However, certain categories of organisations having definite cultural, social, economic, educational or religious programmes can accept this funding subject to prior permission or registration under the Act [18].

Cyber Crime and Software Piracy

Cybercrime is fast becoming a popular way of defrauding both individuals and entities. New correspondence frameworks and computerized innovation has rolled out emotional improvements in the manner individuals execute business. Organizations are progressively utilizing PCs to make, communicate and store data in the electronic structure rather than conventional paper records. Exchange facilitated by online commerce has also been rapidly expanding over the last few years. The business or individual with a web-based presence are inclined to digital wrongdoing.

Intellectual Property Fraud

Licensed innovation is the result of human astuteness. Licensed innovation privileges mean the lawful freedoms which result from scholarly movement in the modern, logical, abstract and creative fields. Protected innovation infringement are a sort of middle-class wrongdoing. The protected innovation extortion works with other type of middle-class wrongdoing, for example, illegal tax avoidance, data fraud and so on [19]. There exist various sculptures which give legal articulation to the moral and financial privileges of makers in their manifestations and the freedoms of the general population in admittance to those manifestations and advance imagination and the spread and use of after-effects of such inventiveness [20]. The various kinds of intellectual properties include patents, trademarks, copyrights, designs and trade secrets.

Trademarks Act, 1999

A 'brand name' signifies an imprint utilized corresponding to merchandise to demonstrate an association throughout exchange between the products and some individual having the right as owner to utilize that imprint. The Brand names Act, 1999 accommodates the enlistment of brand names and for the anticipation of the utilization of false brand names. Any individual who misrepresents any exchange mark or dishonestly applies to labour and products any exchange imprint or makes, discards or currently possesses any colour, block or other instrument to distort an exchange imprint or applies to any good to which a sign of the producer is required, is considered to distort a trademark [21].

Copyright Act, 1957

In ancient days, the writers, musicians and artists wrote, composed or made their works for fame instead of money. But the growth of new and advanced means of communications necessitated the need of protection of the copyrights and thus the Copyright Act, 1914 was brought into force. This Act was later repealed by the Copyright Act, 1957. Copyright is a right given by the law to creators of literary [22], dramatic, [23] musical [24] or artistic work [25], cinematograph films [26] and sound recordings [27]. In fact, it is a bundle of rights including, rights of reproduction, communication to the public, adaptation and translation of the work and in the case of computer program, additional right to sell or give on hire, copies of the computer program [28]. Copyright ensures certain safeguards of the authors over their creations in order to promote creativity. There is no copyright of ideas and copyright subsists only when ideas are expressed in material form. The only criterion is originality in expression [29]. The Copyright Act, 1957 contains provision for protection of copyright and punishment in case of their infringement.

Trade Secrets

In the present scenario, trade secrets protection is necessary to encourage innovative steps, investment and healthy competition. A trade secret may be defined as information having commercial value, which is not in public domain, and for which reasonable measures have been taken for its protection [30]. This information is not known outside the company and is not readily ascertainable by proper means, thereby giving the company an advantage over its competitors. Trade secrets may be of various kinds such as list of customers, software used and method of production not protected by patent, formulas, etc.

In India, there is no legal framework or policy for the protection of trade secrets, and they are protected under Section 27 of the Indian Contract Act, 1872. Information must be highly confidential to be classified as trade secret. Further, in concluding, regardless of whether specific data is proprietary advantage, the variables like the situation with the representative and nature of his work, the idea of data, whether the business dazzled the privacy on his workers and whether the data could be segregated from the data which the worker was allowed to utilize are to be thought of [31]. However, in case of any violation, the Act prescribes civil liability only and no criminal sanctions are accorded.

Piracy

Piracy and counterfeiting are rampant in India and is a form of white collar crime. For instance, the unlawful generation of a film or a tune to offer duplicated duplicates to others for benefit is a middle-class wrongdoing since it includes the procurement of property through double dealing, or misrepresentation, for business or individual benefit [32].

India has no regulation for managing forging and robbery. Different sculptures like the Exchange Imprints Act, 1999; the Copyright Act, 1957; the Plans Act, 2000; the Licenses Act, 1970; the Topographical Sign of Merchandise (Enrolment and Security) Act, 1999; the Data Innovation Act, 2000; the Medications and Beauty care products Act, 1940 and so on oversee various features of duplicating and robbery.

Environmental Crime

Since 60s, worry over the condition of climate has developed world over. There has been a decrease in the nature of climate because of expansion in contamination. One of the significant reasons for contamination is the toxins and gushing delivered by enterprises and production lines into the climate. The governing body to safeguard the climate has passed numerous regulations like the Climate (Assurance) Act, 1986; the Air (Avoidance and Control of Contamination) Act, 1981; the Water (Counteraction and Control of Contamination) Act, 1974; and so on to give some examples.

Environment (Protection) Act, 1986

This Act accommodates the assurance and improvement of climate. Climate incorporates water, air, land and the relationship which exists between water, air and land, and individuals, other living animals, plants, miniature life form and property [33]. Ecological poison implies any strong, fluid or vaporous substance present in such fixation as might be, or will more often than not be, damaging to climate. In order to regulate environmental pollution, rules regarding the standard of quality of air, water, soil etc., maximum allowable limits of pollutants, safeguards while handling hazardous substances, safeguards for prevention of accidents which cause environmental pollution, have been framed. In order to enforce the Act and the rules and regulations framed there under the Central Government has the power to issue directions.

Air (Prevention and Control of Pollution) Act, 1981

With industrialisation, the problem of air pollution has grown manifold. In order to tackle with it the Air (Prevention and Control of Pollution) Act, 1981 was passed. Under the Act, some areas are declared as air pollution control areas and the operation of industries in such areas is regularised. In addition to it, standards of emission of air are also laid down. In order to enforce these provisions, pollution control boards have been established. These Boards are empowered to issue directions like closure, prohibition or regulation of industry or supply of electricity to such industry, if necessary, for preventing air pollution.

Water (Prevention and Control of Pollution) Act, 1974

The Water (Avoidance and Control of Contamination) Act, 1974 accommodates counteraction of contamination and the keeping up with or re-establishing of healthiness of water. In order to prevent the pollution of water, standards for discharging sewerage and trade effluents are laid. In addition to it, certain prohibitions and regulations are prescribed for opening of new outlets and discharge of pollutants into stream or well. In order to enforce these provisions, pollution control boards have been established. These Boards are empowered to issue directions like closure, prohibition or regulation of industry or supply of electricity to such industry if necessary for preventing water pollution.

Black Marketing and Hoarding

After independence, the business community of India indulged in black marketing and hoarding. To safeguard the interest of the overall population and control the creation, supply and dissemination of specific items which were fundamental for the food of life, the Fundamental Wares Act, 1955 was passed [34].

Essential Commodities Act, 1955

Under the Act, the Central government has the powers to regulate the supply and manufacture of certain essential commodities [35]. The Government while exercising such powers can control production, supply, distribution, pricing and can also order search, seizure, etc. of essential commodities [36].

In the event that the offenses referenced above are committed by an organization, each individual who was in control and was liable for the lead of the matter of the organization, will be considered to be at legitimate fault for the offense and will be at risk to be continued against and rebuffed likewise [37].

Adulteration

An abhorrent endeavour to harm for money related gains the actual wellsprings of food of life and the prosperity of the local area. To manage the danger of defilement, the governing body has passed different sculptures.

Prevention of Food Adulteration Act, 1954

Food is one of the fundamental necessities for food of life. Unadulterated, new and solid eating regimen is generally fundamental for the wellbeing of individuals. Food contamination is an unmanaged problem. To check this movement, the Avoidance of Food Defilement Act, 1954 was passed. The principal point of the Demonstration is to forestall contamination of food [38].

Segment 16 of the Demonstration endorses discipline notwithstanding different punishments that can be forced under the Demonstration. That is what it says, assuming that any individual imports into India or produces available to be purchased, or stores, sells or disseminates any article of food which is corrupted, then such individual will be culpable with detainment for a term not less than six months or half year however which might reach out to 3 years, and with fine which will not be short of Rs. 1,000. The Demonstration recommends improved disciplines in situations where the food is probably responsible for individual's bad health.

Drugs and Cosmetics Act, 1940

Different administrative perspectives connected with import, production, deal and commercials connected with drugs are covered under discrete authorizations, in particular, the Medications and Beauty care products Act, 1940; the Medications and Beauty care products Rules, 1945; the Drug store Act, 1948 and the Medications and Wizardry Cures (Questionable Ads) Act, 1954. The Drugs and Cosmetics Act, 1940 is a central legislation enacted in order to regulate the import, manufacture, distribution and sale of drugs and cosmetics. The main aim of the Act is to ensure that the drugs available to people are safe and confirm to the prescribed standards.

PROBLEMS IN SENTENCING WHITE-COLLAR CRIMES

The sentencing jurisprudence of the country has developed in a way that emphasis is laid on the theory that punishment should be proportionate to crime. Although, this ‘principle of proportionality’ gives guidance to a sentencing judge while considering the punishment in case of traditional crimes but in case of white-collar crimes, this factor gives limited guidance. It is very difficult to decide ‘proportionality’ as there is no guidance as to the factors which shall play role in deciding ‘proportionality’.

White collar crimes have some typical characteristics which are not there in other forms of crime. The rationale in sentencing white collar crimes is significantly different from the rationale in sentencing non-white-collar criminals [39]. The white-collar criminals occupy a unique position in the national discourse regarding sentencing as they are often criticised for being too lenient, ineffective and unjustifiable. In the case of State of Gujarat v. Mohanlal Jitmalji Porwal [40], the Supreme Court while expressing anguish over lenient sentence passed by a lower court said that when the legislature in its wisdom has made provisions for imposing the sentence of as many as 7 years in cases of violations under the Customs Act, 1962 then it is the duty of the Court to use it. The lower court in this case had given a punishment of 2 years and a small amount of fine. The apex court said, 'The punishment like a sword is a holy weapon in the hands of the Deity of Justice'. The same is not merely meant for mere show, for whipping and/or brandishing in the air The same is also not scare crow to scare away birds and animals damaging the standing crop in the field! Rather in the appropriate cases, swords are required to be used and used and likewise the extreme sentence of imprisonment along with heavy fine is also required to be imposed and must be imposed making the accused of the national economy feel what indeed is the power in the sentencing process of the Court and that the sword of sentence is not wooden-one. Possibly the best way to illustrate the problems of sentencing white-collar criminals is through highlighting a series of paradoxes that exist while sentencing white collar crimes.

CONCLUSION

To sum up, it can be said that sentencing is a complex and difficult exercise. The object of criminal law is to determine the guilt or innocence of the accused and if guilt is established, to prescribe the suitable action for that guilt on the basis of an elaborate system of substantive and procedural law. Sentencing decisions have a highly symbolic impact on the society as they represent the governmental as well as the societal anguish towards that form of crime.

The main step involved in effective enforcement of white-collar crime is investigation and prosecution. The investigation of white-collar crimes is far more complex than most other traditional offenses. The events in issue usually have occurred at a far more remote time and over a far more extensive period. The crime is not only dynamic but is also multifaceted.

The rationale in sentencing white collar crimes is significantly different from the rationale in sentencing non-white-collar criminals. The problem of sentencing white-collar criminals is illustrated in the study through highlighting a series of legislative and judicial paradoxes that exist while sentencing white collar crimes. It is a mind-boggling situation especially when there is no guiding factor for them, and they have to prepare their own balance sheet of aggravating and mitigating circumstances. All this has led to total ambiguity, confusion, inconsistency, disparity, unpredictability and non-uniformity in sentencing white collar crimes.

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23. Dramatic work includes plays, any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise.
24. Musical work includes works of music and graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music.
25. Artistic work includes painting, sculpture, drawing, engraving or photograph.
26. Cinematograph film includes any work of visual recording on any medium produced through a process from which a moving image may be produced by any means and includes a sound recording accompanying a visual recording.
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34. Preamble of the Essential Commodities Act, 1955.
35. According to Section 2A of the Essential Commodities Act, 1955 essential commodity means a commodity specified in the Schedule.
36. Section 3 of the Essential Commodities Act, 1955.
37. Section 10 of the Essential Commodities Act, 1955.
38. Preamble of the Prevention of Food Adulteration Act, 1954.
39. Kenneth Mann, Stanton Wheeler, Austin Sarat. Sentencing the White Collar Offender. Am Crim Law Rev. 1979–80; 17: 479–500, 482p.
40. AIR 1987 SC 1321.

