

FRAUDIN HEALTH CARE AS A WHITE COLLAR CRIME: A SOCIO LEGAL STUDY

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Abstract

Everyone has forgotten their duty in the desire to get ahead in the competition. Economic condition has a huge impact on a person's life that's why he is engaged in earning money to become bigger than just a duet. In the race of earning, he forgets which means he is using; he does not know when he goes into the grip of crime using illegal means. There is no proper definitions of white collar crime, these persons are involved such as a legal practitioner, medical practitioner, educational sector as well as business class is involved in this crime. The nature of the medical profession is such that there is a full possibility of making inappropriate and illegal money. Mostly injured person in the accident refer to the private hospitals to get more and more commission, and the patient is refer for their examination from where they receive a higher commission, the samples of medicines are sold to the chemist to get profit. If unmarried women conceive as a result of illegal sexual intercourse, then the doctor is paid a hefty amount of money by the parents to conceal this act and get an abortion which is illegal act. Some professional persons are involving in such act as agents. The person who commits the crime and injured many times, then the doctors treat them and in return for hiding their act, they get a huge amount from that criminal. The aim of the paper to identify the reasons of such crime, and what steps taken by government to stop them

Key Words: *White Collar Crime, Medical Field, Causes of Crime, Legal Provisions.*

Introduction

Edwin Sutherland an American sociologist who first defined the white collar crime in the global. He described this crime committed by the person of high status as compare to people who commit ordinary crimes during the course of his employment. There is a great effect of the human situation on the life of humans everyone does effort to take the economic situation to be high in same professions, the tendency to gain high Profit even by doing a lot of work is found in most people. Such type of people indulges in crime even without the threat of public anger; these people are found more in the business sector and public organizations. These people do not believe in moral or honesty and are engaged in criminal activity in this way to earn maximum money without

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Taking any trouble. Such type of economic activity is called white collar crime. Such type of offences is always happening in the society. It is very important to raise voice against such crime being done by the rich class. For taking this step, it is very important to make the people of the society aware of their rights and duties. This class also tries to buy lawyers, judges etc. to avoid penalty due to tax evasion and violation of commerce laws. Many times these groups show false advertisements and give misleading information about them by giving low cost products of high value and bring them to the market at high prices, which increases the rates and customers have to face it. It is a kind of fraud on the customer, when a businessman works for the purpose of making more profit, then he does not follow the standards which he should do according to the law, if he does it, then he will reduce the profit. Will be, for this reason, in the same way as eating and drinking, they do not take care of the quality, which has an effect on the consumer body, which is playing with one's health. As magi of nestle had been banned just a few year ago, because the elements that were added to it were too much of a threat, which had a negative effect on the person's health. Similarly many times signs of adulteration have also been reported in beverages like pepsi, coca-cola etc. there are many types of crimes, but they are committed by the elite to earn economic benefits through business activities and their impact is nationwide, this is called white collar crime.

White collar crime in India

In India is no doubt that white collar crimes have become a worldwide problem today and like other countries, white collar crimes are also increasing in India. In the last thirty to forty years India has made significant progress in the economic and industrial sector, due to which a favorable environment Has been created for white collar crime This crime mostly committed by traders, industrialists, contractors, Commodity suppliers and public officials in India

White collar crime in medical profession

When unlicensed practitioners open his clinic in villages, small places and he treats people there, Such doctors has only certificate course regarding health and they do practice as a masters of medicine because mostly people don't knows about them. But when people come to know about such doctors when there is something untoward with someone, they just mess with the lives of people in the greed to earn money. Fake

1 Prof. N.V. Paranjape, criminology and penology, 15th edition 2011

Advertisement claiming absolute cure is also one of the frequent malpractices being carried out in the medical profession. The problem lies in the fact that, they often escape punishment, since they cannot be said to have violated the letter of law, but, by violating the spirit of law, they commit crimes which are truly anti-social and creates enormous damage to the general public health and safety at large. Such crime commonly committed by person belonging to medical profession including issuance of false certificate of medical which helping the person employed in essential service of the government or other understanding are often confronted with the problem of getting leave due to shortage of staff. They, therefore, procure medical certificate regarding their false sickness and produce it to the department of justify their absence from duty. Illegal abortions has been done, provide secret service to dacoits by giving expert opinion leading to their acquittal as well as selling sample of drugs and medicines to patients or chemists. In return, they need to pay specific amount to the concerned medical staff. Through a white collar crime, has proved a boon and workable alternative to employees who have difficulty in obtaining leave from the employer's .Fake and misleading advertising is yet one more area during which the white collar criminals operate. They make illegal and misleading claims of medical cure through advertisements in newspapers, magazines, radio and TV thus adding to human misery. Many patent medicines aren't only worthless but harmful. Similar advertisement for cosmetics and adulterated food are also widespread in which are injurious to public health. These personal May not violate the letter of the law in its sprints but they commit crimes which are anti - social and injurious to public health.

Most people belonging to the medical profession cannot commit criminal or immoral acts while there, but still the number of those who violate professional and legal norms is not negligible. The most examples are:

- Illegal abortion.
- Sex identification by the doctors to gain money.
- By preparing false medical certificates.
- Secret service by giving expert advice to the dacoits for their opinion.
- Sell samples of drug or medicines to patients and on medical stores.
- Unnecessary prolonged treatment in many cases with a view to withdrawing huge sums from patients.
- Changed or manufactured medical bills and other documents.
- Excessive or unnecessary treatment.

2 Devendra bagdi, indian penal code 1860, India publishing company, indore, edition 2012

3 Dr. J.N. Pandey, constitutional law of India, central law agency, 53rd edition, 2016.

4 1 ratan lal & dheeraj lal, the Indian penal code, 34th edition, lexis nexis.

- Billing plans, like: more expensive than the service provided, fees for services that were not provided, duplicate fee.
- False and exaggerated medical disability.
- Collecting on multiple policies for the same disease or injury.
- Give false evidence in judicial proceedings.
- Present the false autopsy report.
- Provide false certificate to cigarette companies their cigarette is not harmful for health.

Causes of crime

Mainly this crime is committed by highly social and reputation of the economic class are involve for gain money. White collar crimes are often behind the scenes and they are based on betrayal. Generally the people who commit these crimes are financially secure, they doing such crimes under financial and physical Pressure. Estimates of white collar crimes are many times higher than crimes such as robbery and theft to society. The amount of deaths due to corporate accidents, such as inadequate drug testing is much higher than disease caused by homicide. The emergences of cutting edge technology, growing business and political pressure have opened up new avenues for these criminal organizations to prosper. This growth is due to economies and technological advancements such as the internet and rapid money transfer systems. Law enforcement is sometimes reluctant to pursue these cases because they are very difficult to track and investigate. It is always very difficult to detect white collar crimes in the privacy of an office or home and there is usually no eyewitness. But naturally a question arises as to why these criminals are unaffected if we have specific laws to detect white collar criminality. The main reason for which these white collar criminals go without fear these crimes are not clearly explained by the public because their effect by being indirect, the general public unaware of them. Although white collar crimes are punishable but generally these criminals are not punished properly. Such offences have a far more profound and deadly effect on human health care. This is not possible by people belonging to weaker sections, because it is done by highly respected and reputed persons. Some other causes which lead to such crime are as follows:

5 B.S. khetrapal, Indian Medical Council Act, 1954, pooja law house, 2013.

6 G.Nagaijan, J.Khaja Sheriff, "White Collar Crimes in India", International Journal of Social Science & Interdisciplinary Research (IRJC) Vol.1, Issue 9 September 2012, Pg.No. 159-161

Selfishness

When man is subjugated by selfishness, then he can commit the biggest crime to fulfill selfishness. The sense of selfishness behind earning white money is directly reflected in white collar crime. Offences in food and medicines misleading advertisements are direct evidence of this selfishness.

Inadequate punishment

Generally there is no provision for punishment for such crime. These offences are heard by the administrative tribunal, who cannot punish them, only they can be fined. Therefore, the offender is not afraid of going to jail and if the crime is not proved, then there is the temptation to pay a large sum of money. The offender commits a crime when the pleasure (profit) from the crime exceeds the possibility of suffering (loss) from the fine. If these criminals are punished severely, then control over these crimes can be found.

Lack of awareness and sympathy towards them

There is a lack of awareness among the lower class of the society, these persons were not organize against offenders because they are highly reputed people that's why society had a soft attitude towards them.

Judicial partisanship

Such criminals with high reputations receive a partisan stance. Being the same class of people in the government does not show harshness against them. People of the same class in parliament obstruct the making of draconian laws against them.

Legal provisions

Adulteration of food or drink intended purchasable under section 272 of IPC 1860. This section says that any person who consumes an item of food or drink with the intention of selling such an item as a food or drink or knowing that it is likely to be sold as food or drink such adulteration shall make such an item as a food or drink inadmissible, either of which shall be punishable with imprisonment or fine also.

According section 274 of IPC 1860, adulteration of drugs, any adulteration in any drug or pharmaceutical manufacture with the intention that it is probable that it will be sold or used for any medical purpose as if such adulteration has not been done in such a manner that

the efficacy of that medicine of pharmaceutical formulation is reduced, the action is changed or it becomes disastrous, with imprisonment or fine or both.

Section 275 of IPC 1860 says that anyone who knows that a drug or pharmaceutical manufacture has been adulterated in such a way that its efficacy is reduced or its action has changed or it has become offensive, will sell or offer to sell it or display it for sale or give it to a dispensary for medicinal purposes as illiquid or a person who does not know that it is adulterated he shall be punished with imprisonment or fine or both and under section 276 of IPC person shall punished for sale of drug as a different drug or preparation.

The Medical Termination of Pregnancy Act, 1971 makes a 'registered medical practitioner' immune from the provisions against miscarriage contained in the Indian Penal Code and section 4 of the Act also says that an abortion can be done only in a hospital established, maintained or approved by the government. But a quack, not being a registered practitioner (unless he has obtained a name in the register by misrepresentation), is not immune from these provisions. Such a person is then liable to be punished under sections 312 to 315 of the Indian Penal Code, 1860 regarding miscarriages which have various punishments including imprisonment for life. Some of these offences exclude those acts done in good faith, but, since quacks cannot be said to act with due care and attention, there is no good faith and thus, they can be punished under those provisions.

Sections pertaining to misrepresentation of false documents are stated from 463 to 477 A. if any person commits the crime mentioned above, he will be punished with the same imprisonment as provided in that section.

The IMD Act, 1916, while regulating the granting of medical degrees in western medical sciences and therefore the assumption and use of such degrees by unqualified persons, imposes fines upon those persons who falsely claim to hold degrees or licenses to practice western medical sciences by virtue of section 6.

Drugs and Cosmetics Act, 1940, The Act regulates the manufacture, sale and import of medicine and cosmetics. Section 6 of the Act provides for a setting up of a Central Drugs laboratory for testing sample drugs in order to declare them safe. This helps in ensuring that the wrong drugs are not in the market. Section 8 provides for a standard of quality for the drags and cosmetics.

Indian Medical Council Act, 1954, This Act is for the matters connected to modern scientific medicine. The Indian Medical Council and the State Medical Councils are formed under the Act as regulators. It regulates and recognizes the Universities that grant medical qualifications to people.

The Drugs and Magical Remedies (Objectional Advertisements) Act, 1954

This Act, established with the aim of controlling and prohibiting advertisements for alleged remedies for magical remedies, seems to control much of the quackery that takes place in villages as most of the people are sensitive to such practices because their conservative beliefs make them want to solution.

Pre conception and pre natal diagnostic techniques act 1994, the main purpose of enacting the act is to control or banned the use of sex selection techniques after conception and prevent the misuse of prenatal diagnostic procedure for sex selective abortions.

Conclusion and Suggestion

White collar crime in medical field is widespread, it shows the dreadful situation, if it remains so, then it is going to have a very bad effect on human health. If any person goes to the doctor when he is suffered by any disease and that doctor's purpose is to earn money instead of healing him. Then it would be a betrayal. It is known that the on abortion in 1971 control of illegal confinements as a result of relaxation on medical grounds. It is possible to take in the same way if the employees are given as medical allowance. If a law is made to pay a specific amount, then false medical bills the revenue spent on payment can save cores of rupees and also, this illegal trade will automatically end. The doctors involved in this type of crime do unnecessary checkups / testes of the patients to earn money, which gives them commission and also sell sample medicines. The constitution of India gives every person the right to live a healthy life. Therefore, it is also the duty of the states to enact concrete laws for this and take legal actions against the perpetrators of such crimes. People do not know about such crimes, effects of such crime and punishment of this offence, so it is the duty of governments to make them aware through any communication medium and protect them. Government should make strict laws regarding such offence; there is no proper definition of white collar crime in Indian laws.