

## A STUDY OF WHITE COLLAR CRIME IN SELECTED PUBLIC AND PRIVATE SECTOR BANKS OF GAYA, BIHAR

---

Bipin Bihari Mishra\*  
Sujit Kumar Mishra\*\*

### ABSTRACT

**Concept of White Collar Crime:** *We have heard a crime happening like murdering someone, kidnapping/ abducting someone and then asking for ransom from the kith and kin of the kidnapped person. In such type of crime physical movement of the criminal is there from one place to another and everything is done in a physical manner. If the ransom is being asked then the handover of the ransom should be in physical cash. Well, that was the concept of crime in everyone's mind. Such type of crime was known as red collar crime. But this has changed. Now there is no physical movement of the criminal from one place to another place. The term white-collar crime is a new concept in recent years. A new concept of crime rather than the conventional crime i.e. the red collar crime. This concept has evolved in the recent past year where the crime is committed with the help of a laptop or smartphone or a desktop computer sitting in an office or home. There is no face to face collusion between the person of the perpetrator and the victim everything is done from a remote place with the help of information and communication technology (ICT). This has changed the concept of crime. New methods of crime have evolved in society.*

---

**Keywords:** *Financial Crime Identity Theft, Phasing, White Collar Crime, Fraud.*

---

### Introduction

#### The Objective of the Study

The objective of the study is to know how the financial crime in the banking sector is happening and what are the modes through which such crime are happening in GAYA district. Through this study, one can come to know what precautions should be taken in order to avoid the happening of financial crime in the banking sector. Also how the bank should deal with such a situation when such crimes are happening.

#### Research Methodology

The researcher has taken the data from a primary source by having a questionnaire prepared in close-open ended question and is based on secondary data from various sources like books, journals, blogs, e-publications, etc.

#### Scope of the Study

Through this study, the researcher will try to find out what are the various crimes that are happening in the financial sector and what should be done in order to curb such crime from happening in the future. The area selected by the researcher is only limited to GAYA city of BIHAR. Only a few banks consisting of both public and the private bank has been approached for the collection of data.

#### Limitation of the Study

The following are the limitation of the study:

- The study is done only in the area of GAYA city
- The researcher has selected only a few banks for data collection and not all the banks in the region
- Not all the information is being provided by the bank because of individual bank policies.

---

\* Assistant Professor, Maharaja Law College Ara, Bihar, India.

\*\* Assistant Professor, Nawada Vidhi Mahavidyalaya Nawada, Bihar, India.

**Time Period**

The researcher has taken the period from 2016 to 2018 for a term of 3 years.

**Hypotheses**

There is a significant rise in white collar crime- a financial crime in the banking sector in the area of GAYA, BIHAR

**Definition of White Collar Crime**

The general meaning of white collar crime is Crimes that are committed using deceptive practices for financial gains. This is a general meaning of white collar crime where the main motive behind committing the offence is financial gain.

As per Merriam-Webster dictionary, white-collar crime means a crime that is committed by salaried professional workers or persons in business and that usually involves a form of financial theft or fraud (as in securities dealing)

As per Collins dictionary, white collar crime means an illegal activity carried out in connection with their work by someone in a professional or clerical occupation, such as fraud.

**Evolution of White Collar Crime**

In the year 1939 a well-known Criminologist and Sociologist Edwin H. Sutherland has evolved with the concept and who popularized the term white collar crimes and according to him white collar crime 'as one committed by a person of respectability and high social status in the course of his occupation'. Sutherland also included crimes committed by corporations and other legal entities within his definition. Sutherland's study of white collar crime was prompted by the view that criminology had incorrectly focused on social and economic determinants of crime such as family background and level of wealth.

These crimes were not committed by any hardcore criminal but the very person who is well educated and who has got high status in the society. They are the hidden criminal in the society enjoying the societal status and are committing a crime in hidden mode. They actually do no harm by way physical means to any of the target people but they do cause financial harm to the target person. A heavy loss to the person and all his earnings and savings will be lost if such crime happens to him.

**What is White Collar Crime?**

White Collar Crimes are committed by those people who are involved in otherwise lawful businesses and covers a wide range of activities. The perpetrators of white collar crime hold respectable positions in the communities until their crimes are discovered. The laws relating to white-collar crimes depends upon the exact nature of the crime committed by them.

The basic motive behind White collar crimes is financially motivated crimes committed by individuals, businesses, and government entities in order to rob the other person without his knowledge that he is being robbed and then flew away from the particular area. It's an intellectual crime committed by the person against the target person with whom the crime is to be committed. The offenders of white collar crime are the people who are involved in the respectful business in society and hold a respectable position in the society, business group, etc. Till they (the society, workplace, etc.) discover that such a person has committed such type of crime/s.

**Various Types of White Collar Crimes**

The term white collar crime covers a wide array of crimes, but they all involve crimes committed through deceit for the purpose of gaining money or other assets in an illegal means. The most common types of white collar crime include fraud, forgery, and embezzlement. White collar crimes can often be difficult to prosecute, as the perpetrators take sophisticated steps to ensure their illegal activities are difficult to detect and trace out the root of origin. The most common types of white collar crime that are happening around the world are- antitrust violations, bankruptcy fraud, bribery, computer and internet fraud, counterfeiting, credit card fraud, economic espionage and trade secret theft, embezzlement, environmental law violations, financial institution fraud, government fraud, healthcare fraud, insider trading, insurance fraud, intellectual property theft/piracy, kickbacks, mail fraud, money laundering, securities fraud, tax evasion, phone and telemarketing fraud, and public corruption<sup>[1]</sup>. However, the common types of white collar crime happening in India are the below-mentioned ones-

- **Bank Fraud**

One of the major fraud that is occurring in India is bank fraud where many customers are being cheated and de-fraud the bank customers. The bank customers sometimes give their atm/ debit card to another person for making any online transaction and when the verification stage comes they give their card verification value and personal identification number to the other side and the person sitting on the other side can easily transfer the amount to his account as the customer has given all the personal information to the opposite party. Many a times it so happens that tele-verification call is being made by some persons and ask about the personal information from the bank customer and customer in the belief that the call is being made by bank officials do give the personal information to the person and the consequence in such case that they loss the money from their bank account.

- **Embezzlement**

Embezzlement means fraudulently taking of personal property by someone to whom it was entrusted. It is often associated with the misappropriation of money or financial thing. Embezzlement can occur regardless of whether the other person keeps the personal property or transfers it to a third party<sup>[2]</sup>. Under the Indian context, the word embezzlement is not mentioned directly but used in an indirect way. The synonyms for embezzlement is misappropriation, theft, pilferage, etc. though under the Indian penal code but is indirectly given in the code under the title misappropriation of property which is contained in section 403 of the code. It states that- whoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for a term which may extend to 2 years or with fine or with both. Again under section 405 of the code which deals with embezzlement is mentioned in an indirect way i.e. by way of criminal breach of trust. According to section 405 of the code it says that Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or will fully suffers any other person so to do, commits "**criminal breach of trust**".

If we analysis this two section together then we can get the following one:

- Entrusted with property
- Dominion over the property
- Dishonestly misappropriates the property
- Converts the property for his own use
- Violation of any contract which is either in the express or implied form
- The mode in which the trust is to be discharged is mentioned in the contract
- Breaches that trust
- Will fully suffers any loss to another person

This is can be seen when we entrust our money to be deposited in the bank, or to pay insurance premium to an agent who has taken our insurance policy where we give the money to our friend or agent and it may happen that the person may not deposit the money with the bank or with the insurance company and hence there is an embezzlement of cash or of any valuable security<sup>[3]</sup>. The punishment prescribed under the ipc is imprisonment which may may extend to two years, or with fine, or with both

### **Fraud**

**As per the definition is given under the Indian penal code fraud means** A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise<sup>[4]</sup>.

And as per the definition is given under the Indian contract act it means any act committed by a party to a contract or with his connivance or by his agent with intent to deceive another party thereto or his agent or to induce to enter into a contract.

If we look to the above two definitions then we can have the following elements for fraud-

- By a party to the contract
- There must be representation – an opinion a statement of expression is not a fraud.
- The representation must be false.
- Before the conclusion of the contract.

- The misrepresentation must be made willfully.
- The misrepresentation must be made with a view to deceive the other party.
- The other party must have actually been deceived.
- The other party have suffered a loss

In India, one of the major crime in white collar crime is Fraud which is happening in leaps and bounds. Many people are being trapped in frauds of others and sometimes it so happens that the person who is trapped in fraud has to sell his own property along with the property received from his wife's side in order to repay the debt that s/he has taken.

Even after frequent messages and information put on the website of banks, people do give the confidential information like cvv (card verification value) and pin (personal identification number) to the others and they misuse the same and the primary customer has lost his money because of his own act. The people do share the confidential information to other person and consequence is that they lost the money- the hard earned money and then they raise the complaint. People call on the registered number as given to the bank and ask for verification and in that process, they give all the details as asked by the person thinking that the call is made by a bank official and in due course, the money is lost without their knowledge. In all the banks it is reported that ATM fraud does happen and bank customer do give their personal credentials to the other person and because of it the money is lost and the same is reported to the bank for freezing of account or blocking of ATM card.

- **Forgery/ Document Fraud**

As per the definition as given under the Indian Penal Code forgery means and include: – Whoever makes any false document or false electronic record or part of a document with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery<sup>[5]</sup>.

In order to invoke section 463 of IPC the following elements must be established:

- A person makes any document or part of a document
- The document or false electronic record or part of the document or electronic record must be false
- His intention was –
  - To cause damage or injury to the public or any person or
  - To support any claim or title
  - To cause any person to part with his property
  - To enter into any express or implied contract
  - To commit any fraud or that fraud may be committed

Again under the code, the aggravated form of forgery is mentioned from section 464 to 477A of the Indian Penal code where in which section 465 deals with the punishment for forgery. The aggravated form of forgery includes- false document, forgery of record of court or public register, valuable security, will etc., for the purpose of cheating, for the purpose of harming the reputation, forged document, using a forged document as a genuine document, making or possessing counterfeit seal etc. with intent to commit forgery and having possession of document knowing to be forged and using the same as genuine one.

From the above, we can see that the various forms of forgery can be done by an individual and in today's technological world it is easy to make a forged document and use it for one's benefit without knowing the other person about the fraud committed. In banks for taking loans and overdraft facilities, customers use forged documents for availing the same and also not showing the encumbrance on the property and shows to the bank old documents wherein the property is shown as free from all encumbrance. Again if one is having a lesser value of the property and if one is not getting a loan from bank then they will adopt the technique of forged document and show other properties in there and thus avail the loan from the bank. One of the aggravated forms of forgery is using counterfeit sign. Many times when a lost cheque is found or some documents wherein the official signature is there and is not destroyed property people will use the signature and make transaction from the bank or transfer the money to one's own account.

There are three ways as to how a forged document can be made:

- Making signing sealing or executing a document or part of document or by making transmitting any electronic record or part of it or by affixing digital signature on any electronic record.
- By altering any documents or electronic document
- Causing a person of unsound mind or intoxicated person and doesn't know the content of the document or electronic record or nature or alteration, to sign seal or execute the document.

- **Computer Fraud**

Computer fraud is meant of "the act of using a computer to take or alter electronic data, or to gain unlawful use of a computer or system"<sup>[6]</sup> in many cases we find that a person will give his/ her computer/ laptop to his/her best friend and allow him/her to use it freely without any eye on him. Under such situation, the chance of computer fraud is huge to happen. One may not know when the personal data is stolen and other confidential information is stolen from his/ her computer. Even the chances are there that the other person may use the said computer to send some malicious mail to some third party in order to harass them and ultimately it so happens that the guy who gave the computer to use will be caught and will be punished for the act. Even though he didn't have any knowledge about the crime done by his/her friend.

It's not necessary that to commit a computer fraud one should use a physical computer, even without the physical computer one can do the fraud by using the virtual system, where one can get access to others computer and can commit fraud. This is done even without the knowledge of the other person. This is happening by sharing our IP Address and other vital information to an unknown person claiming to be a known person.

Again if we see that some of the computer application can access our personal information and system information. Such an application can transfer the data of ours to the main server which is the host computer of the application. Under such circumstance, data breach is there and the application company is having our all data stored in their computer and can misuse the same even to the extent of wiping off all the data of our computer without our knowledge.

- **e- Wallet Fraud**

This is a new concept of fraud happening in India. E-wallet is a system where the customer will charge the wallet with money and then they will scan and pay the money to various vendors, merchants etc. and will not use the hard cash money to pay the bill. Some of the major players of e-wallet are paytm, Airtel payment bank, mpay, phonepe, etc. these e-wallet providers take the personal data and bank data from the customer and save the information on their server. Once the customer using this services will try to pay any bill by using the e-wallet then it may happen many a times that they will get an error message and the balance is deducted from the e-wallet where in actual the seller has not received the message of payment receipt from the customer account or the message of successful transaction. This causes trouble to the customer as s/he has no other option but to pay the bill in other mode of payment like credit card or debit card or paying the same with physical hard cash money. It shows that the customer has to pay twice for the same bill. The e-wallet provider will send the message to the registered phone number of the customer that they query is under process and will resolve the problem within 24/48 hours and will reverse the transaction and the amount deducted will be credited to the customer e-wallet account. But this never happens and sometimes the customer has to wait for 2 months to 1 year for the credit of the money from the e-wallet provider. In the meantime sometimes the customer forgets to make the follow-up with the e-wallet provider and in such circumstance the money is lost to the customer.

- **Banking Fraud**

One of the easiest way of having white collar crime is banking fraud where the person can easily be fooled and trapped in the clutches of the fraudster. The fraudster will call the customer saying that he/she is representing so and so bank and need a verification for further proceeding and even sometimes ask for the Credit/ Debit Card Number and the Personal Identification Number (PIN) and even the One Time Password (OTP). Once the fraudster receives the said details then they can easily make any transaction with the person's card details.

These are some of the common banking fraud which is happening in India.

Some of the frauds that are taking place in banking sector:

- Identity theft
- Document theft
- Credit card fraud
- ATM fraud
- Cheque fraud
- Skimming
- Phishing
- Vishing

The researcher has explained some of the points above and now discussing the remaining one which is not discussed in the previous one.

- **ATM Fraud**

This is the most common type of fraud happening in banking sector whereby we give our ATM card to our friends along-with the ATM pin for withdrawal of cash from ATMs. While doing such transactions many a times it happen that they withdraw the money and may not give to the original card holder or may withdraw more than the stated amount. The card holder may not have enrolled for bank alerts where the deposit and withdrawals are not being known to the card holder. It may also happen that we may forget to take the card from the card holder of the atm machine or may forget to report with the bank authorities where the card has been stuck in the machine or lost. In such situations the receiver of the card will use of ill-gotten means and the sufferer is the original card holder.

- **Cheque Fraud**

This is another type of fraud where the drawer of the cheque will not fill the full details in the cheque, put his signature on the cheque and when it is lost the founder of such cheque can make it a self cheque and present to the bank for withdrawal of the cash from the bank account of the original cheque holder. Even the signature are being copied and is used in an illegal way by way of counterfeiting the signature of the original person. Again it may happen that adding zeros at the end or middle and then change the figure in words. These are some types of common frauds happening in the cheque fraud case. Some of the cases are being reported while some remain unreported.

**Skimming**

The below diagram show how the skimming is done on an ATM machine

**Phishing**

In phishing the bank customer while visiting the web portal of the bank will look like the official webpage of the bank which in fact is not so. The user will enter all the details on the web page and instead of the official bank webpage. Once this is done all the personal and financial details of the customer will be on the fraudster's hard drive and can use it in an illegal way. The cloned webpage will now send mails and short text messages to the customer requesting him/ her to give details of his/her banking as if the bank is asking the same from the customer

**Laws Applicable to White Collar Crime**

In India the following laws are applicable for the offence of white collar crime.

Indian penal code

Import and export and control act 1947

Foreign exchange regulation act/ foreign exchange management act

Information technology act 2002 as amended in 2008

**Recommendations**

Some of the recommendations that is given the branch manager while gathering the data are as follows:

Never use e-wallet apps and never transfer money in e-wallet as it may happen that one's money will be lost because of a server problem, sharing of personal information. There is no guarantee that the money will be safe in the e-wallet.

Never activate e-commerce on internet banking if one is not using much internet as it may happen that without ones knowledge e-commerce transactions has done by way of phishing wherein your financial information is gathered on the server of a third party.

Always read the debit card/ credit card document carefully and follow the instruction carefully. If ones card/ money is lost block the card or report the concerned bank branch about the incident and freeze the account. So that the third party will not use your debit/credit card or withdraw money from a bank account.

Never share your OTP (One Time Password) and PIN no. with anyone. It may happen that the person you trust most is the person who will do embezzlement.

See that on the bank website a lock-in locked position is appearing or not at the browser which indicates that you are browsing a secured and encrypted website which will not allow your financial information and personal information to be shared.

### **Scope for the Future Study**

The future scope of this study is as follows:

The data collected is only of one city of BIHAR state, it can be done for the whole region of BIHAR.

Only a few banks of the public-private sector have been selected but it can include all other types of banks like co-operative banks state-run banks etc.

Other types of financial crimes related to banking sector can also be included which are not covered over here.

As the subject matter is wide enough many new points too can be included in this concept.

Other areas of white collar crime can be included in this topic as a general topic

### **Conclusion**

On the basis of the hypothesis framed it can be concluded that the white collar crime in the banking sector is increasing from year to year basis especially in card crimes. There is a need to make/ spread awareness to the general public about the financial crimes/ banking crimes happening around us so that the crimes related to the banking sector can be reduced to some extent. Again the information technology act 2002 as amended 2018 has to make stringent provisions related to banking transaction/ online transaction including various mobile apps for financial transaction, where now the act is silent about this matter. Provisions related to data privacy, encryption of website, highly secured socket layer for making online transaction with two-way authentication factor where the bank customer can alone do the transaction should be added.

### **References**

1. [https://www.law.cornell.edu/wex/White-collar\\_crime](https://www.law.cornell.edu/wex/White-collar_crime)
2. Ibiid
3. As per Indian penal code 1860 valuable security means – a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right
4. Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860(India).
5. ibid
6. Computer Fraud,m ), <https://encyclopedia.thefreedictionary.com/Computer+fraud>

