A FUNCTIONAL ANALYSIS OF WHITE-COLLAR CRIME

The designation *white-collar crime* has come to cover a wide array of illegal and illicit enterprises by both individuals and corporate bodies. White-collar crime covers smuggling, hoarding, black-marketting, trafficking in licence and permit, adulteration of food and drugs, misuse of position by public servants and violation of laws against excise, customs, foreign-exchange, etc.

Hitherto the emphasis of criminology regarding crime has been on traditional crime, such as murder, robbery, theft, embezzlement and other offences against person and property. Little attention has been paid to economic and white-collar crime.

A white-collar criminal is generally defined as a person of high socio-economic status who violates the laws designed to regulate his occupational activities.

White-collar criminal is the broker who distributes fraudulent securities, the builder who deliberately uses defective materials, the corporation executive who conspires to fix prices, the legislator or minister who paddles his authority for private gain or the banker who misappropriates funds in his keeping. A white-collar criminal is, therefore, a genuine criminal although he may not be prosecuted in criminal courts frequently and does not lose his social status even for large scale evasion of tax, irregularity in trade and commerce and malpractice in governmental agencies.

Despite its loose definition, the idea of white-collar criminality does carry within it a number of elements of basic importance to the study of criminology. It provides substantive information on a relatively unexplored facet of illegal behaviour.
More important, it sheds penetrating light on and raises basic issue regarding theoretical explanations of criminal activity.

White-collar criminality raises, in addition to the theoretical issues, questions of social health and integrity and affects the whole moral climate of our society.

It is sometimes argued, along these lines, that the additional kinds of crime serve to unite community sentiment against the violation and to reinforce adherence to desired standards. On the other hand, white-collar crimes, being more subtle and less visible and emanating from sectors of social structures that are supposed to supply leadership, undermine public confidence, create dissent, and ultimately lead to the decline of all social values. It may be true that social unrest in the presence of white-collar violations tends to create opportunities for moral leaders to emerge.

Analysis

The deepest expression of functionalism is its fascination with the problem of social order. To seek order is to seek a reduction of social conflict. To seek order is to seek predictability of behaviour. To seek social order is to seek order giving mechanisms that might control behaviour.¹

The study of white-collar crime requires sociologists to consider the dysfunctions of patterns of behaviour, belief and organization rather than focusing primarily on their functions. A social dysfunction is any process that undermines the stability of survival of a social system. The presence of this concept in sociology curbs any tendency toward the doctrine that everything in society works for harmony and the good.

A social dysfunction is a specific inadequacy of a particular part of the system for meeting a particular functional requirement.² A full analysis of social dysfunction provides a desig-

nated set of consequences of a designated pattern of behaviour, belief or organization that interferes with a designated functional requirement of a designated social system.

More than predatory crime, white-collar crime is closely related to attitudes and values in society. The slum, which accounts for so much of ordinary crime, cannot explain white-collar crime since white-collar criminals live in our reputable neighbourhoods. Feeble-mindedness, emotional instability, broken homes, a sense of failure or loss of social status cannot explain the white-collar criminal, since he is characteristically intelligent, stable and successful, and commands some prestige. White-collar crime is definitely made punishable by law. Although it denotes convictable behaviour, white-collar crime is generally regarded by courts and by the public as much less reprehensible than crimes usually punished by our Courts, which may be designated blue-collar crime. Blue-collar crime is the crime of the under privileged, while white-collar crime is upper or middle-class crime.

No profession or occupation is expected from the influence of white-collar crime. From time to time newspapers publish accounts of irregularities at high levels. They include speculation in stock markets, unethical practices in administrative machinery, embezzlement of funds of philanthropic institutions, evasions of tax and violations of financial canons for personal gain. Rapid urbanization, break-down of the joint family system, growth of intense individualism and of population and slackening of social and religions restraints have contributed to a culture with more emphasis on materialistic advancement.

It has been further pointed out that white-collar crime is much more dangerous and detrimental for the healthy growth of a society than petty crimes. It is so because the financial losses in such crimes were higher and secondary because of the damage inflicted on public morals. Concerning the social damage to morale and institutions, Sutherland is of the view that the financial loss is more important than the damage to social relations, since it creates distrust, lowers morale and produces disorganization on a large scale. On the other hand, the social damage
from other crimes is said to have relatively little effect on the institution and social organization.

The salient characteristics that make white-collar crime distinguishable from other crime, are,

1. The motive is avarice or rapacity and not just lust or hate.
2. The victim is usually the State or section of the public particularly the consuming public. Even when there is an individual victim the more important element of the offence is harm to society.
3. The mode of operation is fraud and not force.
4. Usually the act is deliberate.

But the etiology of white-collar crime has received very little consideration in current sociological theory in India. Hence the questions that could be raised are:

1. Has the phenomenon of white-collar crimes or socio-economic offences in India any nexus with the variety of social, cultural, economic, political and administrative changes that had taken place in the post-independence era?
2. Is there any relationship of such crimes with the rapid transformation of caste society into a class society and thereby in the norms of status determination?
3. Whether the unbriddled ambition to become affluent by fair and foul means has anything to do with the criminality of the so-called respectables?
4. Is white-collar criminality a matter of social, economic and political necessity, or is it simply a question of individual observations?
5. Does this form of criminality assume frightening proportions in a society where crime problem is an epidemic and where many such criminals go unpunished or where the

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criminal justice system fails to demonstrate its strength and will to launch a convincing crusade against such offenders?

The study of white-collar crime is significant because it reveals varying attitudes towards different types of crime. Even more logically than other types of crime, white-collar crime may be seen to reflect the general culture. The form of crime or exploitation results from membership in sub-groups with sub-values. The businessman would not be a burglar, but he would violate the Sales-Tax or Labour Acts because his own group tolerates or even approves such violation, and the larger society expects and does not vigorously condemn it. The burglar would not violate the Income-tax Act, because he has no opportunity to do so. His own group may or may not condemn such violation verbally but tolerates or approves of his burglary as more open types of crime. The non-criminal exploiter accepts essentially the competitive achievement or of lucky breaks. The non-exploiter hardly exists in our system of free enterprise and individualism. Indeed our system almost compels all of us to exploit if we would exist and/or gain social status. Our basic culture thus implies white-collar crime.

One of the major short-comings of studies of white-collar crime has been the failure to delineate clearly homogenous types of offences in terms of such things as modus operandi legal categories, characteristics of perpetrations, impact on particular victims or social context in which the offences arose. As a starting point, it might be desirable to distinguish among offences committed (1) by individuals as individuals (e.g., lawyers, doctors and so forth), (2) by employees against the Corporation or business (e.g. embezzlers), (3) by policy-making officials for the Corporation (e.g. in anti-trust cases), (4) by agents of the Corporation against the general public (e.g. in advertising fraud) and (5) by merchants against customers (e.g., in consumer frauds).


Medical white-collar crime illustrates pointedly that illegal activities need have no relationship to real economic need and deprivation, and that such items as poverty and slum conditions can hardly be considered adequate cause in explaining all kinds of criminal behaviour. Material on crime in the medical profession provides support for Aristotle’s thesis expressed in his *Politics*, that the greatest crimes are not committed in order to acquire the necessary, but the superfluous.

It is difficult to associate crime with medical profession, but reports indicate the presence of white-collar crimes such as fee-splitting, ghost surgery, illegal abortion, careless postmortem examination etc.

Physicians who violate criminal laws, like other white-collar offenders, seem to be the products not of personal pathology but rather of deeply imbedded social processes. C. Wright Mills interprets the situation in the following manner:

“Many of the problems of "white-collar" crime and of relaxed public morality, of high-priced vice and of fading personal integrity are problems of structural immorality".  

If one accepts the thesis that white-collar crime parallels criminal activity in the lower, more vulnerable strata of our society, then Sutherland’s demand for a theoretical explanation of this behaviour becomes a critical issue in criminology. Perhaps the most telling of Sutherland’s postulates regarding criminal behaviour is that it is “an expression of the general needs and values”, but that it could not “be explained by those general needs and values since non-criminal behaviour is an expression of the same needs and values”.  

The Law Commission of India quotes the Santhanam Committee’s Report as follows that speaks of the emergence and evolution of white-collar crimes in India,

"The advance of technological and scientific development is contributing to the emergence of 'Mass Society' with a large rank and file and a small controlling 'Elite' encouraging the growth of monopolies, the rise of a managerial class and intricate institutional mechanisms. Strict adherence to a high standard of ethical behaviour is necessary for the even and honest functioning of the new social, political and economic processes. The inability of all sections of society to appreciate in full this need results in the emergence and growth of white-collar and economic crimes ...."

The line dividing shrewd business practice from illegal exploitation is least clear in regard to practices that deceive consumers, such as in packaging, weights, interest rates, advertising, and sales tactics. At stakes are values pressing for freedom of business from governmental regulations that are seen to inhibit initiative, as opposed to values insisting that the anonymous and complicated nature of today's market place demands that consumers be provided adequate information with which to make reasonable purchasing judgments. For sociologists, a basic issue is the determination of the impact of newly declared sanctions on behaviour, for it is characteristically true that some persons routinely align their behaviour with the demands of the criminal law, while others are indifferent to the definition of the behaviour as criminal, and a third group seems encouraged towards certain forms of behaviour only after they are prescribed by law.

Some Theoretical Questions

In his writings Tappan criticizes the fact that Sutherland veers from his initial statement on white-collar crime, which was defined as the behaviour of individuals of the upper socioeconomic class who violate the criminal law, usually by breach

10. See infra, n. 12.
of trust, in the ordinary course of their business activities. Tappan believes that with the passage of time the definition was expanded to include behaviour well beyond the boundaries of criminal law. Tappan said: "One seeks in vain for criteria to determine this white-collar criminality. Is it the conduct of one who wears a white-collar and who indulges in behaviour to which some particular criminologist takes exception?" 

Another sociologist, Caldwell writes in the same vein as Tappan, insisting that, as the concept of white-collar crime now stands, the shrewd businessman, the immoral politician, the unethical doctor or lawyer can all be condemned as criminals 'by the stroke of the pen' rather than by more stringent legal procedure.

Jerome Hall, a legal scientist, believes that there is a real philosophical difference between traditional criminal offences and white-collar offences that are directly contrary to the criminal law. Civil law, Hall holds, is concerned with the distribution of economic losses, while criminal law is confined to punishment for conduct that is morally culpable. The precepts of criminal law, Hall believes, are more frequently integrated into the mores of the society, whereas the rules of civil law largely represent an adaptation to the prevailing economic system, and as such become integrated into the mores to a much lesser extent than do the criminal laws.

The concept of white-collar crime has been of great importance in expanding the horizon of study of criminal behaviour. The Soviet Union and East European Countries, have regularly employed the term economic crimes to designate what others call white-collar crimes.

Characterization of offences by the social or occupational status of their perpetrations is one of the weaker elements of Sutherland’s formulation.

The approach to white-collar crime has also differed greatly from the approach to traditional crime, because studies of white-collar crime have concentrated almost exclusively on the criminal act rather than on the act and the actor viewed together in an attempt to place both into a broader social context.

Donald J. Newman found that citizens did not differ too widely with the statutorily prescribed penalties for food adulteration, although they did favour harsher penalties than those imposed by Courts. The more far reaching issues concerned with the formation of public opinion, the relationship between such opinion and legislative response, and ultimately, the relationship between legislative action and enforcement behaviour, have rarely been examined. Accumulation of data regarding official response to white-collar crime requires a careful and sensitive reading of social and historical materials.

Little is known about the motivations, rationalizations and other traits of white-collar criminals. There are in addition, numerous questions concerning such fundamental areas as deterrence and social policy. Little is known regarding what kind of white-collar offences are responsive to what kinds of sanctions.

CONCLUSION

White-collar crime can be functional for some segments of social system and dysfunctional for others. This arises from a basic characteristic of social structure that we have emphasized. In a differential society, the consequences of social patterns tend to differ for individuals, groups and social strata variously located in the structure. If white-collar crime persists, it is unlikely that it is uniformly dysfunctional for all groups.

Various groups and strata in the structure of a society have conflicting interests and values as well as shared interests and

values and this means that one group’s problem sometimes becomes another group’s solution. This structural condition is one reason why the popular notion of a society in which everything works together for good is literally utopian. But abandoning this image of a perfect society does not mean that nothing can be done to reduce social disorganization. Quite the contrary, it is by discovering and disclosing dysfunctional social formations that sociology links up with critical morality as opposed to conventional reality.

Not only is white-collar crime sometimes functional for some groups and dysfunctional for others, it can also serve some and defeat other functional requirements of the same group. The reason for this resembles the reason why a pattern has different consequences for different groups. A group has diverse functional requirements.

Above all else, it must be emphasized that the concept of social dysfunction of white-collar crime, does not often harbour a concealed moral judgment. Social dysfunction is not equivalent to immorality, unethical practice, or social dispute. It is a concept referring to an objective state of affairs.

White-collar crime is designed to capture basic functional differences in forms of deviant behaviour. For the accumulation of dysfunctions in a social system is often the prelude to concerted social change toward a system that better serves the ultimate values of society.

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