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“JUSTICE FOR THE RICH AND PUNISHMENT FOR THE POOR: A STUDY OF CLASS BIAS IN INDIAN CRIMINAL JUSTICE”

AUTHORED BY - AKSHAYA S
TAMILNADU DR. AMBEDKAR LAW UNIVERSITY

ABSTRACT

The concept of justice is founded on the doctrine of equality of all persons before law notwithstanding their social, economic or political status. This doctrine finds place in Articles 14 and 21 of the Indian Constitution which provide for equality before law and right to life and personal liberty respectively. But the actual functioning of the criminal justice system often shows glaring disparities in the treatment of offenders from different socio-economic strata. This has led to the perception that the criminal justice system operates as 'justice for the rich and punishment for the poor.' This paper attempts a critical examination of class bias within the Indian criminal justice system by analysing the differential treatment meted out to the affluent and the economically weaker sections of society at different stages of criminal proceedings, including investigation, arrest, bail, trial, sentencing and imprisonment. The paper describes the historical perspective of the criminal justice system and the influence of economic disparities on the legal system. It also discusses criminological theories such as conflict theory, critical criminology and elite deviance theory to understand the convergence of power, wealth and justice. The paper compares white-collar crime and conventional street crime with respect to public perception, law enforcement focus and judicial treatment. The paper analyzes incarceration rates, landmark cases and recent trials of financial crimes to show how socio-economic factors can impact access to justice and legal protection. The paper highlights that even though there is equality before law in India, but there is no true equality. Hence, there is a need for structural reforms in the area of bail, legal aid, sentencing guidelines and institutional accountability to ensure that justice is delivered on the basis of criminal behavior and not social status.

KEY WORDS: Criminal Justice System, Equality Before Law, White Collar Crime, Elite Class Deviance

INTRODUCTION

“Justice serves as the cornerstone of every civilized society.”¹

A legal framework is legitimate when it is able to deal with individuals in a non-discriminatory and equal manner irrespective of their wealth, status, caste, occupation or political clout. The doctrine of equality before the law is a basic feature of democratic governance and demands that all individuals be governed by the same legal standards and that they be entitled to equal protection of law by the legal authorities.² In India, this doctrine is enshrined in Article 14 of the Constitution which provides for equality before law and equal protection of laws to all persons.³ However, in spite of the constitutional guarantees, the issue of unequal treatment within the criminal justice systems remains a subject of academic and judicial discourse across the world. A major criticism of modern criminal justice systems is that they do not treat the rich and the poor equally. The rich, well-connected, politically influential and those who can afford good lawyers often have procedural advantages that are not available to the poor. Consequently, the administration of criminal justice can appear to favour the powerful and privileged, and to impose more severe consequences on those who lack social or financial resources.⁴

This difference is captured in the phrase, ‘justice for the rich and punishment for the poor’.⁵ It means that socio-economic status impacts the likelihood of arrest, the quality of legal representation, access to bail, the length of detention and even the outcome of sentencing. While formal discrimination on the basis of economic or social standing has been shunned by the legal systems, systemic inequalities often manifest in differential treatment within the criminal justice system.⁶ This is particularly true in India where the economic division is stark and the Criminal Justice System complex and overburdened.⁷ A large number of under trial prisoners languish in jail as they are unable to afford to pay for bail or legal representation which is available to more economically privileged offenders. These disparities pose relevant questions about fairness, accountability and realization of constitutional values within the

¹ N.V. Paranjape, *Criminology, Penology and Victimology* 1 (19th ed., 2023).

² M.P. Jain, *Indian Constitutional Law* 1087 (LexisNexis, Gurgaon, 9th edn., 2024).

³ INDIA CONST. art. 14.

⁴ Upendra Baxi, “The Crisis of the Indian Legal System” 27 *Journal of the Indian Law Institute* 115 (1985).

⁵ B.B. Pande, “Crime, Power and Social Inequality” 44 *Journal of the Indian Law Institute* 89 (2002).

⁶ S.N. Mishra, *Socio-Economic Justice under the Constitution of India* 212 (Deep & Deep Publications, New Delhi, 2018).

⁷ National Crime Records Bureau, *Prison Statistics India 2023*, Ministry of Home Affairs, Government of India.

criminal justice system. This article provides a detailed analysis of the various ways in which socio-economic status plays a role in criminal justice outcomes in India.⁸

The paper traces the historical development of the criminal justice system and examines criminological theories and current practices of investigation, bail, trial, sentencing and incarceration to determine whether the ideal of equal justice under the law is a lived reality for a large section of the population.

HISTORICAL CONCEPT OF TREATING THE POOR

The connection between crime, punishment and social status has been a constant in human history. Although modern constitutional democracies profess the principle of equality before the law and equal protection under the law, historical legal systems often mirrored the existing social, political and economic hierarchies. The administration of justice was seldom independent of power structures and legal institutions often sought to preserve social order rather than to guarantee equal treatment for all individuals. As a result, an analysis of the historical development of criminal justice shows that inequality has been a persistent characteristic of legal systems across different civilizations and historical periods.⁹

In ancient societies such as Mesopotamia, Egypt, Greece and Rome, social status had a large impact on a person's legal rights and responsibilities for crimes.¹⁰ The Code of Hammurabi, one of the first known legal codes, specified different punishments depending on the social status of both the offender and the victim. Roman law also made similar distinctions, with the aristocracy enjoying privileges not available to slaves and commoners. The Indian subcontinent saw similar developments, with the law shaped by social distinctions. Early legal documents often defined different social duties and punishments depending on social classes. Philosophical ideas on justice encouraged moral order and social harmony, but existing legal practices often reflected existing social disparities.¹¹

The administration of justice in India traces its roots to the Vedic period, when the concept of Dharma was invoked to maintain social order. Dharma provided a comprehensive moral and

⁸ K.C. Joshi, "Equality Before Law and Criminal Justice Administration in India" 58 *Journal of the Indian Law Institute* 331 (2016).

⁹ *Supra* note 5.

¹⁰ S.N. Mishra, *Ancient Indian Jurisprudence* 48 (Central Law Agency, Allahabad, 2016).

¹¹ Nandini Chatterjee, "Law and Social Order in Pre-Colonial India" 54 *Indian Historical Review* 84 (2017).

legal framework for individual behavior and social duties. Ancient Hindu legal texts such as the Dharmashastras, Manusmriti, Yajnavalkya Smriti, and Narada Smriti were instrumental in developing legal standards and procedures for resolving disputes.¹² While these texts emphasized the significance of justice, righteousness, and social concord, they also mirrored the social stratification of the period. The administration of justice in ancient India was greatly influenced by the caste system.¹³ The punishment of similar offence was often different depending upon the caste and social status of the offender and victim. Higher caste people generally received better legal protection while lower caste people were often punished more severely for similar acts.

The Manusmriti clearly prescribed different punishments depending upon the caste status and this pointed to the close link between legal outcome and social hierarchy. The administration of justice was thus not always characterised by equality despite the existence of advanced legal principles. The importance of impartial governance was recognized by ancient Indian political philosophers. Arthashastra of Kautilya provides one of the earliest detailed descriptions of statecraft, law and criminal justice. Kautilya stressed on the ruler's responsibility to maintain order through good law enforcement and suitable punishment.¹⁴ Danda (punishment) was considered essential for social stability and to prevent anarchy. While the Arthashastra was a guide for efficiency and accountability in administration, the legal practices were still ruled by a hierarchical social system that gave differential levels of protection to different social groups. The justice system saw a major change during the medieval period with the expansion of different Islamic kingdoms and subsequently the Mughal Empire.¹⁵

The criminal justice system was influenced by Islamic legal principles, especially in the areas of criminal offenses, evidence, and punishments. Mughal administration institutionalized the courts through the agency of Qazis and a host of other judicial authorities. Though Islamic law stressed on fairness and procedural safeguards, the actual administration of justice was frequently dependent upon political power, social standing and economic resources. Wealthy landowners, nobles and court officials usually enjoyed advantages not available to the common man.¹⁶ Colonial period was an important chapter in the history of criminal justice in India. With

¹² R.S. Sharma, *India's Ancient Past* 188 (Oxford University Press, New Delhi, 2020).

¹³ B.R. Ambedkar, *Annihilation of Caste* 39 (Navayana, New Delhi, 2014 Reprint).

¹⁴ V.R. Mehta, *Foundations of Indian Political Thought* 88 (Manohar Publishers, New Delhi, 2019).

¹⁵ Satish Chandra, *Medieval India* Vol. I, 271 (Har-Anand Publications, New Delhi, 2018).

¹⁶ "Judicial Administration under the Mughal Empire", National Portal of India, available at <https://www.india.gov.in> (visited June 10, 2026).

the spread of British rule, there was a demand for centralisation and codification in the administration of law.¹⁷ The British introduced a formal legal system based on English legal philosophy and attempted to codify the criminal law. The Indian Penal Code of 1860, the Code of Criminal Procedure and the Indian Evidence Act were landmark events in the modernisation of India's criminal justice system. These statutes enshrined the principle that all people would be subject to a uniform legal system.¹⁸

However, despite reform efforts, elements of colonial criminal justice remained tainted with inequality. The British state applied criminal law as a mechanism of social control. Communities were subjected to discriminatory policies and surveillance.¹⁹ An example is the Criminal Tribes Act of 1871 which criminalized entire communities based on their social identities assuming them to be criminal by nature. Criminal law reflected the colonial state's predisposition to criminalize marginal populations and protect the interests of the colonial and economic elite.²⁰ The Industrial Revolution and the rise of capitalist economies in the 19th and 20th centuries shaped criminological approaches to crime and criminality. Traditional criminal law focused on crimes such as theft, robbery, assault and murder that were mostly committed by the lower socio-economic strata. With the advancement of industrialization, new types of economic malfeasance emerged including corporate fraud, embezzlement, securities fraud, tax evasion, and financial manipulation. These crimes brought huge economic damage but gained much less public attention than traditional crimes.²¹

The work of criminologist Edwin H. Sutherland represented a major challenge to traditional crime views. Sutherland's concept of "white-collar crime" was first presented in his seminal presidential address to the American Sociological Society in 1939. He claimed that crime is not a feature of the poor or marginalized; socially acceptable people in positions of trust often commit serious criminal acts. Sutherland's observations revealed a major omission in traditional criminology, which was limited to street crimes and did not include the crimes of the powerful in the economic sphere. The development of conflict theory and critical

¹⁷ J. Krishnamurthy, "Colonial Legal Administration and Criminal Justice in India" 52 *Journal of the Indian Law Institute* 287 (2010).

¹⁸ "History of Codification of Criminal Laws in India", Department of Justice, Government of India, available at <https://doj.gov.in> (visited June 10, 2026).

¹⁹ Upendra Baxi, "Colonial Legality and Social Control in India" 25 *Journal of the Indian Law Institute* 145 (1983).

²⁰ "The Criminal Tribes Act and Colonial Criminal Justice", Indian History Collective, available at <https://www.indianculture.gov.in> (visited June 10, 2026).

²¹ B.B. Pande, "White Collar Crime and Criminal Justice" 46 *Journal of the Indian Law Institute* 201 (2004).

criminology in the 20th century was an important contribution to the scholarly understanding of the inequalities in criminal justice systems. Based on the works of Karl Marx these perspectives suggest that legal systems tend to reflect the dominant power structures in society. Conflict theorists argue that criminal laws tend to be created and enforced to serve the economic interests of the elite whilst at the same time punishing and over-regulating marginalized communities. Thus, crime cannot be understood apart from the broader social and economic inequalities. After independence in 1947, the Constitution tried to remove all historical inequalities and build a legal structure based on justice, liberty, equality and dignity.

Article 14 guarantees equality before law and equal protection of law and Article 21 guarantees life and personal liberty. These constitutional guidelines embody the hope that justice should be delivered without discrimination of wealth, caste, religion or social status. But despite these constitutional guarantees, there are stark disparities in legal representation, bail, access to judicial remedies and prison conditions. The ongoing debates over under trial detention, legal aid, prison overcrowding and white-collar crime indicate that socioeconomic factors still affect people's experiences in the criminal justice system. The history of criminal justice thus reveals a persistent tension: between the ideal of equality and the fact of social stratification. Whether it is the caste divisions of ancient India, the colonial instruments of social control, or contemporary preoccupations with elite deviance and economic advantage, the administration of justice has frequently reflected wider patterns of social inequality. It is vital to grasp this historical trajectory in order to decide if today's criminal justice systems truly provide equal justice, or simply reproduce existing socio-economic inequities in new guises.

CONSTITUTIONAL FRAMEWORK OF EQUAL JUSTICE IN INDIA

The principle of equality before the law is a fundamental principle of modern constitutional democracies.²² It embodies the principle that all persons, irrespective of their wealth, social status, caste, religion, profession, gender or political power, are to be treated in accordance with the same standards of justice and are to be given equal protection of the law.²³ The credibility of a criminal justice system is highly dependent on its ability to administer justice in an impartial and non-discriminatory manner.²⁴ In a democratic society that respects the rule of law, legal institutions are expected to function in a manner that is fair, accountable and treats

²² M.P. Jain, *Indian Constitutional Law* 1087 (LexisNexis, Gurgaon, 9th edn., 2024).

²³ H.M. Seervai, *Constitutional Law of India Vol. I*, 438 (Universal Law Publishing, New Delhi, 4th edn., 2019).

²⁴ Upendra Baxi, "The Rule of Law, Democracy and Constitutionalism" 32 *Journal of the Indian Law Institute* 221 (1990).

all persons equally.²⁵ The principle of equality before the law emerged in response to historical systems of legal privilege enjoyed by monarchs, aristocrats, feudal lords and privileged social groups.²⁶

In the Middle Ages, legal rights and duties were often determined by social class.²⁷ The development of constitutional government sought to abolish such distinctions and create a legal system based on universal equality.²⁸ A.V. Dicey, a leading British scholar of constitutional law, gave one of the most important formulations of this principle, stating that equality before the law is an essential element of the rule of law.²⁹ Dicey said that “no man is above the law and no man is below it,” and that “every man is equal before the law.” In India, equality is a core idea in the constitutional design.³⁰ The framers of the Constitution knew that centuries of social hierarchy, caste discrimination, economic inequality, and colonial rule had created obstacles to equal justice.³¹ The Constitution was not just a legal document but a social change instrument to bring about a more just and fair society.³² That is why equality was built into the Constitution not only as a constitutional guarantee but also as a fundamental goal of governance.³³

The Preamble to the Constitution clearly commits the State to securing justice to all its citizens—social, economic and political.³⁴ The commitment reflects the understanding that equality cannot be achieved by formal legal pronouncements alone but requires the creation of conditions under which individuals can have access to equal opportunities and protection.³⁵ The criminal justice system is one of the significant mechanisms through which these constitutional guarantees are translated into reality.³⁶ The most important constitutional

²⁵ V.N. Shukla, *Constitution of India* 184 (Eastern Book Company, Lucknow, 15th edn., 2023)

²⁶ A.V. Dicey, *Introduction to the Study of the Law of the Constitution* 110 (Macmillan, London, 10th edn., 1959).

²⁷ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 50 (Oxford University Press, New Delhi, 2011).

²⁸ B. Shiva Rao, *The Framing of India's Constitution Vol. I*, 112 (Universal Law Publishing, New Delhi, Reprint 2012).

²⁹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution* 193 (Macmillan, London, 10th edn., 1959).

³⁰ M.P. Jain, *Indian Constitutional Law* 1091 (LexisNexis, Gurgaon, 9th edn., 2024).

³¹ B.R. Ambedkar, *Dr. Babasaheb Ambedkar: Writings and Speeches Vol. XIII*, 914 (Government of Maharashtra, Mumbai, 1994).

³² Granville Austin, *Working a Democratic Constitution* 27 (Oxford University Press, New Delhi, 2004).

³³ S.C. Kashyap, *Our Constitution* 63 (National Book Trust, New Delhi, 2023).

³⁴ INDIA CONST., Preamble.

³⁵ S.N. Jain, *Equality and Social Justice under the Indian Constitution* 74 (Deep & Deep Publications, New Delhi, 2017).

³⁶ N.R. Madhava Menon, *Criminal Justice System in India: Present Realities and Future Vision* 19 (Eastern Book Company, Lucknow, 2004).

provision relating to equality is Article 14, which guarantees equality before the law and equal protection of the laws.³⁷ Though these two expressions may appear similar, they have different connotations. The term ‘equality before law’ is taken from the British rule of law and it means that no special privilege is granted to any individual or group.³⁸ All individuals, whatever their status or authority may be, are equally subject to ordinary law of the land. The term ‘equal protection of laws’ is taken from the Fourteenth Amendment to the Constitution of the United States and it means that the State shall not deny to any person within its jurisdiction the equal protection of the laws.³⁹ It also means that there shall be no arbitrary discrimination.⁴⁰

These principles taken together ensure that legal rights, obligations and protections are not granted in an arbitrary manner but are distributed in a fair and reasonable manner.⁴¹ The Supreme Court of India has consistently interpreted Article 14 as a guarantee against arbitrary action. In the landmark case of *E.P. Royappa v. State of Tamil Nadu*, the Court held that the concepts of equality and arbitrariness are mutually exclusive and any arbitrary action of the State is necessarily contrary to Article 14.⁴² This interpretation has expanded the concept of constitutional equality to a great extent by emphasizing on substantive fairness than formal equality. The guarantee of equality in the criminal justice system is further strengthened by Article 21 of the Constitution which provides that no person shall be deprived of his life or personal liberty except according to the procedure established by law.⁴³ Judicial interpretation has developed Article 21 as a comprehensive source of procedural protections to promote fairness, dignity and due process.⁴⁴

The Supreme Court, in *Maneka Gandhi v. Union of India*, held that legal processes affecting personal liberty should be fair, just and reasonable and not arbitrary or oppressive.⁴⁵ This judgment firmly established the link between equality and procedural fairness in the criminal justice system. Equal justice requires effective access to legal representation. The Constitution,

³⁷ INDIA CONST. art. 14.

³⁸ H.M. Seervai, *Constitutional Law of India* Vol. I, 439 (Universal Law Publishing, New Delhi, 4th edn., 2019).

³⁹ M.P. Jain, *Indian Constitutional Law* 1102 (LexisNexis, Gurgaon, 9th edn., 2024).

⁴⁰ D.D. Basu, *Introduction to the Constitution of India* 143 (LexisNexis, Gurgaon, 26th edn., 2023).

⁴¹ D.D. Basu, *Shorter Constitution of India* 146 (LexisNexis, Gurgaon, 18th edn., 2023).

⁴² *E.P. Royappa v. State of Tamil Nadu*. https://www.lekhanews.in/judgment/ep-royappa-v-state-of-tamil-nadu/?utm_source=chatgpt.com

⁴³ INDIA CONST. art. 21.

⁴⁴ Justice P.S. Narayana, “Article 21 and Expanding Dimensions of Human Rights” 50 *Journal of the Indian Law Institute* 87 (2008).

⁴⁵ *Maneka Gandhi v. Union of India*. https://www.legalchariot.com/2025/06/maneka-gandhi-vs-union-of-india-case-1978-article-21.html?utm_source=chatgpt.com

aware of the problems faced by economically backward sections, has Article 39A, which requires the State to secure equal justice and to provide free legal aid.⁴⁶ This provision recognizes that formal equality is of no use if people are not in a position to defend their rights. The constitutional obligation to provide legal aid brings out the understanding that poverty should not be a bar to access to justice.⁴⁷ In *Hussainara Khatoun v. State of Bihar* the Supreme Court underlined the importance of legal aid by noticing the plight of several under trial prisoners languishing in jail for years without trial.⁴⁸ The Court held that the right to speedy justice is an integral part of Article 21 and held that the prolonged detention of the poor nullifies the constitutional promise of equality. The judgment highlighted how poverty could translate legal rights into practical disabilities in the administration of the criminal law.⁴⁹ Similarly, in *Moti Ram v. State of Madhya Pradesh*, the Supreme Court condemned bail practices that effectively discriminated against poor people.⁵⁰

Justice Krishna Iyer observed that the conditions of bail cannot be fixed by financial resources as it would be differential treatment of the economically backward persons. This judgment brought out the correlation between socio-economic status and the right to personal freedom.⁵¹ The constitutional provisions are meant to safeguard individuals against arbitrary arrest, detention and custodial ill-treatment. In *D.K. Basu v. State of West Bengal*, the Supreme Court has laid down detailed guidelines with regard to procedures of arrest and detention. The Court acknowledged that the abuse of police power was a problem largely affecting vulnerable and marginalized communities, and the need for procedural safeguards to protect human dignity and equality under the Constitution.⁵²

Despite these constitutional protections, there are still large gaps in the criminal justice system. More skilled legal assistance, expert witnesses, private investigations and procedural mechanisms are available to the richer people. On the other hand, people in economic distress

⁴⁶ INDIA CONST. art. 39A.

⁴⁷ National Legal Services Authority (NALSA), Annual Report 2023–24 (New Delhi, 2024).

⁴⁸ *Hussainara Khatoun v. State of Bihar*.

⁴⁹ K.I. Vibhute, *Criminal Justice: A Human Rights Perspective of the Criminal Justice Process in India* 143 (Eastern Book Company, Lucknow, 2004).

⁵⁰ *Moti Ram v. State of Madhya Pradesh*, https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://indiankanoon.org/doc/1912056/&ved=2ahUKEwii5Kr7wv6UAxUPVmwGHSeqMyYQFnoECB0QAQ&usg=AOvVaw2_x0L_mjMirZE1ANXT0tnL

⁵¹ *Moti Ram v. State of Madhya Pradesh*, (1978) 4 SCC 47.

⁵² *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416; K.I. Vibhute, *Criminal Justice: A Human Rights Perspective of the Criminal Justice Process in India* 143 (Eastern Book Company, Lucknow, 2004).

often rely on overloaded legal aid services, and face difficulties in obtaining bail, navigating long legal processes and asserting their rights. While the Constitution guarantees equality before the law, the actual functioning of the criminal justice system can be very different depending on a person's socioeconomic status. It is this distinction between formal and substantive equality that is of particular relevance here. Formal equality entails that everyone is treated equally under the law while substantive equality recognizes that people are part of different social and economic circumstances and may require additional support to be equally protected in practice.⁵³ The Indian constitution provides for both aspects of equality – not only does it prohibit discrimination but it also recognizes the need to dismantle structural barriers to access to justice.

Hence, the constitutional basis for criminal justice in India is well entrenched on the principles of equality, fairness, dignity and due process. Together Articles 14, 21 and 39A constitute a legal framework to attain equal justice for all citizens. However, the continued presence of socio-economic inequalities gives rise to relevant questions about the extent to which these constitutional ideals are achieved. These are the grounds for the study of class-bias, elite deviance and differential treatment in the current criminal justice system.⁵⁴

EMERGENCE OF WHITE-COLLAR CRIME AND ELITE DEVIANCE

For centuries crime was traditionally seen as a phenomenon associated with poverty, social disorder and moral deficiency. The typical image of a criminal was that of a thief, robber, burglar or violent offender from the lower strata of society. Criminal law, criminological research and public debate was focused mainly on conventional crimes committed in streets, marketplaces and public places. Consequently criminality was closely associated with poverty and social exclusion.⁵⁵ The twentieth century has seen a remarkable change in criminological views, accepting that people in positions of wealth, power and social respectability were also capable of committing serious criminal acts. This insight led to the concept of white-collar crime, elite deviance and crimes of the powerful that revolutionized the understanding of crime

⁵³ Sandra Fredman, *Discrimination Law* 17–21 (Oxford University Press, Oxford, 2011); S.K. Verma, “Socio-Economic Inequality and Access to Criminal Justice” 63 *Journal of the Indian Law Institute* 214 (2021).

⁵⁴ Upendra Baxi, *The Crisis of the Indian Legal System* 98–102 (Vikas Publishing House, New Delhi, Reprint 2018); K.C. Joshi, “Equality Before Law and Criminal Justice Administration in India” 58 *Journal of the Indian Law Institute* 331 (2016).

⁵⁵ S.K. Ghosh, *Criminology and Penology* 128–131 (Ashish Publishing House, New Delhi, 1993); Walter C. Reckless, *The Crime Problem* 52–57 (Appleton-Century-Crofts, New York, 5th edn., 1973).

and the criminal justice system fundamentally.⁵⁶

MEANING AND CONCEPT OF WHITE-COLLAR CRIME

The concept of white-collar crime was developed as a response to the traditional notion of crime being committed primarily by poor and socially marginalized individuals. White-collar crime in general refers to non-violent crimes for financial gain by persons in positions of trust, authority or professional esteem. Unlike traditional crimes, white-collar crimes often occur in the context of legitimate jobs, businesses, corporations or government entities. Such crimes are identified by deception, fraud, concealment, breach of trust, manipulation of financial systems and abuse of professional authority.⁵⁷

White-collar crimes are significantly different from traditional street crimes in their nature and consequences. The victims of street crime are usually direct victims, with immediate and physical injuries, while victims of white-collar crime are more indirect victims, suffering economic and long-term damage. For instance, a corporate fraud by a senior executive can harm thousands of employees, investors, consumers and shareholders, without any physical violence involved. Likewise, banking frauds, securities scams, money-laundering operations, tax evasions and corruption may destabilize entire economic sectors and undermine public confidence in institutions.⁵⁸ The significance of white-collar crime is that it challenges the old notion of crime as something only related to poverty. It shows that crime is not merely the domain of the economically deprived elements of society but is also committed by those in high social positions, with professional qualifications and economic means. White-collar crime thus compels scholars and lawmakers to reconsider entrenched beliefs about the causes, characteristics, and spread of criminal behavior within society.⁵⁹

⁵⁶ Edwin H. Sutherland, "White-Collar Criminality" 5 *American Sociological Review* 1 (1940); B.B. Pande, "White Collar Crime and Criminal Justice" 46 *Journal of the Indian Law Institute* 201 (2004).

⁵⁷ Edwin H. Sutherland, *White Collar Crime* 9 (Dryden Press, New York, 1949).

⁵⁸ Hazel Croall, *Understanding White Collar Crime* 23–29 (Open University Press, Buckingham, 2001); V.B. Raju, *Economic Offences in India* 58–63 (Asia Law House, Hyderabad, 2018).

⁵⁹ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 12–16 (Wadsworth Publishing, California, 5th edn., 2010).

EDWIN SUTHERLAND AND THE BIRTH OF WHITE-COLLAR CRIME THEORY

The modern understanding of white-collar crime owes much to the pioneering work of criminologist Edwin H. Sutherland. Before Sutherland's important work, the focus of criminological research was on traditional crimes committed by individuals of lower socio-economic status. Crime statistics, data on prison populations and police records were frequently used as the basic basis of criminological knowledge. Because these data were largely limited to crimes committed by the poor, many theorists concluded that crime was primarily a lower-class problem.⁶⁰

Sutherland challenged this view in his influential presidential address to the American Sociological Society in 1939. He argued that all criminological theories were fundamentally flawed since they ignored the criminal acts of businessmen, professionals, corporate executives, and other members of the upper social class. Crime, Sutherland argued, was not limited to the poor; it was also common among those who were respected and held positions of authority. Sutherland made a major contribution with his definition of white-collar crime as "a crime committed by a person of respectability and high social status in the course of his occupation".⁶¹ This was a revolutionary statement because it was a shift in focus from the social backgrounds of the criminals to the nature of their professional activities. Sutherland showed how large companies were often involved in deceptive advertising, unfair trade practices, financial fraud, tax evasion, regulatory violations, etc. and, although these acts often caused substantial social damage, they rarely excited the same public indignation as the more traditional street crimes.

One of Sutherland's major contributions was his statement that crime should be understood in terms of real social harm rather than the offender's social status. He criticized criminal justice systems for their inclination to disproportionately target crimes committed by the poor and overlook the harmful actions of economically powerful people and organizations. In this way, Sutherland profoundly changed the field of criminology and provided the groundwork for later

⁶⁰ Edwin H. Sutherland, *White Collar Crime* 3–8 (Dryden Press, New York, 1949); David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 10–15 (Wadsworth Publishing, California, 5th edn., 2010).

⁶¹ Edwin H. Sutherland, "White-Collar Criminality" 5 *American Sociological Review* 1 (1940); Hazel Croall, *Understanding White Collar Crime* 17–24 (Open University Press, Buckingham, 2001).

research on corporate crime, elite deviance, and the crimes of the powerful.⁶²

WHAT IS ELITE DEVIANCE?

The concept of elite deviance arose from the realization that socially respected and politically powerful people can commit acts that breach legal, ethical, or social standards. Elite deviance refers to illegal, unethical, or socially damaging acts perpetrated by individuals in positions of power, authority, and privilege within society. Elite deviance differs from the misconduct of ordinary criminals in that the former often have legitimacy, prestige, and institutional support and, as a result, such misconduct is less visible and more difficult to combat.⁶³

Elite deviance extends beyond corporate misdeeds to include a broad spectrum of activities involving political leaders, government officials, corporate executives, regulatory agencies, and powerful organizations. Examples of elite deviance include corruption, abuse of public office, financial fraud, insider trading, environmental violations, political scandals, market manipulation, and abuse of state power. Such acts do not necessarily lead to criminal charges but may nevertheless generate considerable social, economic, and political damage. The study of elite deviance exposes a major paradox within criminal justice systems. Elite deviance is a phenomenon in which individuals with social power have more opportunities to engage in harmful behaviors, as well as being better able to evade detection, investigation, and punishment. Their status may provide them with a sense of legitimacy, insulating them from the level of scrutiny usually applied to conventional offenders. Thus, elite deviance raises important issues of accountability, equality under the law, and the fair administration of justice.⁶⁴

Society's Focus on Street Crime rather Than Corporate Crime

One of the most striking observations about contemporary criminology is the disproportionate attention given to street crime compared to the substantial harm done by white-collar and corporate crimes. Many factors contribute to this trend. First, street crimes are highly visible. Crimes such as robbery, assault, burglary, and murder have direct victims, immediate

⁶² Gilbert Geis, "White-Collar Crime: What Is It?" 8 *Current Issues in Criminal Justice* 159 (1996); B.B. Pande, "White Collar Crime and Criminal Justice" 46 *Journal of the Indian Law Institute* 201 (2004).

⁶³ David Simon, *Elite Deviance* 3–11 (Pearson Education, Boston, 10th edn., 2018); Neal Shover & John Paul Wright, *Crimes of Privilege: Readings in White-Collar Crime* 15–18 (Oxford University Press, New York, 2001).

⁶⁴ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 189–197 (Wadsworth Publishing, California, 5th edn., 2010); P. Leelakrishnan, "Corporate Crime, Elite Deviance and Criminal Justice" 48 *Journal of the Indian Law Institute* 327 (2006).

consequences, and dramatic scenarios that draw the public's attention. The physical and emotional impact of these crimes creates fear and requires a swift response from law enforcement agencies. In contrast, white-collar crimes are typically complex, concealed, and technical. Financial fraud, insider trading, accounting manipulations, and corporate corruption take place in offices, boardrooms, and financial institutions and are therefore less visible to the general public. And, popular views are greatly influenced by the media's portrayal of crime.⁶⁵ The media typically focuses on violent crimes, because they are sensational, emotionally appealing, and easy for viewers to understand. Corporate crimes, on the other hand, involve complex financial transactions and violations of regulations that do not receive as much media coverage. Thus, the public is more likely to see street crime as a bigger threat, even though corporate misconduct causes far more damage to society socially and economically.

Finally, the social status of offenders influences popular attitudes toward crime. Street criminals are often perceived as dangerous people, whereas corporate executives, politicians, and professionals are often perceived as respected members of society. This perception may mitigate the public's willingness to judge elite misconduct with the same moral scrutiny reserved for conventional crime. Thus, harmful acts committed by powerful figures may be viewed as regulatory violations, business mistakes, or administrative errors, rather than serious criminal offenses.⁶⁶

The historical focus of criminal justice on offenses by the economically disadvantaged

The historical development of criminal justice systems over time reveals a persistent tendency to focus on crime by people from lower economic strata. Traditional criminal law developed from the need to deal with the more visible forms of disruption such as theft, robbery, assault and public disorder. These types of crime were often associated with lower socio-economic groups and thus became a major concern for law enforcement agencies, legal prosecution and punishment. Early criminological theories also helped to reinforce this perspective, linking criminal behaviour to poverty, unemployment, family breakdown and social disorganization. As many of the people found in criminal courts and correctional institutions were from the working class, crime was seen as a problem of the poor. This perspective did not acknowledge that the wealthy could be just as damaging in their criminal behaviour, through business

⁶⁵ Hazel Croall, *Understanding White Collar Crime* 27–34 (Open University Press, Buckingham, 2001); David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 221–228 (Wadsworth Publishing, California, 5th edn., 2010).

⁶⁶ Neal Shover & John Paul Wright, *Crimes of Privilege: Readings in White-Collar Crime* 42–47 (Oxford University Press, New York, 2001).

organisations, political systems and economic structures.⁶⁷

The advent of research into white-collar crime exposed the limitations of this traditional perspective. At the same time, research started to show that the composition of prison populations and the composition of crime statistics did not necessarily mean that the prevalence of criminal activity was being accurately captured, but instead that the priorities of law enforcement agencies, rather than the distribution of crime in society, were the determining factors. Crimes of the wealthy often remained within the realm of administrative measures, civil fines or regulatory bodies rather than the normal criminal process. Instead, this has resulted in the criminal justice system seemingly focusing on crimes of the economically disadvantaged and trivializing the extent and impact of criminal behavior in the elite.⁶⁸

This trend is particularly relevant in the Indian context where a significant number of prison inmates are economically disadvantaged persons, many of whom continue to be under trial prisoners as they cannot afford bail or get proper legal representation. At the same time, large-scale economic offence investigations tend to move slowly through complex legal and regulatory processes. Although, in principle, the law applies equally to all individuals, differences in resources, influence and access to legal expertise continue to shape experiences in the criminal justice system. Thus, the emergence of white-collar crime and elite deviance became one of the most important events in modern criminology. Sutherland, along with other scholars, challenged the standard link between crime and poverty and revealed criminal behavior among the socially respected and economically powerful. This perspective laid the groundwork for contemporary debates about class bias, differential justice, and the role of power in criminal justice systems. To understand these developments is to understand whether today's criminal justice agencies truly honor the constitutional commitment to equality under the law or whether they serve to perpetuate today's social and economic inequalities through their enforcement and sentencing practices.⁶⁹

⁶⁷ Walter C. Reckless, *The Crime Problem* 52–60 (Appleton-Century-Crofts, New York, 5th edn., 1973); S.K. Ghosh, *Criminology and Penology* 128–136 (Ashish Publishing House, New Delhi, 1993).

⁶⁸ Edwin H. Sutherland, *White Collar Crime* 15–21 (Dryden Press, New York, 1949); Richard Quinney, *Critique of Legal Order: Crime Control in Capitalist Society* 112–118 (Transaction Publishers, New Brunswick, 2001).

⁶⁹ National Crime Records Bureau, *Prison Statistics India 2023* (Ministry of Home Affairs, Government of India, 2024); B.B. Pande, "White Collar Crime and Criminal Justice" 46 *Journal of the Indian Law Institute* 201 (2004).

THEORETICAL FRAMEWORK: EXPLORING CRIME, POWER, AND INEQUALITY WITHIN THE CRIMINAL JUSTICE SYSTEM

For many years, crime has been the subject of much research. Early criminological theories were often concerned with the individual offender and attempted to explain criminal behaviour by reference to biological, psychological or moral causes. However, as societies became more complex, scholars realised that a full understanding of crime required a consideration of broader social, economic and political factors. Consequently, contemporary criminology explores not only the motivations underlying individual criminal acts, but also societal views of crime, the application of laws, and the reasons for the disproportionate criminalization of certain groups.⁷⁰

Theories of elite deviance, white collar crime and class bias in the criminal justice system also pertain to the theoretical perspectives of criminology. These perspectives shed light on why criminal justice institutions are more likely to focus on traditional crimes of the poor and less likely to focus on crimes of the powerful. The most prominent theoretical perspectives are Differential Association Theory, Conflict Theory, Marxist Criminology, Labeling Theory, and Critical Criminology.⁷¹

Differential Association Theory

One of the most influential explanations of criminal behavior was developed by Edwin H. Sutherland through his Differential Association theory. Sutherland rejected biological explanations of crime and argued that criminal behavior is learnt, through social interaction. This theory suggests that people commit crimes when they are exposed to values, attitudes and techniques that encourage breaking the law instead of following it. Sutherland argued that crime is not inherited, nor is it limited to certain social classes. Instead criminal behaviour is learned through communication and association with others. People develop motives, rationalisations and methods of offending through their interactions with members of groups with whom they regularly associate. Therefore criminal behaviour is a result of social learning rather than a result of biological abnormalities or moral deficiencies. Differential Association Theory is of tremendous importance in the study of white-collar crime. Before Sutherland's

⁷⁰ Frank P. Williams III & Marilyn D. McShane, *Criminological Theory* 1–12 (Pearson Education, New Jersey, 6th edn., 2014); N.V. Paranjape, *Criminology and Penology* 25–31 (Central Law Publications, Allahabad, 19th edn., 2021).

⁷¹ Larry J. Siegel, *Criminology: Theories, Patterns and Typologies* 178–184 (Cengage Learning, Boston, 13th edn., 2018); S.K. Ghosh, *Criminology and Penology* 145–150 (Ashish Publishing House, New Delhi, 1993).

work, criminality was typically associated with poverty and social disadvantage.⁷² Yet Sutherland showed that the same learning mechanisms that explain conventional crime also explain corporate and professional misconduct. Corporate leaders can learn unethical business practices, financial manipulation techniques, or fraudulent strategies through their interactions in organizational settings. In this way, white-collar crime is learned just like conventional crime.⁷³

The theory challenged the accepted notions of criminality by showing that criminal behaviour can occur in well-regarded professional establishments. In this manner, it provided a significant groundwork for understanding white-collar crime and challenged the stereotype that crime is an issue for the poor.⁷⁴

Conflict Theory

Conflict theory offers a very different explanation for crime and the criminal justice system. Grounded in the work of Karl Marx, conflict theorists believe that society is characterized by unequal distributions of power, wealth, and resources. Conflict theorists see law as a tool of society, but not as a neutral instrument that serves the interests of all citizens equally. Legal institutions serve the interests of dominant social groups. From this perspective, criminal laws are created and enforced in societies in which there is economic inequality.⁷⁵ Those in positions of political and economic power are often in a better position to influence legal processes and public policy. As a result, criminalization is more likely to be directed at acts that threaten the interests of dominant groups while the harmful acts of powerful men may be less likely to be scrutinized or may be more likely to be punished less harshly.

Proponents of conflict theory argue that the criminal justice system often targets crimes committed by lower socio-economic groups, as these crimes are more visible, disruptive and politically salient. Conversely, crimes committed by corporations, political elites and economic institutions may be met with greater leniency even though such acts may cause significant social damage. As such, the theory provides an important lens through which to interpret class

⁷² Edwin H. Sutherland & Donald R. Cressey, *Principles of Criminology* 75–83 (J.B. Lippincott Company, Philadelphia, 7th edn., 1966); K.D. Gaur, *Criminal Law: Cases and Materials* 52–55 (Butterworths India, New Delhi, 2013).

⁷³ Edwin H. Sutherland, *White Collar Crime* 227–233 (Dryden Press, New York, 1949); David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 88–94 (Wadsworth Publishing, California, 5th edn., 2010).

⁷⁴ Gilbert Geis, “The Legacy of Edwin H. Sutherland” 11 *Crime and Delinquency* 345 (1965); B.B. Pande, “White Collar Crime and Criminal Justice” 46 *Journal of the Indian Law Institute* 201 (2004).

⁷⁵ George B. Vold, Thomas J. Bernard & Jeffrey B. Snipes, *Theoretical Criminology* 217–225 (Oxford University Press, New York, 6th edn., 2002); Richard Quinney, *Critique of Legal Order: Crime Control in Capitalist Society* 13–21 (Transaction Publishers, New Brunswick, 2001).

bias and differential treatment within criminal justice systems. Conflict Theory in the Indian context calls for the study of the influence of socio-economic factors on the functioning of policing, bail decision-making, the availability of legal aid and sentencing. It emphasizes the role of criminal justice institutions in perpetuating social inequalities rather than eliminating them.⁷⁶

Labelling Theory

Unlike traditional theories that attempt to understand the causes of criminal behaviour, Labelling Theory investigates the way society reacts to such behaviour. This theory developed by sociologists such as Howard Becker and Edwin Lemert, suggests that criminality is not merely a function of the criminal act but also of society's reaction to it. Labelling Theory posits that some individuals and groups are more susceptible to being labelled criminals than others. Labelling someone a criminal can impact their future interactions with society, law enforcement, and the legal system. Such labelling may result in stigmatization, social isolation, and a reinforcement of criminal behavior.⁷⁷

This theory is especially useful in understanding the differences between street crime and white collar crime. Those accused of street crimes are frequently and immediately labeled criminals by the media, law enforcement, and public opinion. On the other hand, corporate leaders accused of fraud or corruption are more likely to be described in neutral terms, such as businessmen, administrators or public officials. In this way, the social stigma of criminality is unevenly distributed.⁷⁸

Labelling Theory is concerned with the influence of social status on the public perception of crime. Labelling Theory implies that the results of the criminal justice system depend not only on the legal rules and procedures, but also on the society's perceptions of who is a 'criminal' and who is a decent citizen who made a mistake or broke the rules.⁷⁹

⁷⁶ Jeffrey Reiman & Paul Leighton, *The Rich Get Richer and the Poor Get Prison* 31–42 (Routledge, New York, 11th edn., 2017); Upendra Baxi, *The Crisis of the Indian Legal System* 98–104 (Vikas Publishing House, New Delhi, Reprint 2018).

⁷⁷ Howard S. Becker, *Outsiders: Studies in the Sociology of Deviance* 9–19 (Free Press, New York, 1963); Edwin M. Lemert, *Social Pathology* 72–76 (McGraw-Hill, New York, 1951).

⁷⁸ Frank Tannenbaum, *Crime and the Community* 17–20 (Columbia University Press, New York, 1938); David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 221–225 (Wadsworth Publishing, California, 5th edn., 2010).

⁷⁹ Howard S. Becker, *Outsiders: Studies in the Sociology of Deviance* 33–38 (Free Press, New York, 1963); N.V. Paranjape, *Criminology and Penology* 96–100 (Central Law Publications, Allahabad, 19th edn., 2021).

Threat Theory

Threat Theory implies that criminal justice institutions are more likely to act aggressively towards groups perceived as threats to social order. The theory argues that dominant social groups tend to use the legal and enforcement processes to maintain the existing power structures, which in turn promotes social stability. This means that economically disadvantaged and marginalized communities are likely to be subjected to more surveillance, policing, arrests, and punishment than the more socially powerful groups. As outlined in the present study, Threat Theory posits that the response of the criminal justice system is a function not only of the crime itself, but also of a perceived social threat. This is illustrated in the present study by the disparate treatment of street crime perpetrated by poor people and white-collar crime perpetrated by rich people, despite the fact that the latter results in substantial economic and social harm.⁸⁰ Therefore, the theory emphasizes the significance of power and social control in shaping the functioning of the criminal justice processes. It also implies the existence of class bias in the criminal justice system.⁸¹

THE ECONOMIC THEORY OF CRIMINALITY

The economic theory of criminality states that crime is a rational decision where the benefits are weighed up against the costs. Gary S. Becker developed this theory with the argument that individuals will commit crimes when the expected benefits outweigh the risk of getting caught, prosecuted and punished. In this theory crime is a calculated action based on opportunities, incentives and enforcement mechanisms rather than moral or psychological factors.⁸² This theory is especially relevant to white-collar crimes where crimes such as fraud, insider trading, corruption and tax evasion are often calculated for financial gain. Perpetrators in positions of power may commit these crimes where they see the chances of detection as low and the financial rewards as high.⁸³

⁸⁰ Hubert M. Blalock Jr., *Toward a Theory of Minority-Group Relations* 144–152 (John Wiley & Sons, New York, 1967); Steven E. Barkan & Steven F. Cohn, “Racial Prejudice and Support for the Death Penalty by Whites” 31 *Journal of Research in Crime and Delinquency* 202 (1994).

⁸¹ Steven F. Messner & Richard Rosenfeld, *Crime and the American Dream* 96–101 (Wadsworth Publishing, California, 5th edn., 2013); D.R. Taft & R.W. England, *Criminology* 318–322 (Macmillan, New York, 4th edn., 1964); Upendra Baxi, *The Crisis of the Indian Legal System* 98–104 (Vikas Publishing House, New Delhi, Reprint 2018).

⁸² Gary S. Becker, “Crime and Punishment: An Economic Approach” 76 *Journal of Political Economy* 169 (1968); Larry J. Siegel, *Criminology: Theories, Patterns and Typologies* 238–242 (Cengage Learning, Boston, 13th edn., 2018).

⁸³ Richard A. Posner, *Economic Analysis of Law* 261–268 (Wolters Kluwer, New York, 9th edn., 2014); David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 95–101 (Wadsworth Publishing, California, 5th edn., 2010).

WHITE COLLAR CRIME VS STREET CRIME

The differentiation between white-collar crime and street crime has emerged as a crucial area of study in contemporary criminology. Historically, criminal justice systems have focused extensively on traditional offenses such as theft, robbery, assault, burglary, and homicide, which are typically classified as street crimes. These offenses are highly apparent, often involve direct victims, and elicit immediate public concern. Nevertheless, the rise of studies on white-collar crime has challenged the notion that criminal behaviour is limited to socially disadvantaged groups, revealing that individuals in positions of power, wealth, and respectability can also inflict significant social harm.⁸⁴

White-collar crimes and street crimes exhibit notable differences in their methods, visibility, perpetrators, victims, and repercussions. Street crimes are usually perpetrated in public areas and entail direct interaction between the offenders and their victims. The impacts of these crimes are immediate and readily observable. Victims of robbery, assault, or theft suffer direct economic losses, physical injuries, or psychological distress. As a result, these offenses garner considerable media attention and prompt rapid responses from law enforcement.

Conversely, white-collar crimes are typically carried out within professional or organizational contexts and involve deceit, manipulation, betrayal of trust, and financial wrongdoing.⁸⁵ The victims are often numerous and scattered, rendering the harm less visible. Corporate fraud, banking scams, corruption, tax evasion, and money laundering can affect thousands of individuals and lead to substantial financial losses. Despite the magnitude of the harm caused, these offenses often provoke less public outrage compared to traditional street crimes, as their consequences are indirect and challenging to visualize.

A prevalent belief in society is that street crimes pose a greater danger than white-collar crimes due to their association with violence and direct victimization. Nevertheless, numerous criminologists contend that white-collar crimes can inflict significantly more extensive long-term harm. A single instance of large-scale corporate fraud has the potential to devastate businesses, eliminate job opportunities, undermine investor trust, and disrupt the economic

⁸⁴ Edwin H. Sutherland, *White Collar Crime* 3–12 (Dryden Press, New York, 1949); N.V. Paranjape, *Criminology and Penology* 238–242 (Central Law Publications, Allahabad, 19th edn., 2021).

⁸⁵ Hazel Croall, *Understanding White Collar Crime* 11–25 (Open University Press, Buckingham, 2001); David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 5–12 (Wadsworth Publishing, California, 5th edn., 2010).

stability of entire communities. Likewise, corruption and financial misconduct can weaken public institutions and diminish trust in governance. Thus, the social damage inflicted by white-collar crime extends beyond individual victims and often affects society at large.⁸⁶

The difference in public perception regarding these crimes is heavily shaped by media portrayal. Violent crimes, such as murders, robberies, and assaults, are particularly newsworthy due to their dramatic nature and emotional resonance. Consequently, they garner substantial media coverage and heighten public anxiety about crime. In contrast, white-collar crimes typically involve intricate financial dealings, regulatory breaches, and complex legal matters that receive relatively little attention. As a result, society tends to link criminality predominantly with street offenders, while the severity of corporate and economic offenses is frequently underestimated.⁸⁷

In contrast, white-collar crimes usually entail extensive documentation, intricate financial transactions, numerous participants, and advanced concealment techniques. Investigations in these cases often necessitate forensic accounting, collaboration with regulatory bodies, expert evaluations, and lengthy inquiries. While the complexity of these cases may warrant extended investigations, it can also lead to delays and diminish the chances of successful prosecution.

The matter of legal representation further underscores the differences between the two types of offenders. Those accused of white-collar crimes often possess the financial means to hire experienced legal counsel, forensic specialists, and specialized defense teams. Conversely, street offenders, particularly those from economically disadvantaged backgrounds, often rely on legal aid services and may lack the necessary resources to effectively contest criminal proceedings. This inequality raises concerns about equal access to justice and procedural fairness.⁸⁸ Another significant area of concern is the issue of punishment. Although white-collar crimes often result in substantial economic damage, sentencing practices have historically focused on imprisonment and harsh penalties for traditional street crimes. Critics contend that criminal justice systems tend to impose harsher penalties for visible acts of

⁸⁶ Gilbert Geis, "White-Collar Crime: What Is It?" 8 *Current Issues in Criminal Justice* 159 (1996); Marshall B. Clinard & Peter C. Yeager, *Corporate Crime* 16–23 (Free Press, New York, 1980).

⁸⁷ Gregg Barak, *Media, Process and the Social Construction of Crime* 78–84 (Garland Publishing, New York, 1994); Richard V. Ericson, Patricia M. Baranek & Janet B.L. Chan, *Representing Order: Crime, Law and Justice in the News Media* 45–51 (University of Toronto Press, Toronto, 1991).

⁸⁸ Kathleen F. Brickey, *Corporate Criminal Liability* 67–75 (LexisNexis, New York, 2nd edn., 1992); Vepa P. Sarathi, *Law of Evidence* 28–31 (Eastern Book Company, Lucknow, 7th edn., 2016).

violence compared to complex economic offenses, even when the latter inflict greater social harm. This discrepancy has sparked important discussions regarding proportionality, accountability, and the goals of punishment.⁸⁹

The analysis of white-collar crime in relation to street crime ultimately demonstrates that responses from the criminal justice system are influenced not only by the characteristics of the offenses but also by societal perceptions, institutional priorities, and overarching power dynamics. Although both types of crime present significant dangers to society, the varying degrees of focus, enforcement, and penalties they encounter prompt critical inquiries into the principle of equality under the law and the fair application of justice. These issues lay the groundwork for a more thorough investigation into class bias within the Indian criminal justice framework.⁹⁰

CLASS DISCRIMINATION IN THE INDIAN CRIMINAL JUSTICE SYSTEM: INVESTIGATION, ARREST, BAIL, TRIAL, SENTENCING AND IMPRISONMENT

Article 14 of the Indian Constitution guarantees equality before the law and equal protection of laws. Everyone, regardless of wealth, caste, occupation or social status, is theoretically entitled to equal treatment in the criminal justice system. But in practice, the operation of criminal justice institutions often exposes stark disparities in the treatment of people from different socio-economic backgrounds. Access to legal counsel, ability to secure bail, length of detention and even the outcome of criminal trials can be affected by financial resources and social influence. As a result, issues related to class bias have emerged as a persistent topic in criminological and socio-legal research.⁹¹

Class Bias in Criminal Investigation

The process of criminal justice initiates with an investigation. While these investigations are theoretically supposed to be impartial and based solely on evidence and law, in practice the

⁸⁹ Jeffrey Reiman & Paul Leighton, *The Rich Get Richer and the Poor Get Prison* 83–95 (Routledge, New York, 11th edn., 2017); B.B. Pande, “White Collar Crime and Criminal Justice” 46 *Journal of the Indian Law Institute* 201 (2004).

⁹⁰ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 289–295 (Wadsworth Publishing, California, 5th edn., 2010); Upendra Baxi, *The Crisis of the Indian Legal System* 98–106 (Vikas Publishing House, New Delhi, Reprint 2018).

⁹¹ Upendra Baxi, *The Crisis of the Indian Legal System* 98–106 (Vikas Publishing House, New Delhi, Reprint 2018); Marc Galanter, “Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change” 9 *Law and Society Review* 95 (1974).

socio-economic status of the accused often influences the course of the investigations. Those with political influence, financial resources, or social connections are better placed to challenge the investigative measures, seek anticipatory remedies, and secure expert legal counsel at the initial stages of criminal proceedings. Street crimes such as theft, robbery, assault, and public violence usually require immediate police intervention owing to the visible nature of the crime, the presence of identifiable victims, and the public pressure for quick action. White-collar crimes, on the other hand, often involve complex financial transactions, large volumes of documentation, and sophisticated concealment techniques. Corporate fraud, money laundering and corruption and financial misconduct investigations can take years before prosecution occurs. Whilst the nature of the crimes themselves lends to the time lag, there are those who argue that economically powerful offenders have procedural advantages not available to the average accused.⁹²

The problem is particularly acute when one considers the different abilities of offenders to engage with investigative processes. Wealthy defendants can afford legal specialists, forensic accountants and dedicated defence teams who can scrutinise every aspect of an investigation. Economically disadvantaged offenders rarely have access to such resources. Consequently, socio-economic status often determines the extent of legal protection available during investigations.⁹³ Arrest and the Unequal Encounter with Criminal Justice Arrest is one of the most coercive mechanisms of the State. Its purpose is to facilitate investigations and protect the justice system, but the impact is more acute for the economically disadvantaged. Those in the lower socio-economic classes are generally unable to contest arbitrary arrests or receive immediate legal help. Recognizing the dangers of unchecked police power, the Supreme Court in the case of *D.K. Basu v. State of West Bengal* laid down wide ranging safeguards relating to arrest and detention. The Court has stressed that personal liberty is an essential ingredient of the constitutional framework and that any misuse of police powers is a threat to the very foundation of the rule of law. Similarly, in *Joginder Kumar v. State of Uttar Pradesh*, the Court observed that arrest should not be resorted to as a routine measure and law enforcement agencies must justify the need to deprive an individual of liberty.⁹⁴

⁹² K.S. Subramanian, *Political Violence and the Police in India* 142–149 (Sage Publications, New Delhi, 2007); David Nelken, “White-Collar Crime and the Criminal Process” 10 *Journal of Law and Society* 93 (1983).

⁹³ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 247–254 (Wadsworth Publishing, California, 5th edn., 2010); B.B. Pande, “White Collar Crime and Criminal Justice” 46 *Journal of the Indian Law Institute* 201 (2004).

⁹⁴ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416; *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260.

Despite these judicial safeguards, research has consistently shown that economically disadvantaged groups are at higher risk of arrest, detention and ill-treatment in detention. Those without social power find it extremely difficult to contest illegal acts of the state. This leads to a situation where the incidence of criminalization is often skewed in favour of the poor.⁹⁵

Bail and Economic Inequality

The issue of bail is a classic case of class bias in criminal justice systems. While Indian courts have repeatedly held that "bail is the rule and jail is the exception", the actual grant of bail is often dependent on the financial means of a person. For economically privileged accused persons, the grant of bail is generally facilitated by access to competent legal counsel, financial guarantees and prompt legal action. The rich accused usually have the wherewithal to engage senior advocates and move for anticipatory bail before their arrest. The poor, on the other hand, are often kept in custody for their inability to furnish bail bonds or meet procedural requirements.⁹⁶

This issue has been consistently acknowledged by the Supreme Court. In *Moti Ram v. State of Madhya Pradesh*, Justice Krishna Iyer had deprecated the bail practices which discriminated against the poor and stated that justice should not be a commodity dependent on the financial capacity of the individual. In *Hussainara Khatoon v. State of Bihar*, the Court had also highlighted the pathetic plight of thousands of undertrial prisoners languishing in jails for years, despite having committed offences of a minor nature.⁹⁷ This case highlighted how poverty can convert pre-trial detention into a punishment without a determination of guilt. The persistent existence of a large number of undertrials in Indian prisons is a stark reminder of the nexus between poverty and detention. It is easier for the rich to get out on bail temporarily, while those from the poor sections are often detained for long periods, simply because they do not have the wherewithal to pay for bail.

Inequalities in Access to Legal Representation

A fair trial is contingent upon adequate access to legal representation. Legal services are often

⁹⁵ National Crime Records Bureau, *Prison Statistics India 2023* (Ministry of Home Affairs, Government of India, 2024); Maja Daruwala, "Accountability and Custodial Violence in India" 50 *Journal of the Indian Law Institute* 391 (2008).

⁹⁶ K.N. Chandrasekharan Pillai, R.V. Kelkar's *Criminal Procedure* 356–364 (Eastern Book Company, Lucknow, 8th edn., 2023); S. Muralidhar, "Bail Jurisprudence and Access to Justice" 52 *Journal of the Indian Law Institute* 321 (2010).

⁹⁷ *Moti Ram v. State of Madhya Pradesh*, (1978) 4 SCC 47; *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81.

not evenly distributed amongst different socio-economic groups. Wealthy defendants can afford experienced lawyers, expert witnesses, forensic specialists, and can create strong legal strategies. This significantly empowers their capacity to contest evidence, challenge procedural errors and achieve beneficial legal outcomes. The legal aid services extended by the State are generally the mainstay for defendants from the lower socio-economic strata. Article 39A of the Constitution provides for equal access to justice and legal aid, but the delivery of legal aid services is often affected by problems such as overburdened legal aid bodies, shortage of resources and long waiting periods for legal representation, which can have a negative impact on poor defendants.⁹⁸ The Supreme Court in *Khatri v. State of Bihar* and *Suk Das v. Union Territory of Arunachal Pradesh* pointed out the importance of legal aid and stated that access to legal representation is a part of fair procedure guaranteed by Article 21. Yet, the persistent disparities in the quality of legal representation continue to be a major factor contributing to unequal outcomes in the criminal justice system. Sentencing and Differential Outcomes

Sentencing is the final stage where socio-economic inequalities can impact the outcomes of the criminal justice system.⁹⁹ Crimes committed on the streets, such as violence, theft, robbery and public disorder, often result in immediate incarceration and massive public disapproval. On the other hand, white-collar crimes can cause huge economic damage but are generally subject to complex legal procedures, longer trials, and more opportunities for negotiated settlements.¹⁰⁰

Critics say that criminal justice systems are more likely to give harsher punishment for overt acts of violence than for economic crimes committed by powerful individuals. Major corporate frauds, financial scams and corruption scandals can affect thousands of victims and result in losses of several crores of rupees. Yet, within the public discourse, the harshest criticism is directed at conventional offenders, rather than those committing economic crimes. This disparity has led criminologists to wonder whether the institutions of criminal justice adequately recognise the harm that white-collar crime causes to society. If the intent of punishment is to reflect the magnitude of harm, then economic crimes affecting broad segments of society arguably deserve more attention than they have historically received.¹⁰¹

⁹⁸ M.P. Jain, *Indian Constitutional Law* 1421–1427 (LexisNexis, Gurgaon, 9th edn., 2024); N.R. Madhava Menon, *Legal Aid and Justice for the Poor* 54–61 (Eastern Book Company, Lucknow, 2010)

⁹⁹ *Khatri (II) v. State of Bihar*, (1981) 1 SCC 627; *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 SCC 401.

¹⁰⁰ Ashworth Andrew, *Sentencing and Criminal Justice* 92–103 (Cambridge University Press, Cambridge, 6th edn., 2015); B.B. Pande, “Punishment and Social Justice” 47 *Journal of the Indian Law Institute* 233 (2005).

¹⁰¹ David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 273–282 (Wadsworth Publishing, California, 5th edn., 2010); John Braithwaite, *Corporate Crime in the Pharmaceutical Industry* 6–12 (Routledge, London, 1984).

Incarceration and the Criminalization of Poverty

The composition of prison populations is an important indicator of inequality in criminal justice systems. Records maintained by the National Crime Records Bureau consistently reveal that a significant proportion of prison inmates are undertrial prisoners. Many of these are from economically underprivileged backgrounds and remain incarcerated due to their inability to arrange bail, find competent legal representation or speed up legal processes.

Scholars often refer to this phenomenon as the ‘criminalization of poverty’. This is not to say that poor people are more criminal than others, but rather that poverty increases the likelihood of experiencing criminal justice involvement and decreases the likelihood of experiencing legal protections. Not being able to afford bail, lawyers, or the negotiation of complex legal processes often results in longer exposure to the criminal justice system.¹⁰²

Marc Galanter’s scholarship is especially relevant here. In his influential article “Why the Haves Come Out Ahead,” Galanter argues that repeat players with more resources and institutional advantages are more likely to experience favorable legal outcomes than people with fewer resources. His analysis remains highly relevant to contemporary discussions of inequality in the criminal justice system. Prison populations therefore often reveal a troubling reality: although the law is supposed to be applied equally to all citizens, the burdens of the criminal justice system are often felt most acutely by those who lack economic resources.¹⁰³

CONCLUSION

The principle of equality before the law is a basic tenet of the Indian Constitution and the foundation of a just criminal justice system. Yet, the present study shows that there is a considerable gap between the constitutional promise of equal justice and its actual realization. Although the law in theory applies to everyone, access to justice is often mediated by socio-economic factors, legal resources and social status.¹⁰⁴

The rise of white collar crime and elite deviance has mocked the traditional view that criminality is mainly the preserve of the poor. Corporate fraud, corruption and economic crime demonstrates that those in power can inflict considerable social and economic damage.

¹⁰² National Crime Records Bureau, Prison Statistics India 2023 (Ministry of Home Affairs, Government of India, 2024); Amita Joseph, “Undertrial Prisoners and Access to Justice in India” 15 *Indian Journal of Criminology* 87 (1987).

¹⁰³ Marc Galanter, “Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change” 9 *Law and Society Review* 95 (1974).

¹⁰⁴ M.P. Jain, *Indian Constitutional Law* 1412–1428 (LexisNexis, Gurgaon, 9th edn., 2024); Upendra Baxi, *The Crisis of the Indian Legal System* 98–106 (Vikas Publishing House, New Delhi, Reprint 2018).

However, the traditional focus of the criminal justice system has been on street crimes rather than the behaviour of the rich and powerful.¹⁰⁵ The study also points to differences in investigation, bail, legal aid and detention. The rich and the powerful generally enjoy better legal protection whereas the poor spend long years behind bars with restricted access to justice. The huge number of under-trial prisoners in India is a grim reminder of how the criminal justice is still influenced by the socio-economic divide.¹⁰⁶



¹⁰⁵ Edwin H. Sutherland, *White Collar Crime* 3–18 (Dryden Press, New York, 1949); David O. Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society* 273–282 (Wadsworth Publishing, California, 5th edn., 2010).

¹⁰⁶ National Crime Records Bureau, *Prison Statistics India 2023* (Ministry of Home Affairs, Government of India, 2024); Marc Galanter, “Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change” 9 *Law and Society Review* 95 (1974).