

7. Genesis of White Collar Crimes In Pakistan And Its Impact: Current Situation

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ABSTRACT

The objective of this research is to understand the concept of white collar crime with special reference to the socio-historical factors responsible for the growth of such crimes in Pakistan, to unfold society's concern, the impact of white collar crime on the system of governance, and how these crimes have and are stifling overall economic growth of the country. Laws have been formulated to deal with white collar criminals still there are areas which need a deep understanding of the concept and the measures required to cope up with the problem. This study aims to create an awareness in general public with the support of relevant literature. It is suggested that a proactive approach is needed to deal with such criminals to avoid future financial and physical losses by formulating deterrent policies.

I. INTRODUCTION

Inexorable menace of deeply entrenched and systematic white-collar crime is damaging social, economic, political and even religious stratum of Pakistani society due to which overall economic growth of the country is highly effected and developmental objectives are being compromised. Corruption has permeated in all facades of the society. Pakistan's corruption score as per Corruption Perception Index (CPI) of Transparency International was 28 in 2021, 31 in 2020, the perceived level of corruption in public sector. The problem of white-collar crime in Pakistan has its roots in colonial era. After independence this legacy of corrupt practices was carried forward and now it has permeated in private as well as governmental

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sectors/institutions. The reasons of white-collar crime are external as well as internal such as lack of social and institutional training, low income, role of external powers, political instability, horse-trading, lack of accountability, individual greed and gluttony to gain more, lack of moral training, desire to control others and weak sense of responsibility. The macro level repercussion of white-collar crime on society besides financial loss is far more damaging. For example, the psychological impact of such crimes inculcates a general sense of deprivation in the society and double standards of law to deal with poor and rich which leads to social unrest and distrust on the justice system because the general impression is that that white collar offenders are resourceful people who cannot be prosecuted effectively and even if their trial is conducted they will not be sent to jail. For example, in 2017 in Pakistan 26,551 complaints were filed in NAB and inquiry was held in only 456 (2% of total), only 215 were investigated' out of which only 112 were convicted. The overall impact of white-collar crime on societal growth is devastating because the White collar class is the backbone of a social system and the major contributor of its growth. And if this class starts thinking on individual level and exploits its high-ranking position, then corruption goes to the roots and penetrates in every organ of that society. The impression of oppression and inequality it leaves on the downtrodden not only destroys one class but prevents the rule of law to take root. Laws have been formulated to curb the problem and mitigating techniques like institutional training, moral training, and effective implementation of law, public awareness that none is above law and awarding exemplary punishments to the white-collar offenders are required to be implemented through effective policy making.

Primordial purpose of a legal system is to provide justice to its subjects without any discrimination. This justice is delivered against violation of a legal right, i.e., crime. The concept of crime is based upon criminal instinct and behavior. This criminal instinct exists and prevails at every level and in every class of human society. From this perspective there are two categories of crime, i.e., blue collar crimes and white collar crimes. Blue-collar

crimes are the crimes committed by poor class individuals whereas white collar crimes are nonviolent and financially motivated crimes committed by affluent lawbreakers belonging to middle and upper socioeconomic classes who, by taking advantage of their rank, relations, influence and skillful handling of the matters not only extract money from others but also evade legal consequences.²

White-Collar crimes encapsulate varied offences like fraud, insider trading, Ponzi schemes, identity theft, money laundering, counterfeiting, embezzlements, espionage,³ price fixing, racketeering, bank frauds, tax evasion, bribery, cybercrimes, insurance frauds, telemarketing fraud etc.⁴ White collar crimes don't end here. Where circumstances allow the white collar criminals may also indulge in crimes of moral turpitude or consensual crimes like victimization, adultery and the victims are mostly the people they have an authority upon. White collar offenders, be they individuals, group of individuals or corporations, are skillful, financially secure affluent and impactful people who commit such offences with proper planning due to strong desire to become more rich, their natural instinct to adapt deviant behavior,⁵ lack of sense of social consciousness, or, the opportunity to grow, and ineffective and ineffectual culture⁶ at organizational level. The impact of white collar crimes is not only macro level financial loss but is also a social cost which people of all the classes have to pay.

In past high-ranking people, though involved in criminal activities by using their rank, were not supposed to be involved in criminal activities neither they were easily detectable. In 1934 Morris drew attention to the necessity of a change in emphasis regarding crime. He asserted that anti-social activities of persons

² Clinard 1968, p. 483

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><https://corporatefinanceinstitute.com/resources/knowledge/finance/white-collar-crime/>< site visited on 08.03.2022

⁴ <https://zallp.com/practice/white-collar-crime/>

⁵ Gottschalk P (2017) White Collar Crime triangle: Finance, organization and behavior. J Forensic Sci Crimin Invest

⁶ Bucy et al., 2008

of high status committed in course of their profession must be brought with the category of crime and should be made punishable. Finally, Edwin Sutherland gave a new notion to the pathology of crime by stating that crime was not only committed due to poverty but the main cause behind it was criminal instinct and behavior therefore ‘individuals from all the social and economic classes could commit criminal acts’ including the elite class. In this way the white-collar crime is different from the traditional portrait of crime and criminal. To distinguish this class of criminals he coined the term “white collar crime”⁷ and stated that,

“white collar crime is a crime by a person in the upper or white-collar class, composed of respectable or at least respected business and professional men” of high social status in the course of their occupation.”

Sutherland also distinguished “blue collar criminals’ with those of white-collar criminals. He included bribery, tax evasion, fraud, embezzlement, violation of trade and safety regulations in industry, violating food laws, professional misconduct by doctors and etc in the preview of white-collar crime. Later on Hazel Croall categorized white collar crime as (a) Occupational crime, committed by professionals or executives or other office bearers in the course of their professional duties; (b) the Corporate crime, the white collar crime committed by the corporations or business entities, and; (c) Organizational crimes, committed by governmental or private organizations.

Insofar as the genesis of white-collar crime in Pakistan is concerned the dilemma of corruption in the government offices as well as other facets of society was rampant since the colonial era. During the British rule lands were awarded to the favourites of the British rulers according to their social status and services to the British crown. Similarly, a system of presenting title badges

⁷ (1949, p.9) Sutherland, E. (1949) White Collar Crime (New York: Holt, Rinehart & Winston).

of honour⁸ and jobs of high ranks to the Indian subjects was also prevalent. These policies of the Crown divided their Indian subjects in distinctive social classes on one hand which resulted in a race among the Indians to win the favours of their rulers at any cost and on the other hand it created two significantly different economic classes in the society. After independence in 1947 the newly emerged State of Pakistan carried forward this legacy of corruption from the colonial India and here the occupational corruption played a significant role in rehabilitation of migrants and allotment of evacuee properties. At that time people who were holding offices or were in an influential position submitted false and fabricated claims of evacuee properties and land awards and succeeded to have financial gain. Soon after that in 1950s and 1960s a certain class came forward to take hold of the economy of the country by taking industrial, import export and trade licenses thus restricting industrial growth amongst a few families. Likewise, nepotism in patronage schemes like route permits, bonus vouchers and etc. also played havoc. Afterwards denationalization of the nationalization programme in 1974 opened the door of political corruption and redistribution of public resources to the favourite individuals.⁹ In 1970s and 1980s billions of rupees of public money were usurped through private cooperative housing societies scam. In early 80s influx of drug money gave rise to the atrocious notion of making black money. Horse-trading in politics, taking huge loans from banks by the influential people and political interference in the loan recovery system,¹⁰ Pakistan Steel Mill sale scandal to Saudi Arabia and Russia on low price, money laundering cases and many cases on politicians for using their position for personal gain, etc. became the ultimate reasons for spreading the culture of corruption and mal-practices.

⁸ There were certain classes of badge holders: Nawab Bahadur, Khan Bahadur and Khan Sahib for Muslims and Sikhs and Diwan Bahadur, Rai Bahadur and Rai Sahib for Hindus

⁹ Noman, Omar (1990). Pakistan: A Political and Economic History. New York: Routledge, Chapman and Hall. pp. 77-79

¹⁰ Mansoor Qadir, Dans Revue internationale de droit penal, 2003/1-2 (Vol. 74), pages 515-525

On the legal side laws dealing with corruption and corrupt practices are being tailored since the beginning. For example, Prevention of Corruption Act, was introduced in 1947. In 1949 Public and Representative Offices Disqualification Act¹¹ was introduced. In 1956 Anti-Corruption Department was established. In 1958 Criminal Law Amendment Act making scheduled offences the crimes committed by the public servant, was introduced. In 1959 Elective Bodies (Disqualification Order)¹² was promulgated. Then in 1975 Federal Investigating Agency¹³ was established after which Ehtesab Act (Repealed) was enacted. National Accountability Bureau was established in 1999. Being a federal agency, it had wider powers. In the year 2004 Section 409 was deleted from FIA Act and the cases of public functionaries were transferred to NAB. Later, in 2004 Anti-Corruption and Economic Crime cases were also transferred to NAB. In November 1999 National Accountability Ordinance was promulgated. Through the Ordinance the scope of law to deal with suchlike criminals was widened and the “holders of the offices” as well as the persons involved in corporate businesses” were also included. Section 161-165-A of PPC, Section 5 of Prevention of Corruption Act, 1947 and Section 9 of National Accountability Ordinance, 1999 are the main Sections to deal with offences of corruption. In Section 21 of Pakistan Penal Code, 1860 bears that holder of a public office also includes a public servant. Besides these laws Income Tax Act, Customs Act, Anti-Money Laundering Act, Recovery of Loan Ordinance were also enacted to make the justice system more efficient and expedient.

The main causes of spread of the culture of corruption and white-collar crime are absence of fair accountability and transparency, jobbery, strong desire to become more rich, the instinct to adapt deviant behavior,¹⁴ lack of sense of social consciousness, the opportunity to grow, and ineffective and ineffectual culture¹⁵ at

¹¹ PRODA

¹² EBDO

¹³ FIA

¹⁴ ‘Gottschalk P (2017) White Collar Crime triangle: Finance, organization and behavior. J Forensic Sci Crimin Invest

¹⁵ “Bucy et al., 2008

organizational level, low salaries, informal economy with less state control giving room to the criminal minded people, weak institutional system and no system of check and balance to control evil practices. According to a Perception Survey conducted by Transparency International Pakistan in 2004, the main contributors of spread of corruption in the country are,

<i>Lack of Accountability</i>	31.68%
<i>Low Salaries</i>	16.54%
<i>Monopoly of Power</i>	16.43%
<i>Discretionary Powers</i>	12.61%
<i>Lack of Transparency</i>	9.97%
<i>Power of Influential People</i>	4.59%
<i>Red Tapism</i>	4.28%
<i>Others</i>	4.9%

Source: Javaid (2010, 126)

Current situation with regard to white-collar crime is bleak. Present day white-collar criminals are 'more suave and less forthright.'¹⁶ Now corruption in government offices or bribe is a normal social phenomenon. The basic question is that despite the existence of codified law and elaborate administrative structure why the issue of involvement of public functionaries as well as other people in corrupt practices could not be resolved. The reasons are manifold. Even if we transgress from the historical incipience the issue of corruption still remains there. One of the major reasons is reason is lack of accountability. There is a general impression that the white collar offenders are resourceful people who cannot be prosecuted effectively and even if their trial is conducted they will not be sent to jail. For example, in 2017 in Pakistan 26,551 complaints were filed in NAB and inquiry was

¹⁶ Sutherland, E. (1949) *White Collar Jobbery r Crime* (New York: Holt, Rinehart & Winston).

held in only 456 (2% of total), only 215 were investigated' out of which only 112 were convicted. Besides this crypto currency scam, Havala scam, Hascol fraud, sugar crisis and etc. are recent examples of white collar crimes. Another aspect is that generally white collar crimes are committed secretly and with full planning hence the offender believes that he would not be caught.

“A stereotype of the white-collar offender has created an image of the high-status, respectable business or corporate offender whose crimes are underreported, rarely prosecuted, and therefore absent from official criminal statistics.”¹⁷

Today the white-collar criminal is effecting the economy of the country more skillfully by using advanced techniques and avoiding the process of law. According to Farooq et al. (2013),¹⁸ increase in the level of corruption has caused a considerable decrease in new investment not only of foreign investment but even in investment within the country. Moreover, the influential white-collar criminals take advantage of change of political regimes and stop the projects started by the previous government and direct funding in useless and nonessential projects which effects the economic development of the country. Poor management to collect revenue and of collected revenue are also problematic areas. Another aspect is that white-collar crimes and criminals are not easily detected. Policies to make white collar crime and criminals more visible. Due to individual greed foreign aid has not been utilized for the development of economy.

Furthermore, on organizational level it is noteworthy that with the influx of economic development the interest of international companies is increasing in third world countries, especially in emerging economies like Pakistan. In order to grab a lion's share of such markets these international companies bribe the regional

¹⁷ Hazel Croall, H. (1989) 'Who is the white-collar criminal?', British Journal of Criminology, Vol. 29 (2), 157-74

¹⁸ Farooq, A., Shehbaz, M., Arouri, M., & Teulon, F. (2013). Does Corruption Impede Economic Growth in Pakistan? Economic Modeling, Volume.35, 622-633.

company's employees and extract internal and confidential information of local companies from them in order to devise their own policies to defeat these companies. Here in this case the greed of the employees is the main reason for indulgence in suchlike corrupt activities. More so, globalization has given rise to 'large-scale transnational theft of public funds'¹⁹ by high level officials. Another form of white-collar crime is establishing offshore or secret companies with anonymous investments to make money and evade legal consequences and accountability. It is a widespread observation that as a common practice, companies invest more on their system developments for interior controls and fraud disclosure but they pay lesser attention in behavioral monitoring of their employees. So, there is a need to determine possibility of criminal instinct in employees not only at the time of induction but also during life time of their jobs so that if at any point it is felt that the person is now tending towards unusual way then necessary corrective and precautionary actions can be taken.

2. STATEMENT OF THE PROBLEM

The wave of white collar crime is surging deeply in almost all the facets of our society. Chronologically the root cause goes back to the colonial era. Since 1947 the newly emergent State segregated in two distinctive socio-economic groups, i.e., people who had sacrificed their properties for independence and the office holders and influential people who took it as an opportunity to make properties by submitting false evacuee claims. Unfortunately, the problem didn't end here and these people, by securing themselves financially, acquired conspicuous social and political positions in our society and continued effecting the societal fabric from every aspect. Even otherwise loose institutional control over the employees and organization, greed to get more, gaining more without putting effort are also the causes of this social problem. Although laws have also been coined but the problem is going deep inside our society and social consciousness. This study will focus on denuding the root cause

¹⁹ Transparency International

of the problem as well as the suggestions to coup up with the problem efficiently.

3. RESEARCH OBJECTIVES

The objectives of the Research are given below:

- To analyze the genesis of the white collar crime in our society from historical, social, economic perspectives and its impact on current day society.
- To go through the existing laws.
- To advance an argument for the effective implementation of existing laws and devising new laws.

4. RESEARCH QUESTIONS

The research focuses on the questions as follows:

- I. What type of white collar crimes are prevalent in our society?
- II. What are the reasons of spread of these white collar crimes?
- III. What socioeconomic and political challenges we face due to white collar crimes?
- IV. How we can eradicate white collar crimes?

5. LITERATURE REVIEW

Exhaustive literature is not available on the topic. A few books are there on the subject. Some of these books are,

- Edwin Sutherland, the most significant author on the subject has not only given the definition of white collar crime in his book “White Collar Crime” but has also elaborated the crime committed by the skilled, educated class of a society.
- Eugene Soltes in “Why They Do It: Inside the Mind of the White-Collar Criminal” throws light on the criminal instinct of the white collar criminals.

6. RESEARCH METHODOLOGY

Every research is based on a particular methodology and it is the duty of the researcher to find out the appropriate technique which completely suits the topic of his research so that accurate and perfect result of the research findings can be drawn. This research is based upon secondary sources such as research articles, journals, books and internet sites to examine and analyze the historical perspective of white-collar crime in Pakistan and its impact on present day political instability and economic upheaval. Report of Transparency International was used to analyze the impact of white-collar crime on economy of the country. As the white-collar crime is committed by the individuals occupying powerful seats hence the country's history from the aspect of increase in the number of fraudulent schemes and scams, organizational frauds and corruption in the occupational sectors have been evaluated.

7. CONCLUSION

U Myint²⁰ holds that following the corruption equation of Kiltgaard²¹

$$C=R+D-A$$

A stand for accountability, D stands for discretionary powers, R stands for economic rent and C stands for corruption, U Myint says that the higher the economic rent or discretionary powers in a country, the 'greater will be the corruption. He states that considering above corruption equation there will be high probability of the spread of corruption if,

"1- A country has large number of laws, rules, regulations, and administrative orders to restrict business and economic activities and thereby creates huge opportunities for generating economic rent, and especially

²⁰ U Myint, 'Corruption: Causes, Consequences and Cures', Asia Pacific Development Journal, Volume 7, No.2, December 2000

²¹ Kiltgaard, Robert, 1998. International Cooperation against Corruption," IMF/World Bank, Finance and Development, 35(1): 3.

if these restrictive measures are complex and opaque and applied in a selective, secretive, inconsistent and non-transparent way;

2- Administrative are granted large discretionary powers with respect to interpreting rules, are given a lot of freedom to decide on how rules are to be applied, to whom and in what manner they are to be applied, are vested with the powers to amend, alter, and rescind the rules, and even to supplement the rules by invoking new restrictive administrative measures and procedures; and

3- There are no effective mechanisms and institutional arrangements in the country to hold administrators accountable for their actions."

Unfortunately, here in our country all three conditions exist. In isolation from the past we have not been able in last seven decades to implement the laws relating to accountability of the corrupt people of high positions with such a force so as to develop a culture of jobbery free society.

The policy-makers and law wizards need to realize that the effect of white collar crime goes to the root of the society leaving a morbid sense of deprivation and of double standards of law for rich and poor resulting in departing from the rule of law. Therefore, to preserve equality before law a general sense of awareness among people is to be developed. As many scams are introduced on daily basis in which simpletons are easily entrapped. A strict check on such scams is to be made and a Governmental portal to keep the masses aware of these scams should be made. Above all law should be implemented strictly and no one whosoever he is, should be considered above the law of the land. White collar class is the backbone of a social system and the major contributor of its growth and if this class starts thinking on individual level and exploits its high ranking position corruption goes to the roots and penetrates in every organ of that society. The impression of oppression and inequality it leaves on the downtrodden not only destroys one class but it prevents the

rule of law to take roots. To deal with this issue the loopholes in legal side of the system, peer support, lack of accountability²² and loopholes on administration which urges someone and provides him with the opportunity to commit crime are the main reasons of this problem.

For proper implementation of laws punishment of white collar crimes should be made stricter, deterrent and exemplary free from the influence of 'class and sentencing.

²² Aneel Sagar, 'The Concept of White-Collar Crime: Nature, Causes, Political and Legal Aspects in Accountability and Way Forward', journal of Political Studies, (2019), accessed from
<<https://go.gale.com/ps/i.do?id=GALE%7CA594098430&sid=googleScholar&v=2.1&it=r&linkaccess=abs&issn=19941080&p=AONE&sw=w&userGroupName=anon%7E97d4af40>> site visited on 11.03.2022>