

White-Collar Crime – Is it a Factual Criminality?

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Abstract

The present qualitative and historical study is primarily conducted to explore the phenomenon of recognizing white-collar criminality in the legal parlance. The white-collar crime is as old as the phenomenon of corruption in society. Nevertheless, until the recent past it was not recognized as a crime or a social evil. It was commonly asserted that crime could not be perpetrated by the privileged section of the society. The only type of criminality was assumed to be street-criminality, that is, crime from the poverty-stricken people. Sociologists and criminologists have long debated over this form of criminality. Those debates followed recognition of the fact that corruption even by the privileged sector of society gives birth to ‘white-collar crime’ necessitating its criminalization. In the context of Pakistan, corruption exists since its birth, therefore, various laws were enacted from time to time to control its devastating effects over the masses. This research has undertaken to analyze the historical recognition of white-collar crimes, its devastating effects on the economy, the legal structure of Pakistan to control its effects and the proposal for an effective mechanism in this regard. This study reveals that Pakistan battled this form of criminality by enacting numerous statutory laws. However, there is no denying the fact that mere legislations are not sufficient to combat white-collar criminality. The efficacy of administrative institutions is vital to reap the fruits of the given legal framework for controlling white-collar crime.

Key Words: Crime, White-Collar Crime, blue-collar crime, Street criminality, Legal institutions, and Administration.

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1. Introduction

The concept of crime has been given multiple definitions throughout the history of its use. However, most dominant and accepted understanding of said term is that “a crime is an act prohibited by the law¹ or *mala prohibita* (offenses defined by legislature as crime).² In another definition, it is explained as human action constituting a serious offense, either against an individual or the state authority, eventually punishable by law.³ In legal notion, it is defined as “[a]ny harmful act or omission against the public which the State wishes to prevent, and which upon conviction is punishable by fine, imprisonment, and/or death. No conduct constitutes a crime unless it is declared criminal in the laws of the country.”⁴ This principle is stated in Latin as *nullum crimen sine lege*, that is, no crime without law.⁵ Paul Tappan, a criminologist, put forth a legalistic definition of crime. In his words, “[c]rime is an intentional act or omission in violation of criminal law (statutory and case law), committed without defense or justification, and sanctioned by the state as a felony or misdemeanor.”⁶

No society is an exception to the issue of criminal behaviors. Forms of crimes may differ from society to society. Several acts may be characterized as crime by one society and legal in other societies, hence categorization of crime may differ. Nevertheless, no society can deny its

¹Dawn L. Rothe and David Kauzlarich, *Crimes of the Powerful* (New York: Routledge, 2006), 3.

²Richard D.Hartly, *Corporate Crime* (USA: Santa Barbara, California Denver, Colorado Oxford, England 2008), 3.

³Concise English Dictionary, 11th ed., s.v. “crime”.

⁴Business Dictionary, s.v ‘crime’’, available at <http://www.businessdictionary.com/definition/crime.html>, Last Accessed 15-4-2018.

⁵Imran Ahsan Nyazee, *General Principle of Criminal Law (Islamic and Western)* (Islamabad: Shariah Academy IIUI, 2007), 76.

⁶Dragan Milovanovic, “Legalistic Definition of Crime and an Alternative View,” *Annals International Edition Journal of Legal and Social Sciences* 54, no. 1 (2006): 78.

existence. The criminological studies deal not only with street and/or blue crimes, rather they also include financial/economic crimes known as white-collar crimes. Although this type of criminality is as old as the phenomenon of corruption in the society, yet until recent past it was not recognized as criminal conduct or a social evil.⁷ Qadri notes the observations from Barnes and Tetters

There has always been crime among businessmen. There have always been instances of violation of trust ... But the American people seemed to believe that anyone who betrayed a trust or who mulched the widow's mite in a shady but legal deal, would eventually suffer if not here, surely hereinafter. Existing practices however were generally accepted as being within the canons of good business. Business therefore was justified in pulling shrewd deals. The victim either didn't report what was done for fear of being ridiculed, or received little sympathy because he had fleeced in a social, approved and even legal deal...⁸

Thus, the white-collar criminality engaged the attention of the students of criminology quite recently, and in the due course, it came to the notice of the public as well.⁹ During the 18th century, economic activities were immensely diversified, and significant change was observed in the economic world.¹⁰ These revolutions gave rise to an entirely different sort of economy, that is, the industrial economy. The traditional domestic

⁷Edwin H. Sutherland, *White-Collar Crime* (New York: The Dryden Press, 1949),1-12.

⁸Prof. S.M. Afzal Qadri, *Criminology Problems and Perspectives*, 5th ed. (Lucknow: EBC Publishing, 2005),405.

⁹Sutherland, *White-Collar Crime*, 1-12.

¹⁰Mahesh Chandra, *Socio Economic Offences* (Bombay: Publishers Tripathi, 1979), 24.

structure, where the craftsmen and artisans worked in their home, was replaced with a culture of factories. The large-scale factory systems turned into modern and captivating set-ups. These factories were mostly established in big cities and towns. Therefore, the abundant opportunities of transportation and massive production of factories available in the cities gave rise to relocation of masses from the rural and underdeveloped areas to the cities.

This industrial growth witnessed the drop of home-made handcraft leading to an increase in urbanization. Thus, the reformation through industrial revolution paved the way to an entirely new type of society, which preferred logic over faith. It promoted competition in place of collaboration and believed in science more than the religion.¹¹ People became septic, putting their faith in material world only, eventually getting passionate to earn money only. Thus, with the passage of time, urbanization, industrialization, and newly structured society proved to be the breeding platform for numerous nefarious activities, wrongdoings, and irregular behaviors in the entire commercial, industrial and trade sectors. Eventually newer forms of criminal activities came into notoriety, termed as white-collar crimes. They included but are not limited to supplying adulterated food, cybercrimes, evading taxes, counterfeiting, corruption etcetera, that is, affecting the entire socio-economic fabric of the society and the State.¹² The following discussion is an account of emergence and recognition of this new form of criminality in human history of crimes.

2. Early Voices against Wealthy Criminals (1866 to 1951)

Edward A. Ross was the first social scientist who started debate over the

¹¹ Ibid.

¹² See, http://shodhganga.inflibnet.ac.in/bitstream/10603/57410/8/08_chapter%201.pdf, Last accessed 21-2-2018.

notion of white-collar crime in 1866. He named such offenders as “Criminaloid.”¹³ In his book entitled “Sin and Society” he mentioned numerous types of crimes committed by people who were not regarded as criminals in those days. Such as the railroad magnate who picks the pockets with rebate, and manufacturers who murders with adulterants instead of weapons. Likewise, those who cheat on a company prospectus rather than a deck of cards. Irony was that despite these wrongs, they were privileged not to be treated as malefactor.¹⁴

In 1872, Edwin C. Hill presented a paper before an international congress on the 'Prevention and Repression of Crime', noting that growth of organized business crimes required cooperation of real estate investors, owners, manufacturers and other honest people.¹⁵ In 1935, jurist Albert Morris defined criminals of the upper class as, “... several but unidentified groups of criminals whose intelligence, social position, and criminal technique let them move among their fellow citizens effectively immune to prosecution and recognition as criminals.”¹⁶ Likewise, several jurists attempted to define that new concept in different perspectives. In due course this concept gained full attention and recognition among the criminologists and sociologists.

3. Evolution of Term “White-Collar Crime” (1939 to 1962)

The official or recorded history of corporate or white-collar crime, dates to 1939.¹⁷ A sociologist and criminologist, Edwin E. Sutherland, is considered a leading historical figure in maturing the concept of white-collar crime

¹³Erich Goode, *Deviant Behavior* (USA: Routledge ,2016),136.

¹⁴Edward Alsworth Ross, *Sin and Society: An Analysis of Latter-Day Iniquity* (Houghton Mifflin, 1907),7.

¹⁵Qadri, *Criminology Problems and Perspectives*, 405.

¹⁶Albert Morris, *Criminology* (New York: Longmans, Green and Co, 1935), 152-158.

¹⁷ Hartly, *Corporate Crime*, 2.

within the notion of criminality. While addressing the American Sociological Society in December 1939, Sutherland first used the term white-collar criminal. In his speech, Sutherland attempted to uncover the crimes committed by the rich and affluent people. Significantly, he proclaimed the notion to put on trial powerful elite criminals, who until then managed to escape the legal trap easily, due to their social status, strong political affiliations, and strong economic connections.¹⁸ People of that time assumed that crimes are specifically committed by persons of low socio status. This traditional assumption was strongly negated by Sutherland in his speech. He asserted the theory to recognize the happening of criminal practices by people of high socio-economic background, thus, presenting the term 'white-collar crime' for such criminal activities.

Up to that time, on the basis of research and data analysis it was believed that poverty was the prime cause for crime. Therefore, criminologists were entirely focused on street criminology; and never considered white-collar criminals. Dilemma was that the data which criminologists relied upon to formulate their theories contained biased information. Therefore, Sutherland took initiative to reveal the fact that criminal activities undertaken by elite class are highly ignored & resultantly their criminal acts are not reported in official criminal record, which is regarded as primary source by criminologists to gather data for crime rate assessment. Sutherland stated two reasons for biases in the official criminal record. Firstly, persons having high socio-economic class are more powerful financially and politically, thus more likely to escape conviction and arrest, than persons who do not possess such powers and connections. Secondly, even if white-collar offenders are caught, the justice system gives an entirely privileged treatment, unlike street-criminals. He put forward

¹⁸Wright Mills, *The Power Elite* (New York: Oxford University Press, 1956), 1-2.

various factors to augment his argument,

[T]hey are not arrested by uniformed policemen, are not tried in criminal courts, and are not committed to prisons; this illegal behavior receives the attention of administrative commissions and of courts operating under civil or equity jurisdiction. For this reason, such violations of law are not included in the criminal statistics nor are individual cases brought to the attention of scholars who write the theories of criminal behavior.¹⁹

Concerns of Sutherland regarding the notion of white-collar criminals could be summarized as, 1) White-collar criminality is a factual criminality, because undoubtedly it violates the criminal law. 2) The criminal law treats such criminals distinctly than other criminals, hence making them administratively different class of criminals. 3) The theories purported by the criminologists, asserting crime as a consequence of various conditions like poverty, sociopathic and psychopathic conditions, are flimsy on multiple grounds. Firstly, because these theories are based on considerably biased data with respect to the socio-economic status of criminals. Secondly, they just exclude white-collar criminals. Thirdly, they do not provide general characterization of all criminality, not even they explain the criminality of underprivileged and deprived class. 4) Ultimately there is a need to arrive a theory, which must determine the criminal behavior generically, covering both types of criminalities, that is, white-collar and lower-class alike. 5) Sutherland, recommended that hypothesis regarding white-collar criminality must be made, in terms of ‘differential association

¹⁹Arjan Reurink, “White-Collar Crime: The Concept and its Potential for the Analysis of Financial Crime,” *European Journal of Sociology* 57, no. 3, (2016): 387-388, doi:10.1017/S0003975616000163.

and social disorganization'.²⁰

Initially, the argument presented by Sutherland did not get much recognition in the thought, theories, and research of the criminologists.²¹ However, later, in the 1940s Sutherland initiated a major study regarding elite crimes. His thorough study on this issue came up in the form of publication of a book entitled, *White-collar Crime* 1949, as his last major contribution in the history of white-collar criminality, before his death in 1950. In order to collect accurate data and statistics pertaining to crimes by high socio-economic class, he analyzed legal decisions of civil, administrative, and criminal tribunals, against 70 largest US mining, manufacturing and mercantile corporations.²² Finally, his continuous efforts and crucial contributions brought criminologists on point to recognize the concept of white-collar criminality, which for a long time had hardly been mentioned and rarely been discussed in academic writings even. Furthermore, it was acknowledged that his book 'White-Collar Crime' is a significant contribution to the discipline of criminology. Other researchers also gained inspiration from his writing. Accordingly, one scholar described the period between 1940 to 1960 as the "Classical Period" pertaining to

²⁰The 'differential association theory' deals with the socialization process while investigating why people tend to commit crime. Thus, it studies the socialization patterns of individuals, like their interaction with law-abiders or violators, in order to investigate their tendency towards criminal behaviors. The white-collar criminals, generally belong to well-off families having respectable neighborhoods, usually having good educational background and without much effort on their part they somehow get into business set ups, where such criminality has usually become a kind of lifestyle. Contrariwise the criminals from lower-class come from poverty-stricken families and neighborhoods, while being away from law-abiders they join the groups of juvenile offenders around them and learn the techniques for law-breaking. This is known as the process of differential association. The 'social disorganization theory' gives way to criminal behaviors because the community is not firmly organized such behaviors. The law usually seems in conflict with the aspirations of business competitive environment. Hence, the businessman though willing to abide by the law, yet compelled to adopt their methods of his competitors. See Edwin H Sutherland, "White-Collar Criminality", *American Sociological Review* 5, no.1 (1940): 11-12, <https://www.jstor.org/stable/2083937>.

²¹Reurink, "White-Collar Crime," 388.

²²Sutherland, *White-Collar Crime*, 17-27.

study and research of white-collar crime.²³ Significantly, Sutherland initiated debate on controversial issues while confronting the existing theories of criminology.

4. Controversy of Sociologists and Criminologists on White-Collar Criminality

Sutherland's earth breaking work in the field of white-collar criminology was followed by several studies on this issue. The inclusion of white-collar offenses in the category of crime gave rise to objections by sociologists. The sociologist asserted that the so-called criminals of such offences do not consider themselves as criminals, thus their acts do not amount to crimes. In this wake, during the early fifties a debate commenced between Burgess and Hartung. Thus, the latter asserted that white-collar crime and black marketing should be considered sociologically as a crime, just like any other kind of crime. The former, contested that the denotation of criminals ought to be confined to individuals who regard themselves as criminals, and likewise deemed by the society. This argument was refuted by Mannheim too. Furthermore, it is obviously uncertain that white-collar offenders would ever regard themselves as violators of law. Even the most vehement critic of Sutherland's concept, Dr. Gilbert Geis, turned down the argument that legal offences of corporate executives are not crimes just because of the reason that they do not perceive their activities as crime.²⁴ Another criminologist and sociologist, Donald R. Cressey in 1950 contributed to developing the notion of white-collar criminality by exploring the psychology of criminals as to why some of the people violate financial trusts

²³Diane E. Vaughan, *Recent Development in White-Collar Crime Theory and Research*, In *"The Mad, the Bad, and the Different"*, ed. I.L. Barak- Glantz and R. huff, (Lexington MA: Lexington Books, 1981), 135.

²⁴Qadri, *Criminology Problems and Perspectives*, 410.

while others do not.

Vilhelm Aubert, a sociologist in 1952, proffered the theory of relationship between white-collar crime and the social structure of society. He highlighted the need to take into consideration the interdependence of the origin and function of social norms and the origin of deviations and considered it significant to look at the attitude and opinion of white-collar criminals.²⁵ Marshall B. Clinard, a contributor to understanding of white-collar and corporate criminality, in 1946 investigated black market illegality during war time. For the very first time in his research Clinard unveiled the notion of 'Occupational Crime' and defined the white-collar crime as "a violation of the law committed primarily by groups such as businessmen, professional men, and politicians in connection with their occupations."²⁶ Further, Robert E. Lane in 1953 conducted his research upon white-collar crime at a macro level. He investigated violations of labor regulations and trade practices of the shoe industry in the New England shoe industry.²⁷ It is evident from above mentioned contributions of criminologists and sociologists, that the notation of white-collar criminality reached its climax in that period and received significant attention from jurists.

5. Legal Recognition of White-Collar Crimes (1970 to 1988)

Rosoff, *et al* deliberate that the 1970s brought an end, the period during which large scale businesses were considered as the solution to widespread shared prosperity, rather than a problem. Social disruption and several crucial corporate scandals, like in the USA the Watergate and Lockheed

²⁵Kam C Wong, "From White-Collar Crime to Organizational Crime: An Intellectual History," *Electronic Journal of Law* 12, no. 1 (2005).

²⁶*Ibid.*

²⁷Robert E. Lane, "Why Businessmen Violate the Law," *Journal of Criminal Law, Criminology and Police Science* 44, no. 2, (1953): 159.

sham brought new spirit.²⁸ In 1971, then-president Richard M. Nixon wanted more data about the opponent democratic party's strategy in the forthcoming 1972 election, from the party's offices in the Watergate apartment and office complex.²⁹ Since then, once again those holding power, their legitimacy was called into question and Sutherland's concern regarding violation of laws by the powerful and rich, gained momentum.

In the 1970s, the law enforcement bodies also started taking interest in dealing with white-collar crimes, hence crime units were formed in the federal and local prosecutorial agencies. During this decade, it was seen that the federal government had allocated unprecedented large-scale fund for research upon white-collar criminality.³⁰ Yablonsky mentioned that the problem of decline in business ethics and white-collar crime as a growing phenomenon was detailed in an article titled "Fraud Fraud Fraud". This article described several different white-collar crimes which appeared in the headlines during a week.³¹ Eventually, for the first time in the 1990s both well-organized data and grant of money for white-collar crime research became more readily available by the government. Due to these facilities, empirical work on white-collar crime shifted from primary qualitative case studies to systematic study of sources of different forms of white-collar crime.³² Thus in 1990 white-collar crimes got government certification and gained formal status.

6. Definition of White-Collar Crime

Social scientists and criminologists offer a variety of ways to define white-

²⁸Reurink, "White-Collar Crime," 388.

²⁹Lewis Yablonsky, *Criminology Crime and Criminality* (New York: Harper and Row, 1990), 328.

³⁰Reurink, "White-Collar Crime," 388-389.

³¹Yablonsky, *Criminology Crime and Criminality*, 331.

³²Reurink, "White-Collar Crime," 389.

collar crime. Various terms are used in this context, such as, occupational crimes, organizational crime, elite deviance, *criminaloide*, corporate crime, political crime.³³ An acceptable definition of white-collar crime to all groups is not yet developed. However, the most accepted definition is given by Sutherland in his book white-collar crime as, “a crime committed by a person of respectability and high social status in the course of his occupation.”³⁴ In 1996, National White-Collar Crime Center (NWCC) organized a workshop which was joined by numerous white-collar crime specialists. Only purpose behind the conducting workshop was to formulate an active definition of white-collar crime. Thus, the conceptual debate on this genus of crime reached its climax, and the conference, agreed upon a its formal definition as,

Illegal or unethical acts that violate fiduciary responsibility or public trust, committed by an individual or organization, usually during the course of legitimate occupational activity, by persons of high or respectable social status for personal or organizational gain.³⁵

It is also defined as,

Offenses that are socially injurious and blameworthy acts committed by individuals or groups of individuals who occupy decision-making positions in corporations and businesses, and which are committed for their own personal gain against the business, and corporations that employ

³³Hartly, *Corporate Crime*, 4.

³⁴Sutherland, *White-Collar Crime*, 9.

³⁵Reurink, “White-Collar Crime,” 407.

them.³⁶

The above-stated definitions reveal that white-collar crimes are special forms of crime unlike ordinary crimes, that is, theft, rape, pick-pocketing, snatching, looting and murder. They are committed by the class of people holding certain status, power, or influential position in society unlike habitual street criminals. Being of distinct nature white-collar crime does not involve any type of physical violence; however it is not a victimless crime.³⁷ Such crime include bribery, insider trading, fraud, terrorist financing, labor racketeering, ponzi schemes, cybercrime, price fixing, price gauging, unfair labor practices, unsafe working conditions, environmental crime, embezzlement, copyright infringement, money laundering, occupational health and safety crimes, identity theft and forgery.³⁸ Offenders who are accused of these crimes are known as white-collar criminals.

In contrast to the concept white-collar crimes there is a term “Blue-collar Crimes”. This term was coined in the 1920s referring to American workers who perform menial labor jobs. These jobs were quite grubby and messy, so workers were instructed to wear dark colored clothes to lessen the visibility of stains and dirt. In pursuance of given direction many of them wore blue color shirts, hence the term blue-collar.³⁹ Thus, criminal acts committed by persons, who are socially and economically powerless and do not hold any influential position in society, are categorized as blue-collar

³⁶Nancy K Frank, and Michael J Lynch, *Corporate Crime, Corporate Violence: A Primer* (Harrow and Heston, 1992),17.

³⁷Fredericks, Rima E McComas, and Georgie Ann Weatherby, “Recidivism, Deterrence, and Social Impact,” 1.

³⁸Rothe and David Kauzlarich, *Crimes of the Powerful*, 10; See also: Hartly, *Corporate Crime*, 21.

³⁹Yolanda Williams, *Blue-Collar Crime: Definition, Statistics & Examples*, Available at; <https://study.com/academy/lesson/blue-collar-crime-definition-statistics-examples.html>. Last accessed 21-2-2018.

crime. And those criminals are referred to as blue-collar criminals or street criminals. Blue-collar crimes are elaborated as, violations of law undertaken by the individuals having lower social status in the society. Such conduct directly inflicts harm to the person or property of others. Most of the time these types of crime would instantaneously happen without any prior indication from the perpetrators. Moreover, their adverse effects are commonly observable by the masses in society.⁴⁰

Thus, there is a clear line of distinction between these criminalities. But it is a fact that white-collar criminality took a long time to be legally recognized as crime. As studied earlier, initially heated debates, various juristic opinions and heavy criticism was followed by the recognition of the notion of white-collar crime. After covering such a long distance of complications, ultimately the notion of white-collar crime fully took roots and was recognized all across the world. Likewise, Pakistan was no exception to the white-collar crimes. Realization about prosecution and punishing white-collar criminals was also inaugurated in Pakistan.

7. White-Collar Crime in Pakistan

At the time of independence of Pakistan in 1947 and afterwards during fifties and sixties, seven million people migrated from adjacent India to Pakistan for rehabilitation, and in exchange, previous inhabitants of Pakistani territory left for India. After exchange of territories, allotments of properties were started to the migrants in Pakistan, and that allotment process opened a Pandora box. Nefarious grabbing of properties, massive corruption and serious malpractices of white-collar crime by influential

⁴⁰Zion Zachary, 'Crimes of the Powerful (White-Collar) vs. Crimes of the Powerless (Blue-Collar) - Is There a Distinction between How These Crimes Are Perceived by the Public and Penalized by Judicial Systems in the USA?' (Middlesex University, 2016), 7. file:///C:/Users/HP/Downloads/Dissertation.pdf. Last accessed 21-2-2018.

people and bureaucrats on all level was seen. Since mid-seventies, culture of accumulation of rotten wealth, bank balance, and culture of “*begum*” (high gentry wife), “*bigghas*” (land), “*bengels*” and best brought up of next self-generation (daughters and sons), inundated nation under injustice, inequality, and corruption. Since mid-eighties, political subculture of pajeros, public fund, plots, protocol, paved a way to the white-collar criminality. Black Money earned by this affluent class by ill-ways, later whitened by global laundering, gave birth to another white-collar crime i.e., money laundering.⁴¹

7.1 Legal System and Administration of Pakistan Since 1947

It is noteworthy that, primary object of the legal system of any country is to provide equitable justice to all subjects of the state without any prejudice. But discrimination is certain to happen, thus in every system it is true to exist. Everywhere we find loopholes in the system, which need to be inquired into.⁴² As discussed, corruption exists in our country since its birth, therefore, various laws were enacted to bridge those gaps. Such as, Public and Representative Offices Disqualification Act, 1949 (PRODA), Pakistan Criminal Law Amendment Act, 1958, Elective Bodies (Disqualification Order, 1959 (EBDO), *Ehtesab* Act, 1996 (Repealed).

Mere legislation is not the solution, unless a given law has feasibility. Administration is the entity that determines the law-and-order situation of any country. Administration law creates administrative agencies and empowers them to carry out public policies that are settled within

⁴¹Dr, Abdul Majeed A. Aulakh, *Crime and Criminology: A Comparative Study In The Context Of Islamic Republic Of Pakistan*, 2nd ed. (Lahore: Federal Law House, 2005), 211.

⁴²Zafar and Associates, *White-Collar Crime in Pakistan*, available at: http://law.zafcointl.com/area_wcc.html, Last Accessed 21-2-2018.

government and passed by parliament.⁴³ Thus, in order to penetrate the deep root of the issue of corruption, one needs to examine the working of administration of the country. Let's study the brief history of the administrative structure of Pakistan since 1947.

After independence, the civil system of Pakistan was borrowed from the public administration system of British India. Pakistan retained the same pattern, just changed the nomenclature, from Indian Civil Service to 'Civil Service of Pakistan' (CSP), later morphed into "District Management Group" (DMG). Under the adopted structure the executive branch was at its apex. That system was structured mainly to maintain law and order situation, and tax collection⁴⁴ District officers were considered the cornerstone of the administration. Tax collection, administering police, was under their control, they held the status of chief magistrates of their districts.

Initially in Pakistan, administration was highly centralized. The democratic government of Bhutto made attempts to empower civilian bureaucracy. Eventually, reforms of 1973 were brought that promoted a sense of egalitarianism within the bureaucracy which fairly reduced the powers of the CSP. In fact, the reforms just re-organized the pattern, though they could not bring any significant change in structure. However, by 1978, a military coup removed Bhutto from his office, and in order to gain a constituency for himself, General Zia conducted party-less, local elections. This act made corruption more rampant. Low salaries for government officials, inflation, deteriorating economy and almost non-existence of accountability provided a breeding forum to corruption. In 1988, that military stint came to an end. Subsequently, four successive elected civilian

⁴³E.S.S.Wade and G.Godfrey Phillips, *Constitutional and Administrative Law*, Ed. A.Bradley, 9th ed. (New York: Longman inc,1977), 547.

⁴⁴Sumaira Samad, "Combating Corruption: The Case of the National Accountability Bureau," *Journal of Administration and Governance* 3, no. 1(2008):91.

governments made way in the political history of Pakistan, but each government dissolved pre-maturely by military intervention.

History reveals that elected governments constantly had to face the chaotic socio-economic condition of the country, international pressure on issues like debt conditions, drug trade, and nuclear technology, and flexing of muscles by armed forces. However, these governments also had their own earth breaking record of corruption, mismanagement, and multiplication of white-collar criminality in terms of financial frauds. No effective accountability mechanism was found in their governance pattern. In view of these circumstances General Pervaiz Musharraf took over the government, by declaring a situation of inefficient, corrupt and threats to the national interest.

In 1999, Musharraf announced his seven-point agenda, which included restoration of law and order, revival of economy, dispensation of speedy and swift justice and across-the-board accountability. His supporters contested that Musharraf was a neutral army person, thus there was no political victimization in prosecuting corruption. Moreover, the purpose was to recover national wealth robbed by the corrupt people. It was further proclaimed by the Musharraf that he would cleanse and reconstruct the politics and also declared to take some major steps such as decentralization of administrative powers and politics, and separation of executive and judiciary. This was a stringent step in the context of Pakistani politics. Another radical step taken by Musharraf was the establishment of National Accountability Bureau (NAB), regulated by National Accountability Ordinance, 1999. Said ordinance repealed the Ehtesab Act 1997, and all unresolved pending cases were moved to the NAB, from the date of

enforcement of the Ordinance.⁴⁵

7.2 Anti-Corruption Agencies to Curb White-Collar Crimes

In Pakistan, National Accountability Bureau is considered as an apex anti-corruption institution operated under the National Accountability Ordinance (NAO) 1999. NAO is considered as the most exhaustive piece of legislation in the history of Pakistan for curtailing corruption. Unprecedented powers are assigned to NAB under the said ordinance. First time ever in the history of Pakistan, white-collar crime is classified under NAO. Whereas all the back dated statutes were silent on this term.⁴⁶ Applicability of this Act is not only to public servants, but its application is extended to “holders of public office” and “persons” involved in corporate business.

NAB was aimed to prosecute public service officials, politicians, and other citizens who were either involved in gross abuse of power. In the initial three years, the leading function of this apex anti-corruption institution was only to detect, investigate, and prosecute the white-collar crime. Later, in addition to enforcement functions, NAB was also empowered to ensure prevention of white-collar criminality and to make people aware of it.⁴⁷ For instance awareness campaign “Say No to Corruption”, and other slogans, such as “ذنجیر کی کرپشن ڈالیں توڑو”, “فرض کا”, “پاکستان خوشحال پاک سے عنوانی بد”, and “آپ احتسابی خود”⁴⁸ etcetera. Today, In Pakistan six anti-corruption agencies are working, two at the federal level

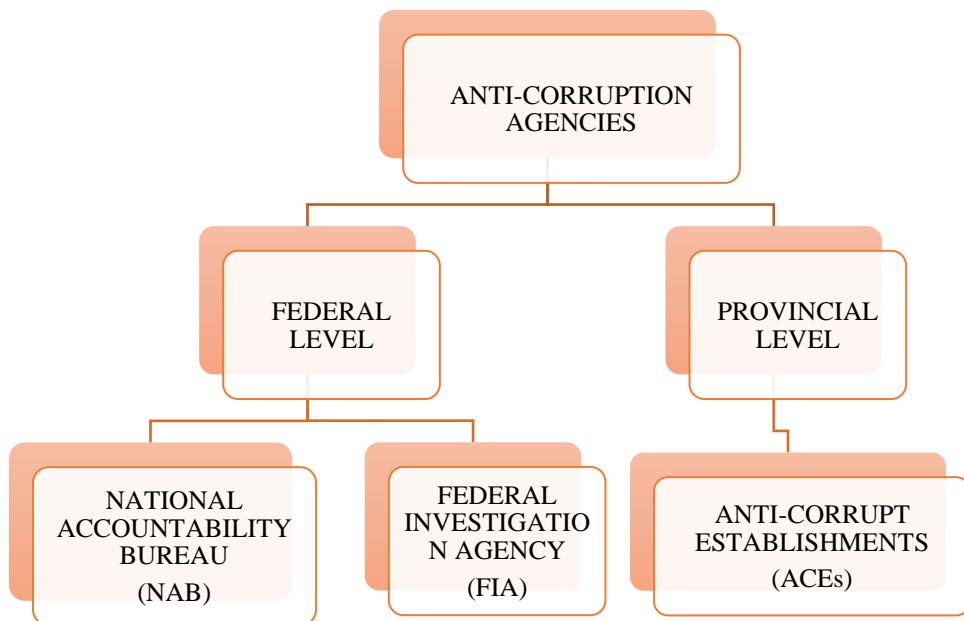
⁴⁵Sumaira Samad, “Combating Corruption: The Case of the National Accountability Bureau,” *Journal of Administration and Governance* 3, no. 1(2008): 92.

⁴⁶Zafar and Associates, White-Collar Crime in Pakistan, Available at; http://law.zafcointl.com/area_wcc.html, Last accessed 21-2-2018.

⁴⁷National Accountability Bureau, “About us,” Available at. <http://www.nab.gov.pk/home/introduction.asp#Accountability> Last accessed 21-2-2018.

⁴⁸ibid.

and four at the provincial level. National Accountability Bureau (NAB) and Federal Investigation Agency (FIA) are at federal level, and Anti-Corruption Establishments (ACEs) running at provincial level.



Anti-Corruption Agencies in Pakistan

7.3 Lessons for Pakistan

Despite the presence of above-stated detailed legal framework, the administrative/executive authorities are found to be unprincipled and crooked institutions. They give hand to a particular privileged class of society. Therefore, in view of the present devastating situation, there is a need to transform the strategy in line with the international best practices. Pakistan may learn lessons from Denmark, and certain reforms should be incorporated in the Pakistani legal system. Denmark is not convinced by

bulky laws, instead they consider fair and transparent working of 'administration' more productive for said purpose.

Denmark is said to be the least corrupt country. It is constantly ranked as one of the most prosperous countries in the world, enjoying a high level of income equality, with highest per capita income. It has also become the highest tax paying country. "Getting to Denmark" has become a metaphor for the case of transforming corrupt, weak, mal-functioned state into strengthened and prosperous country.⁴⁹ It was noted in a report by the University of Copenhagen that Denmark is the world leader in two dimensions, that is, accountability mechanism of government, and their criminal justice system.⁵⁰ Astonishingly, Denmark has very few numbers of laws to curb white-collar crimes. Some laws are there to minimize the abuse of power in administration sector of state. In 1676, first explicit legislation was made to ban acceptance of gifts and bribery by the royal servants. In 1690 king issued a law regarding embezzlement and fraud and criminalized it as theft. The sentence was lifetime hard labor, until money was repaid to king's treasury.⁵¹

From 1819-1830, Supreme Court judges and top officials were assigned the task to visit different regions of the country to audit administration, especially the account books of public officials. Thus, it made top officers to introduce new accountancy system. Their history reveals that combating corruption and establishment of rule of law has

⁴⁹ Dr. Mette Frisk Jensen, "The Question of How Denmark Got to Be Denmark – A Historical Pathway of Fighting Corruption," last modified January 12, 2015, <http://anticorrrp.eu/news/the-question-of-how-denmark-got-to-be-denmark-a-historical-pathway-of-fighting-corruption/>. Last Accessed 2-8-2018.

⁵⁰ Sabir Shah, 'Denmark's 356-Year Long Journey towards Curbing Corruption', *The News*, 21 February 2016, International edition, <https://www.thenews.com.pk/print/99768-Denmarks-356-year-long-journey-towards-curbing-corruption>.

⁵¹ Ibid.

remained primary concern of Denmark for 350 years since 1660. They devoted centuries, to eradicate corruption from administration sector and put base of law and order in state. Finally, in the 19th century, their committed, honest, and sincere efforts, substantially minimized corruption rate from the administration of state.⁵² Now, Public institutions working in Denmark are efficient, transparent, and free of corruption. Justice system of this country is uniform and effective in sentencing offenders irrespective of their status. Prevalence of rule of law gives rise to harmony, certainty, and peace in society.

Pakistan needs to make effort to bring change by employing the strategy to reform the administration bodies. New appointments in the administrative domain must be based on academic excellence, and on merit rather based on political relations or connections. Administration can work efficiently only, if it is given in hands of skilled, and expert people who are specialized and have sufficient knowledge in the relevant field of administration. Moreover, administration of any country plays a key role in encountering corrupt practices, therefore, mere selection of fair candidates is not enough. There is a need to formulate a strong and empowered task force to keep check and balance upon the working of administration, like Denmark's model.

8. Conclusion

The detailed discourse on, white-collar criminality, reveals that the concept of white-collar criminality has existed since the existence of ordinary crime, but the proper term "White-Collar" took stages to be fully matured. Controversy of sociologists and criminologists however existed initially, but consequently resulted in agreement on the notion of white-collar

⁵² Ibid.

criminality. It is further seen that the notion of white-collar criminality is a fully established principle in Pakistan legal system also and exists in our country since its inception. Pakistan was always active in combating these crimes by establishing various institutions and bureaus, thus, it is observed that in Pakistan there is no scarcity of legislations or institutions to fix that unique form of criminality, the working of these institutions is however suspicious or distrustful, hence need to be reformed holistically. The legal system of Denmark is proposed for Pakistan to curb the white-collar criminality from society.
