

## White-Collar Crime :

Scholars have long recognized that some unscrupulous/immoral business people use their position of trust to fleece/cheat the public. In 1907, pioneering sociologist Edward Alsworth Ross recognized the phenomenon when he invented a phrase "the criminaloid" to describe the kind of person who hides behind his or her image as a pillar of the community and paragon of virtue to get personal gain through any means necessary.

## Definition :

In the late 1930s, the distinguished criminologist Edwin Sutherland first used the phrase "white-collar crime" to describe the criminal activities of the rich and powerful. He defined white-collar crime as:

"A crime committed by a person of respectability and high social status in the course of his occupation."

Clinard and Yeager defined white collar crime as:

"An offence committed by ~~a person~~ individuals in the course of their occupations and the offenses of employees against their employers."

## Emergence of White-Collar Crime :

The white collar crime law earliest case documented dates back to the 15th century in England. There has been a case popularly known as the Carrier's case of 1473, where the agent was entrusted to transport wool and he attempt to steal

some of it for him. Therefore, the Star Chamber and Exchequer Chamber of the England Court of law adopted the breaking bulk doctrine as it constituted the crime of larceny. However, the growth of industrial ~~capita~~ capitalism in the 18<sup>th</sup> century ushered a new history of crime and criminality.

## : TYPES OF WCC :

### 1. Bank Fraud :

To engage in an act or pattern of activity where the purpose is to defraud a bank of funds.

### 2. Blackmail :

A demand for money or other consideration under threat to do bodily harm, to injure property, to accuse of a crime, or to expose secrets.

### 3. Credit Card Fraud :

The unauthorized use of a credit card to obtain goods of value.

In 2021, there were 389,845 reports of credit card fraud in the US with the Federal Trade Commission reporting it to be the most common types of identity fraud affecting people aged 20-39. According to Banking Mohtasib Pakistan, It received 37,364 complaints of financial scams in 2021, which marked a 46% increase from the year 2020. In 2022, Bank Mohtasib Pakistan has registered a total of 19,670 complaints so far.

### 4. Bribery :

Bribery is a white collar crime in which money, a favor or something else of value is promised to, given to, or taken from an individual or corporation in an attempt to sway his or its views, opinions or decisions.

For example, if an electoral candidate offered

bottles of liquor or money in exchange for votes, it would be considered a bribe, and therefore, a crime.

### 5) Embezzlement :

This fraud offense may occur when a person intentionally uses funds or money or property for a different purpose than what was intended. The embezzler had permission to have these funds or assets but used them in an unauthorized manner.

For example, embezzlers may conspire with a partner who is listed as a consultant or contractor who issues invoices. However, they never perform these duties.

### 6) Extortion :

Extortion is a type of white collar crime which involves blackmailing another person to gain a material advantage. It is the practice of obtaining money, property, or services by force or intimidation to a victim, his property, or loved ones.

### 7) Cellular Phone Fraud :

The unauthorized use, tampering, or manipulation of a cellular phone or service. This can be accomplished by either use of a stolen phone, or where an actor signs up for service under false identification or where the actor clones a valid electronic serial number (ESN) by using an ESN reader and reprograms another cellular phone with a valid ESN number.

## 8) Computer Fraud:

Where hackers steal information sources contained on computers such as: bank information, credit cards and proprietary information. or other examples are:

- Sending hoax emails intended to scare people.
- Illegally using someone else's computer or "posing" as someone else on the internet.
- Using spyware to gather information about people.

## 9) Money Laundering:

The investment or transfer of money from racketeering, drug transactions or other embezzlement schemes so that it appears that its original source either cannot be traced or is legitimate.

## 10) Weights and Measures:

The act of placing an item for sale at one price yet charging a higher price at the time of sale or short weighing an item when the label reflects a higher weight.

## 11) Tax Evasion:

Tax evasion is an illegal in which a person or entity deliberately avoids paying a true tax liability. Those who caught evading taxes are generally subject to criminal charges and substantial penalties.

## 12) Racketeering :

Racketeering is the act of acquiring a business through illegal activity, operating income, or using a business to commit illegal acts.

Federal crimes of racketeering include bribery, gambling, offenses, money laundering, obstructing justice, or a criminal investigation, and murder for hire, etc.

## 13) Kickback :

A kickback is an illegal payment intended as compensation for preferential treatment or any other type of improper services received. Kickbacks can take many different forms, they all feature some sort of collusion between two parties.

It is as a type of bribery. Paying or receiving kickbacks is a corrupt practice that interferes with an employee's or a public official's ability to make unbiased decisions.

## 14) Insurance Fraud :

To engage in an act or pattern of activity where in one obtains proceeds from an insurance company through deception.

The majority of insurance fraud cases involve exaggerated or false claims.

## 15) Larceny/Theft :

Theft is a very broad term that covers any type of stealing. Theft can involve intellectual property, physical property, identity, and even theft of services.

Larceny is a specific type of theft. It can differ from state to state, the core concept is the

same.

Larceny is the theft of property that can be physically possessed and taken with the intent to permanently deprive the owner of the property. Shoplifting is a form of larceny where a person steals merchandise from a store.

## 16) Securities Fraud :

Securities fraud, also referred to as stock or investment fraud, is a type of serious crime involves deceptive practices in the financial markets, where individuals or entities misrepresent information to investors. This can include false statements, insider trading, market manipulation, or other schemes.

{Investopedia, What is Securities Fraud, 2022}

## 17) Welfare Fraud :

Welfare fraud is a type of white collar crime. These crimes, which are usually non-violent in nature, typically involve some type of financial theft via paperwork. Although money is taken unlawfully, it's not taken at gunpoint.

{Coxvilllow.com, Welfare Fraud}

## 18) Counterfeiting :

It occurs when someone copies or imitates an item without having been authorized to do so and passes the copy off for the genuine or original item. Counterfeiting is most often associated with money, however, can also be associated with other things like designer clothing, handbags, and watches.

## 19) Telemarketing Fraud :

~~Actors~~ Actors operate out of boiler rooms and place telephone calls to residences and corporations where the actor requests a donation to an alleged charitable organization or where the actor requests money up front or credit card number up front and does not use the donation for the stated purpose.

## 20) Healthcare Fraud :

Where an unlicensed healthcare provider renders services under the guise of being licensed and obtains monetary benefit for the service.

## 21) Insider Trading :-

Insider trading refers to the act of trading securities, such as stocks, stock options, and bonds, based on information that is not available to the public or when a person uses inside, confidential, or advance information to trade in shares of publicly held corporations.  
{ Justia.com, Insider Trading Law }

## Forgery :

Forgery is a kind of crime involves faking an individual's signature for the purpose of gaining access to their secured information, such as personal records or bank accounts.

One common example is forging an individual's signature on a blank check.  
{ legalmatch.com, What is Forgery?, 2003 }

## White Collar Crimes in Pakistan :

Inevitable menace of deeply entrenched and systematic white-collar crime is damaging social, economic, political, and even religious stratum of Pakistani 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 corruption corrupt practices was carried forward and now it has permeated in private as well as governmental sectors / institutions.

The reasons of white-collar crimes are external as well as internal: lack of social and institutional training, low income, role of external powers, political instability, lack of accountability, etc. In 2017, in Pakistan 26,551 complaints were filed in NAB and inquiry was held in only 456 { 2% of the total }, only 215 were investigated out of which only 112 were convicted. 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 black man making black money.

[Mansoor Qadir, Dans Revue internationale de droit penal, 2003/1-2 (11-14) p: 115-125]

Present day white-collar criminals are more suave. Now corruption in government offices



White-collar crime is a normal social phenomenon. The white-collar offenders are resourceful people who cannot be prosecuted effectively and, if their trial is conducted they will not be sent to jail. Crypto currency scam, Havala scam, Mascof fraud, sugar crisis, etc. are recent examples of white collar crimes.

## Laws in Pakistan:

On the legal side, laws dealing with corruption and corrupt practices are being tailored to since the beginning. Prevention of Corruption Act 1947, Public and Representative Offices Disqualification Act 1949, Anti-Corruption Department 1956, and Criminal Law Amendment Act 1958 making scheduled offences the crimes committed by the public servant were introduced. In 1959, Elective Bodies (Disqualification Code) was promulgated. Then in 1975, Federal Investigating Agency was established after which Aftab Act (Repealed) was enacted. National Accountability Bureau was established in 1999. [Sources: PRODA, EBDO, FIA]

## Articles:

In the year 2004, Section 409 was deleted from FIA Act and the cases of public functionaries were transferred to NAB. In 2004, The Anti-Corruption and Economic Crime cases were also transferred to NAB. 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 22 of Pakistan Penal Code, 1860 bears that holders of 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.

[Sources: EBDO, PRODA, FIA]

## Recommendations to Control WCC:

- 1- Internal Auditors must be trained and motivated to perform their duties without fear or favour. The training they receive should make them capable, effective and efficient auditors.
- 2- Internal auditors must also be well paid so that they will not take bribes and cover up economic crimes by their disavowing audit operations.
- 3- The judiciary must be made truly independent.
- 4- A severe penalty should be meted out to those found guilty of white collar crime so as to deter others.
- 5- Ensuring political and economic stability in the society.
- 6- Creating legal framework necessary for effective fight against economic crimes.
- 7- Improving the system of government agencies dealing with economic crimes.
- 8- The country needs a moral crusade for instilling values like diligence, hard work, integrity and honesty, self-discipline, responsibility, and commitment to excellence.

9. The media has an important role to play in our national moral recovery efforts.
10. There is also the need for us to collaborate with the international community to effectively combat cross-border crimes that include economic crimes.

## Conclusion :

In conclusion, white collar crime is as detrimental to the economic well-being of a nation as is street crime and therefore requires ~~stringent~~ stringent to uproot it. Stamping out white collar crime must be the concern of all.