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A Critical Study on Laws Related to White-Collar Crimes in Pakistan

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ABSTRACT

For answers to questions and in research of why or who is involved in white-collar crime, only critical analysis through generalization is possible. The widely held belief that companies in financial trouble are much more likely to be offended and affronted than those in good standing has been disproved. The most revealing part of the summary and article is subjective studies of how white-collar crimes are perpetrated and how regulatory agencies seek to limit offences. This executive summary portrays persistent stress for white racism blame to be forwarded disapproval in the class label, comprehensive use of international legal prevention strategies, as well as the replacement of regulation placed above a white organization for unofficial nonviolent direct methods of social control over contentious regulatory oversight in this esoteric. The research that concludes approaches "grabbing" by governing objectives is carefully investigated. Public attitudes toward violent criminals have become increasingly vindictive, according to studies. The research finds that theoretical development all along organizational theory exemplar is most acceptable, but that dividing violent racism into "corporate fraud" and "vocational violence" is practical to ease such development.

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1 Introduction

The numerous scholars focusing on the white collar or organized criminals have indeed been limited, and the effect of white racism studies on conventional sociologists has already been minimal. White racism study is an instance of sociology research, which has a major impact on public policy and public opinion. Sir Edward Schaeffer, a famous economist, accurately predicted this consequence in 1949. Prof. Edwin Sutherland invented the phrase "White-Collar Crimes" in 1939. He described the idea of White Racism while speaking to the American Sociological Society. "A criminal (financial crime) done by a person with legitimacy and high status in the course of the employment," he defined the White-Collar Violent act. Wikipedia Commons (Wikipedia, 2016).

Commercial fraud, consumer deceit, defrauds, market manipulation just on the share market, theft, and other kinds of unethical business strategies are all considered white crimes. The term derives from the outmoded notion that corporate executives must wear all-white dress shirts. It also differentiates such offences and criminals from bodily assaults, which are believed to be more likely to be committed by collar jobs workers.

Another definition of White-collar crime is as follows:

“A person of the upper socio-economic class who violates the criminal law in the course of his occupation or professional activities” (Sutherland Crime and Business by Sadiq Ahmad). Another definition of White-Collar Crime is “crime committed by persons who, often by virtue of their occupations, exploit social, economic, or

technological power for personal or corporate gain.” (Britannica, n.d.) Herbert Edelhertz also gave another definition of white-collar crime. He defined white-collar crime as “an illegal act or series of illegal acts committed by non-physical means and by concealment or astuteness, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage.” (Edelhertz H. , 1970).

1.1 Purpose of the Study

The goal of the study is to discover and investigate white-collar criminal instinct. This study is supported by numerous studies about white-collar corruption. According to data from various sources, including the Annual Report of NAB, and the Business Anticorruption Portal, and Gallup Pakistan, most varieties of sources, including the Annual Report of NAB, the Business Anticorruption Portal, and Gallup Pakistan, the majority of white-collar crimes are committed by family members who abuse their positions of authority. When they are hired by an organization or while they continue in their positions, those powerful individuals must assess their criminal propensity to have their criminal propensity assessed. This is possible if we examine criminal instinct from many angles. This will enable us to determine whether a person is already criminal or not and as well as whether their criminal propensity is growing over time or declining in a certain target

1.2 Research Questions

The research question provided in this study only scratches the surface of the vast pool of prospective white-collar crime investigations that may be done. The study agenda is thus lacking, both in terms of the topics suggested and in terms of the lack of description, prioritization, and operationalization. Although the reader's effort in filling in these omissions is significant, it pales in comparison to the tasks connected with conducting the study. As previously stated, many of the suggested topics will necessitate significant time and resource commitments. Despite this, the challenges are not insurmountable. In recent years, a burst of study has surpassed the accumulation of a third of a century's worth of white-collar crime literature in terms of theoretical scope, methodologically rigorous, and policy impact. And it's only the beginning.

Based on this concept our research question is:

1. What are the Laws related to White-Collar Crimes in Pakistan?
2. What are the difficulties faced by the country in the enforcement of these laws?
3. Lack of implementation and legislation related to White-Collar Crimes in Pakistan?
4. How and why malpractice behaviour develops in white-collar crimes?.

1.3 Research Methodology

The research thesis employs descriptive, qualitative, and analytical research approaches. The researcher investigated the freedoms afforded to various professions in Pakistan, either by the constitution or through case laws. The researcher also used a comparative study approach to identify the government's failures in providing a level playing field for diverse actors and businesses, as well as to look deeper into the subject of structural obstacles to launching a business.

2 Nature and Causes of White-Collar Crimes

The main motives for violent criminals are indeed the wish for regulation in culture, fear and anxiety of having lost social standing, loss of social awareness and integrity, weak and incompetent internal controls of departments and offices, selfishness and appetite for riches, financial and monetary continues to gain, and ineffectual company culture inside the economy (Bucy P. H., 2012). Violent racism has significant financial and social consequences. We observed that the financial costs of white-collar crime are in the billions of dollars annually, putting the economy and political structures of developing countries like Pakistan at risk. In addition to the economic cost, they inflict on the business, such activities lead to a dramatic loss in life quality, a weaker polity, and hyperinflation. Violent racism seems to have a much bigger financial proportion of costs than other types of crime put combined (Camere, 1996). Apart from company culture, most experts believe the lack of responsibility, the chance to commit the crime, peers, avarice, loopholes, lack of reporting, and being relevant are among the factors that induce interracial criminals.

Some preventative strategies involve reviewing laws on a routine basis and designing efficient and effective audit and embezzlement efforts. One of the fair-skinned preventing crime methods is to reduce the chance of criminality through altering organizational structures. The judicial system in Pakistani should consider the financial, social, and social repercussions of violent criminals carefully, which is sadly not the situation. Or before jumps and postponed hearings are almost usually utilized by whoever is in positions of power to avoid any law. There is no risk to the image of the white-collar offender, let alone harsh consequences. Violent officers have altered the current societal fabric in a way that they have influenced the ethics and values that people strive to uphold throughout society. Nevertheless, white-collar crimes are subject to state criminal laws as well as criminal justice. They are not, though, treated as major crimes in the same manner that the other types of cybercrimes are. Investigators and sociology are concerned with actions among lesser criminals in the early years of a field. They poured on the court and jails in massive numbers. Burglar, rape, theft, or homicide were the most frequent offences they performed. Many investigators and academicians believed that the offenders' pathologic traits, as well as deprivation and adversity, were to fault. In 1939, a well-known American criminologist, Edwin Sutherland, questioned this hypothesis. "Those from the top economic background engage in a lot of criminal activity; this criminal conduct differs from those of people from lower economic background mainly in the administrative procedures that are used to deal with that as well."

White-collar crime is semi, hidden, and it has an instant impact (Edelhertz, White-Collar and Professional Crime. American Behavioral, 1970). These are much more complicated acts that require more planning. Therefore, these offenders differ from ordinary criminals in several ways. Businesses, not individuals, are the victims of racial crimes, and violent officers are more likely to be hired, have a higher education, and have almost no prior criminal justice history (Wheeler, 1988).

2.1 Kinds of White-Collar Crimes

Article 9 of the Federal Investigation Ordinance, 1999 defines multiple kinds of white-collar crimes as continues to follow (National Accountability Ordinance, 1999):

1. Pleasure and satisfaction received by a public official
2. The acquiescence of any priceless artefact without payout
3. If a public office holder misuses any property pledged to him deceitfully or dishonestly
4. Wrongfully acquiring any property/ precious asset.
5. Acquiring monetary benefits and monetary assets disproportionately large to his recognized income sources as just a public office holder.
6. Accused of violating the Federal Investigation Ordinance of 1999 if he had used his situation to make an unlawful profit.
7. The issuing of a State Regulatory Order (SRO) to grant a financial discount or benefit, and so on.
8. Making a willful mistake
9. Illegal betrayal of trust by a bank, trader, factor, dealer, lawyer, or agency against the public at large.
10. A bank, trader, component, dealer, lawyer, or agency committed a felony betrayal of trust by the public at large (National Accountability Ordinance, 1999).
11. White-collar crime affects every aspect of our lives, such as the administration, finance system, system of government, etc.
12. Most talented and very well people's illegal behaviour has an effect on society as a whole (Croall, 2001).

Hunger, economic distress, the opportunity to commit a crime, plus contextual stress are typically the triggers for violent criminals. One of the key causes for violent criminals is the inherent desire to get more than others (White-

collar crimes in Bangladesh, 2015). Personality disorders, based on one school of thinking in forensics, can shape violent pasts in individuals. To commit white-collar crimes, psychological problems such as narcissistic and pro-psychological issues are needed (McNamara K., 2008). Inside the previous, the Ehtasab Commissioners and Ehtasab Directorate were established in 1996 and 1997, respectively, for the then regimes. These institutions were chastised for their limited responsibility and lack of transparency. These groups eventually disbanded after political enemies charged them with partisan persecution. Eventually, in 1999, a then regime created the National Measure And monitor (NAB) to combat the massive increase in fraud in each public service agency that had happened during previous political governments. In the fields of arrest, inquiry, and punishment, the Federal Investigation Bureau (NAB) is given considerable authority. By introducing a tri strategy, the National Anti-Corruption Bureau (NAB) brought a new era in anti-corruption processes: As opposed to the previous approach of focusing solely on policing methods, the novel strategy combines education, preventive, and compliance (National Accountability Bureau Ordinance, 1999)

Transparency International's corruption perceptions score and integrity gauge offer a general assessment of bribery in public bodies, political groups, as well as other government entities, and the media or private industry. The vast majority of those surveyed believe their government failed to root out corruption. Non-profitable projects were allegedly chosen and designed with aim of accepting bribes and political support. Major parties give civic society a platform to engage in government.

The Election Commission of Pakistan has now recognized a significant lot of political organizations (ECP, 2014). The founder chairpersons or their progeny or dynasty descendants act as heads of the main political parties. Financing for political groups or reports for internal remains unclear. Major parties' core organizations have few formal links with local groups, and judgement is centralized (Wasim, 2012). Per a recent United Nations survey, political groups are paradoxically considered dishonest institutions in the country.

3 Investigating Agencies of White-Collar Crimes in Pakistan

White-collar crime prosecuted in Pakistan by the departments and officials:

3.1 Federal Investigation Agency (FIA)

The Integrity Organization used to be in control of the regional subjects in each region. The National Accountability Bureau (NAB), a government entity having broad powers and laws with far-reaching effects, was in control of the overall nation. However, in 2004, section 409 of the FIA Act was abolished, and all matters sitting in special courts moved to a National Arbitration Board. "Until 2004, the main responsibility was to look into corruption cases and white-collar crime. The NAB was given anti-corruption and economic crime powers by the government in 2004.

3.2 National Accountability Bureau (NAB)

Pakistan's top pro body is the Federal Investigation Bureau. It is responsible for combating corruption through an inter approach of teaching, deterrence, and prosecution. The National Accountability Ordinance of 1999 regulates its operations. It has seven regional offices: Sindh, Punjab, Peshawar, Quetta, Rawalpindi, Multan, and Sukkur, with its headquarters in Islamabad. It investigates all offences covered by the National Accountability Ordinance (NAO). For the first three years, its activities entirely focused on the identification, prosecution, and punishment of white-collar crime. Politicians, public officials, and others are being investigated for major abuses of power, including for defrauding the national public purse of huge amounts of money as well as other forms of corruption. In February 2002, the NAB launched the National Anticorruption Strategy (NACS) project. The NACS team surveyed a large number of people, reviewed anti-corruption agency models from other countries, and consulted local stakeholders. The National Integrity System's pillars are all thoroughly investigated. After examining the causes of corruption in each pillar, a national plan and detailed plan of action were devised. NACS has suggested a holistic approach to enforcement that departs from typical police methods.

3.3 Federal Board of Revenue (FBR)

The Central Board of Revenue (CBR) was founded by the Central Board of Revenue Act of 1924, which passed on April 1, 1924. In 1944, the Ministry of Finance created a full-fledged Revenue Division. This setup was in use after independence until August 31, 1960, when the Administrative Reorganization Committee suggested that the FBR

made an associated department of the Ministry of Finance. In 1974, additional changes to the organization and its functions were made. As a result, the Chairman FBR job was created with ex-officio status. His positions as ex-officio Chairman of the FBR, as well as Additional Secretary and Secretary of Finance, were taken away from him.

3.4 Anti-Corruption Establishment Punjab (ACE)

The Anti-Corruption Bureau was established. The Punjab Government's Services and General Administration Department has an allied department called Punjab (S&GAD). Its main goal is to keep corruption out of provincial government departments and services. It is responsible for eradicating corruption through a multidimensional flow of information and awareness among the public on the one hand, while reacting to corrupt acts on the other side, within government restrictions, to combat white-collar crime. It adopts the role of a vigilant watchdog, ensuring public officials' clear responsibility and strict adherence to the law. Among the department's major accomplishments are large public wealth recoveries, the arrest of numerous public trust violators, and the prevention of corruption that could occur at any time. (Anti-Corruption

3.5 Security and Exchange Commission of Pakistan (SECP)

Under the Securities and Exchange Commission of Pakistan Act, 1997, the Securities and Exchange Commission of Pakistan (SECP) was founded on January 1, 1999. It has the power to investigate and enforce laws. The present mandate of the SECP is as follows:

- Regulation of the corporate sector and capital marketing
- Supervision and control of insurance companies
- Non-banking financial institutions and private pension funds are regulated and controlled.
- External service providers to the corporate and financial sectors are all subject to regulation, including chartered accountants, credit rating agencies, corporate secretaries, brokers, and surveyors.

4 Pakistan's White-Collar Crimes: Laws and Practice

The majority of white-collar crime is investigated and prosecuted by several investigative agencies. The broad public believes that defendants convicted of white-collar crimes will receive mild treatment. One of the oddities of white-collar crime is that suspects are often informed of their investigation days, weeks, or even months before they are arrested. While this may make suspects frightened of the future, it also provides them with an opportunity that those detained without cause do not have. By engaging a criminal defence attorney at the earliest sign of problems, individuals may be able to dramatically reduce their exposure to criminal liability and possibly avoid charges entirely. A defence attorney will not obstruct the investigation efforts of law enforcement.

Many situations are successfully handled by dialogue before formal judicial processes commence. In a normal criminal trial, numerous witnesses and police officers testify, tangible exhibits are introduced into evidence, and the trial is completed in one or two days. White-collar crime cases, on the other hand, can take weeks to resolve in court. With thousands of documents, emails, and other pieces of evidence that the judge must accept, the sheer volume of exhibits might be overwhelming. Fortunately, for defendants, the size and intricacy of these cases can sometimes be a strategic benefit. In a case, the government/prosecution carries the burden of proof. As a result, government prosecutors saturate the jury with financial data in an attempt to support their case.

4.1 Prosecution and Punishment

With high-profile attorneys hired by the defendant to defend white-collar criminals, the court's jurisdiction, constitutional protections, a fair trial, the claim of presumption of innocence, and proof of guilt beyond a reasonable doubt are all challenged by white-collar criminals under Pakistan's centuries-old criminal law, making proof of identity, investigation, prosecution, and punishment nearly impossible.

The burden of proof rests with the individual accused under Sections 9 and 10 of the NAB Ordinance, whilst Section 14 appears to have eliminated the presumption of innocence. A person may also be barred for 10 years under Section 14 from running for office, being elected, selected, appointed, or nominated to serve on a public body, a statutory body, a local authority, or working for Pakistan or a province.

If a person's assets and financial resources are too high compared to his or her known sources of income, whether in that person's name or in the name of any of his or her dependents or benamdars, Section 10 gives the accused a harsh sentence of up to 14 years in prison and a fine.

According to Section 9 of the NAB Ordinance, the organization appears to have the authority to look into crimes committed against public officials or anybody else. The NAB Chairperson has the authority to send the case to court for punishment and prosecution if they are convinced that there is a prima facie case to be brought forth.

According to the circumstances and facts of the case, Section 16 gives the NAB Chairperson the authority to submit a reference before any court that is located anywhere in Pakistan. Similarly, under Section 16-A, the Chair may request that the case be transferred from any such court to the Supreme Court of Pakistan or the High Court of a province, even as the case may be, in the best interests of justice and to ensure the protection and safety of witnesses, or in the interest of justice, the Chair may request that the case be tried under the NAB Ordinance.

According to Section 21, the NAB Chair or any other federal authority may ask a foreign state to carry out specific actions in accordance with that state's legal requirements. These actions include requesting the production of evidence that has been taken, papers, or other items, obtaining and using warrants issued or other legal means, or approving a search for items thought to be in Pakistan that are important to the inquiry or procedures there.

A person cannot be appointed as the NAB Chair, according to Section 6(ba) of the NAB Ordinance, unless they are a retired Chief Justice, a judge of the Supreme Court, a judge of a High Court, or a retired officer of the Pakistani Armed Forces with the position of a Lt. General or a retired federal government officer in BPS 22 or equivalent.

Despite the aforementioned provisions for the selection of the NAB Chair, the relevant authorities have typically opted to choose a federal government official, as provided in Section 6(a), over a former Chief Justice, judge of the Supreme Court, or Chief Justice of a High Court (iii). A judgment by the Chair against a government position holder or person with significant stakes in a governmental or private sector company becomes a subject of concern by the sitting government due to the federal government's appointment authority, which typically leads to non-prosecution or postponed the trial of the person in question under the NAB Ordinance. A government position holder or an officer with heavy investment in a governmental or private sector firm has hardly ever been prosecuted or punished since the Ordinance's adoption.

Given the foregoing, it is crucial for legislators and courts to view fundamental, substantive, and procedural criminal law principles, such as the presumption of innocence, as exceptions in cases of white-collar crimes, as stated by Professor Edwin Sutherland in his seminal 1949 book *White-Collar Crime*, dismissing the current assessment of men's *rea* (criminal intent) and the presumption of innocence.

Even more, crimes have been added to the category of "white-collar crime," making it impossible to assess and, according to some sociologists, even too restrictive to use Sutherland's very broad definition. White-collar crime is now a subset of organized crime as a result. One instance is the US Justice Department's efforts to require businesses to surrender their immunity from self-incrimination as a requirement of entering a guilty plea in other nations. This emerging trend is compatible with Sutherland's theory that white-collar offenders are not subject to similar constitutional safeguards as other defendants and is drawn sociologically from that theory. Recently, and quite shockingly, the US Justice Department asked the sentencing commission to forbid sentence guidelines deviations for "white-collar criminal offenders, who often have competent counsel." This request promoted an effectively class-based view of the law.

The term "white-collar crime" has its roots in a socialist, anti-business perspective that defines the term according to the group of people it denigrates. Sutherland started a political movement inside the legal system by coining the word.

5 Conclusion

Numerous factors could lead to the formation of a criminal impulse. Since the literature analysis and study did not

just consider instinct to be something inborn, they also recognized that it could be acquired from the environment, this research was focused on examining those elements that lead to the formation of criminal instinct. This study discovered that a key factor in the development of criminal inclination is the social environment. In the samples, prior deprivation brought on by their low social position and their immediate surroundings cause them to feel driven to pursue all of the things that would make them respectable and status-oriented in society. They even didn't feel bad about any criminal actions they had committed for this reason. Furthermore, they noticed that most people in their organization were involved in the same kind of activities, giving them the impression that accepting bribes and making money by whatever means necessary was the norm.

It has been proposed that controlling the environment is necessary if we want to exercise preventive control over the emergence of criminal impulses. Although this environment cannot be regulated from the outside, it may be controlled from within by altering workplace ethics and internal controls to prevent employees from abusing others.

Many usual white-collar crime kinds of research in this subject of management and punishment are indeed reinforced by the results of this study. The current research reveals that characteristics of parity of control have a critical role in the promotion of violent criminals. The lack of effective use of sanctions, according to the study, also a role in the conduct of white-collar crime in Pakistan. The study's goal was to investigate the equality of power and factors that influence sentencing techniques in those who are primarily responsible for violent criminals. The results reveal that white-collar crime was mainly done because of an abuse of equality of control. According to research findings, equality of control is an important component in white-collar crime. In households, tribes, and nations, control is exercised in a very well way. Informal groups, such as the family, must play a role in educating their kids on appropriate daily habits. Schools and other formal institutions must also play a crucial role in the success of reducing customer theft by skills are a key opportunity to adopt a healthy lifestyle. Current societal stable and sustainable individuals are less likely to be attracted to violent criminals. According to research, in the lack of balanced control, a man is more inclined to commit white-collar offences. In Pakistan, every member of society has a duty to play a role in discouraging individuals from participating in fraudulent activity. The results indicate that if a balanced management system is put in place, white-collar crime will decline. The study's control variables reveal that there is a hugely important relationship between them.

Given the current situation in Pakistan, the legislative branch and judiciary must act quickly to enforce the rigorous application of existing laws. A legal framework that shields society from the grave repercussions of white-collar crimes perpetrated by directors, top executives of firms, and those in public service has to develop. Strict punishments and legislation are required to overcome white-collar or corporate crime in Pakistan.

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