

WHITE-COLLAR CRIME: A CASUAL EXPLANATION

Advocate Dr. Subash Acharya

Abstract

White-collar crime is a non-violent crime, committed by brain not brawn. Thus, the persons engaging in such crimes are either educated or skillful person or persons-in-authority. Hence, the issue raised here is what causes these persons to commit such crimes. This article explores some major criminological theories which attempt to provide a causal explanation of committing white-collar crimes. Furthermore, the article explores the status of white-collar crimes in the Nepalese legislation. It also considers the effectiveness and efficiency of the institutional frameworks established to curb such activities. It also lights on causal links of white-collar crime with Nepalese social tendency and finally recommends measures that could possibly ensure prevention and control of these crimes.

Key Words: White-collar crime, Blue-collar crime, Commercial bribery, Antitrust crimes, Financial crimes, Blockage of economic goals, Blockage of status goals, Control theory, Learning theory, Conflict theory, Organizational theory, Strain theory.

1 ORIGIN OF THE CONCEPT

The word ‘white-collar crime’ was coined by Edwin Sutherland¹ in his speech delivered to the American Sociological Association² dated 27th December 1939. He redrew the boundary of criminology by destabilizing the existing prejudices that aristocrats can do no wrong. He defined it as ‘a crime committed by a person of respectability and high social status in the course of his occupation.’³

This definition includes three interrelated premises of the white-collar crime concept.

- First, under his white-collar crime concept Sutherland subsumed a whole range of behaviors that breach regulatory and administrative law.
- Second, Sutherland’s definition indicated that the respectability and high social status of its perpetrators should be regarded as a defining characteristic of white-collar crime.
- Third, as the definition suggests, white-collar crimes are typically committed in the course of otherwise perfectly legal occupational activities.

Criminologists hitherto neglect of elite forms of law-breaking was primarily due to the fact that the crimes committed by the upper class were not represented in the official criminal records that

¹ Edwin Sutherland (1883-1950) was an American criminologist, best known for his development of the differential association theory of crime.

² The American Sociological Association (ASA) is a non-profit organization dedicated to advancing the discipline and profession of sociology. Founded in December 1905 as the American Sociological Society at Johns Hopkins University.

³ Sutherland, E. H. (1949). *White collar crime*. The Dryden Press, New York, p. 9.

formed the primary source from which criminologists drew their data. According to Sutherland, this distortion in the official criminal records was primarily explained by two facts:

- First, that “persons of the upper socioeconomic class are more powerful politically and financially and escape arrest and conviction to a greater extent than persons who lack such power.”⁴
- Second, when arrested, white-collar offenders are treated in a fundamentally different way by the justice system: “They 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.”⁵

2 DEFINING WHITE-COLLAR CRIME

The definition most commonly used is that provided by Herbert Edelhertz in his pamphlet, *The Nature, Impact, and Prosecution of White Collar Crime*. He defined white-collar crime as “An illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property or to obtain business or personal advantage.”⁶

Whereas, American Bar Association has defined it as ‘economic crime’ which ‘constitutes any non-violent criminal activity which principally involves traditional notions of deceit, deception, concealment, manipulation, breach of trust, subterfuge or illegal circumvention.’⁷

Sociologist Ronald L. Akers argues that white-collar crime is ‘real’ crime because these are acts which are defined as socially injurious and for which punishment is provided. They differ from the other crimes chiefly in the way many of them are handled that is by enforcement boards, commissions, department, or other government agencies rather than by regular criminal courts.⁸ He defined it as:

“Violation of legal norms governing lawful occupational endeavors during the course of practicing the occupation. The reference to norms governing the occupation is meant to exclude violations of the usual criminal law, such as arson, murder, and assault, while on the job, unless the law applied to the occupational behavior- for example, theft or

⁴ Sutherland, E. H. (1940). White-collar criminality. *American Sociological Review*, 5(1), 1–12, <https://doi.org/10.2307/2083937>; see also Sutherland, E. H. (1983). *White collar crime: The uncut version*. Yale University Press, New Haven. p.6.

⁵ Sutherland, E. H. (1940). White-collar criminality. *American Sociological Review*, 5(1), pp.6-7. <https://doi.org/10.2307/2083937>.

⁶ Edelhertz, H. (1970). *The nature, impact, and prosecution of white collar crime*. National Institute of Law Enforcement and Criminal Justice, Law Enforcement Administration, U.S. Department of Justice, Washington, D.C. p.3.

⁷ American Bar Association, Section of Criminal Justice, Committee on Economic Offenses. (1977). *Economic offenses*. p.16.

⁸ Akers, Ronald L. (1973). *Deviant behavior: A social learning approach*. Wadsworth Publishing Co., Belmont. p.178.

embezzlement of funds. The reference to lawful occupations is meant to exclude the activities of those whose entire job is illegal, such as prostitutes, con men, professional forgers, thieves, and organized criminals.”⁹

On the other hand, sociologists like John Green differentiated between white collar crimes as committed by an individual (for example, embezzlement) and those committed in the corporation's name; and, he divides corporate crime into four subcategories:

- Commercial bribery (for example, money or material that can be exchanged with money)
- Antitrust crimes (for example, price-fixing or predatory monopolization),
- Product safety and health crimes (for example, pollution, manufacturing a dangerous product), &
- Financial crimes (for example, securities fraud).¹⁰

Having such variability in the definition of white-collar crime, NW3C¹¹ organized a workshop in 1996 with the sole purpose to formulate a working definition of white-collar crime. Those attending the conference agreed upon a definition of white-collar crime as being ‘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.’¹²

Reading these scholars, the common elements of white-collar crime can be summarized as below:

- a) Crime committed in the course of or in the context of one's lawful occupation;
- b) A violation of trust;
- c) A lack of physical force to accomplish the crime;
- d) Money, property, or power and prestige as the primary goals of the crime;
- e) Definite intent to commit the illegal act; &
- f) An attempt to conceal the crime (usually by passing it off as a normal, legal business transaction or by using one's power and resources to prevent its detection or prosecution).¹³

Ronald F. Becker sums up the definition as “Nonviolent crimes committed for personal or financial gain accomplished through deception or the use of computers may be classified as white-collar crime. The name denotes crimes committed by persons using their brains rather than their brawn. Blue-collar workers generally are involved in some type of manual labor, whereas white-collar workers are professional or management personnel who do not get their hands dirty.”¹⁴

⁹ Akers, Ronald L. (1973). *Deviant behavior: A social learning approach*. Wadsworth Publishing Co., Belmont. p.179.

¹⁰ Bureau of National Affairs. (1977). White collar justice: A BNA special report on white collar crime. p.2.

¹¹ National White Collar Crime Center (NW3C) (1992) was originated as the ‘Leviticus Project’ in 1978 to provide support for the prevention, investigation and prosecution of economic and high-tech crime through a combination of research, training and investigative support services in American and 15 other countries throughout the world.

¹² Helmkamp, J., Ball, R. & Townsend, K. (Eds.), (1996, June 20-22), *Definitional dilemma: Can and should there be a universal definition of white collar crime?* (p.351). National White Collar Crime Centre.

¹³ Sub-committee on Crime of the Committee on the Judiciary House of Representatives, 95th Congress, Second Session. (1978 June). White-collar crime: The problem and the federal response. p.7.

¹⁴ Becker, Ronald F. (2000). *Criminal investigation*. Aspen Publication, Maryland, p.377.

Finally, white-collar crime is understood as an illegal act¹⁵ which is committed in the context of a lawful occupation, involves a breach of trust, rely not on brawn but on brain, and aims at gaining power and profit. It occurs during and by the violator's occupational role. Although committed by nonphysical means, it can leave physical impacts as in the case of, for example, industrial plant that knowingly allows carcinogenic wastes to pollute a water supply.

Blue-collar crime	White-collar crime
Blue-collar crime refers to traditional crime that is most likely committed by people from a lower social class. Examples include murder, rape, theft, dacoit etc.	White-collar crime refers to economy related crime that is most likely committed by people from a higher social class. Examples include bribery, income tax evasion, stock fraud, money laundering etc.
It is committed by ordinary persons by his free will or by some other outer factors.	It is committed by persons of high social status by misuse of his authority to monetary gain.

3 WHITE-COLLAR CRIME: CAUSAL EXPLANATIONS

Crime does not result from vacuum. There are always some inciting factors that induce person to fall in commission of crime. Some of them arise from within. There are basically five major criminological theories which attempt to provide a causal explanation of committing white collar crime:

- a) Control theory,
- b) Learning theory,
- c) Conflict theory,
- d) Organizational theory, &
- e) Strain theory.

3.1 Control Theory

Other theories	Control theories
Criminological theories such as biological and psychological theories sought to identify traits that determined criminality. Strain theories assumed people were good, but bad things happen, which causes many to be pushed into criminal behaviors. So, these theories asked why people commit crime and used methods to identify the driving forces behind a criminal's behavior.	Control theories differ in their approach. Instead of assuming criminals have 'something' or experienced 'something' that drives their criminal behavior, control theories ask why <i>more</i> people do not engage in illegal behavior. Control theories assume people are naturally selfish, and if left to their own devices, will commit illegal and immoral acts. Control theories try to identify what types of 'controls' a person may have that stops them from becoming 'uncontrollable'.

¹⁵ It is to be noted that there is a change in the word from 'criminal' to 'illegal' in order to include 'conduct and behavior'; in which civil remedies would be, otherwise, appropriate and effective.

This theory attempts to answer the question posed by Thomas Hobbes, ‘Why do men obey the rules of society?’ Hirschi states that ‘why do they do it?’ is simply not the question the theory is designed to answer. The question is, ‘why don't we do it?’¹⁶ There are two leading forms of control theory:

- a) Walter Reckless: ‘Containment Theory’, &
- b) Travis Hirschi: ‘Social Bond Theory’.

Reckless described individuals as being ‘contained’, or restrained from carrying out their antisocial urges, by two factors: social pressures to obey the norms or rules of one's group (outer containment) and self-control, or conscience, resulting from internalization of society's rules through socialization processes (inner containment).¹⁷

Hirschi, on the other hand, points to four elements of an individual's bond to society which, if weakened, results in deviant behavior:¹⁸ (a) affective **attachment** to other individuals and social objects; (b) **commitment** to society's means of goal achievement or performance standards; (c) **involvement** in conventional activities which keep the individual too busy to be deviant; and (c) **belief** in the validity of society's rules.¹⁹ Although some control theorists such as Matza believed juveniles are tied to the conventional moral order and ‘drift’ in and out of delinquency by neutralizing controls²⁰, Hirschi disagreed. He believed people vary in their beliefs about the rules of society. The essential element of the bond is an attachment.

It has been argued that the propositions of control theories aid in explaining white-collar types of crimes by asserting that anyone will be tempted to embezzle funds, carry out a fraudulent scheme, or bribe a government official if there are no ‘controls’ on his behavior and if there is little risk of being caught. And, it is accepted to inhibit an individual's urge to get more money or power. Also, it is argued that society does not increase the external controls on such behavior when many white collar crimes are not discovered or prosecuted or when those offenders who are apprehended and convicted are not punished.

Under control theory, the most effective and realistic methods of controlling the antisocial inclinations which lead people to commit white collar crimes might be:

¹⁶ Hirschi, T. (1969). *Causes of delinquency*. University of California Press, Berkeley. p.34.

¹⁷ Reckless, Walter (1973). *The crime problem*. Appleton-Century-Crofts, New York. p.718.

¹⁸ Hirschi, T. (1969). *Causes of delinquency*. University of California Press, Berkeley. p.33.

¹⁹ **Attachment** refers to affection we have towards others. If we have strong bonds, we are more likely to care about their opinions, expectations, and support. Attachment involves an emotional connectedness to others, especially parents, who provide indirect control. **Commitment** refers to the rational component of the social bond. If we are committed to conformity, our actions and decisions will mirror our commitment. People invest time, energy, and money into expected behavior like school, sports, career development, or playing a musical instrument. These are examples of Toby's ‘stakes in conformity’. If people started committing a crime, they would risk losing these investments. **Involvement** and commitment are related. Since our time and energy are limited, Hirschi thought people who were involved in socially accepted activities would have little time to commit a crime. The phrase ‘idle hands are the devil's workshop’ fits this component. **Belief** was the final component of the social bond.

²⁰ Matza, D. (1964). *Delinquency and drift*. John Wiley, New York.

- Improvements in the social education process through which conduct and its justification (beliefs) are acquired (for example, increase emphasis on religious training, moral education and the central role of the family in a moral society);
- Preventive measures, such as technological adaptations to prevent illegal manipulation of a computer or accounting controls to reduce the opportunities for theft;
- Education programs within corporations to teach employees that ‘borrowing is stealing’ (i.e., that such acts cannot be rationalized away);
- Increase prosecution and punishment of white collar crime offenders so that others will realize that they too could get caught.

3.2 Learning Theory

Propounded by Edwin Sutherland, this theory named as ‘differential association’ assumes that criminal behavior is learned behavior, not inherited. This learning process applies to both the techniques used in committing the crime and the motives for committing it.²¹

Sutherland stated that criminal behavior (including techniques and motives, rationalizations, and attitudes) is learned in interaction with other persons in process of communication. An individual learns criminal behavior, usually from his peers, through a series of positive and negative reinforcements which support and encourage, or negate, his behavior.

Later Ronald Akers linked the learning tendency relating to economy. He said, “Occupational behavior in general is normally learned behavior which is sustained through social and economic reinforcement... The criminal aspects of occupational behavior can be understood in the same way. Occupational incumbents learn criminal behavior and definitions (justifying this behavior) from others in similar positions. In addition to whatever social support they get from these others, the major source of reinforcement for their criminal behavior is economic.”²²

Donald Cressey has also presented the proposition that just as there are ‘criminal neighborhoods’ in which delinquents are likely to learn delinquent behavior, there are also ‘corporate neighborhoods’ in which members of corporations learn to be deviant.²³ The officials learn how to get bribe from the peer next to his table. He learns how to launder such bribe from the neighbor of the similar profession. Also, he learns to work in the chain of officials under the ‘systematic rank’.

So, learning theory provides several explanation of the causes of white collar crime. From this perspectives, the following policy implications are required:

- The economic reinforcements of white collar crime should be removed. The investment of government officials, while in position or retired, need to be surveillanced.

²¹ Sutherland, E. H., & Cressey, D. R. (1974). *Criminology*. (9th ed.). Lippincott, Philadelphia. p.658.

²² Akers, Ronald L. (1973). *Deviant behavior: A social learning approach*. Wadsworth Publication Co., Belmont p.183.

²³ Cressey, D. R. (1976). Restraint of trade, recidivism, and delinquent neighborhoods, in J.F. Short (ed.), *Delinquency, crime and society*. University of Chicago Press, Chicago. pp.209-238.

- Social boycott. The personnel having unmatched living standard need to be questioned and socially boycott.
- Convicted white collar offenders in positions of responsibility should not be allowed to resume their positions of power in any corporation or professional agencies.
- The social education process should be improved through better schools, more religious training, etc., so that socially acceptable behavior is learned at an early age.

3.3 Conflict Theory

Conflict theory is based on Marxist class conflict propositions and the power elite idea presented in the 1950s by sociologist C. Wright Mills.²⁴ Conflict theorists argue that the system of socialism is particularly a system for the rich who hold the economy and power; where the poor and subaltern have to compete each other for bread. Corporate officials control the economy and free enterprise is a myth, and that these executives' have a strong interest in maintaining the economic and social status quo. The ruling class is able to make laws and define the social values in the way that protects their interests, usually at the expense of the lower class.

This fact can be checked by some axiomatic questions: Why our prisons are mainly filled with people from the lower class? Why most of our laws are to protect private property even though most property is under the ownership of the upper classes? Why most upper-class types of crimes, such as corporate offenses, are either not against the law or if they are against the law, the offenders are rarely prosecuted? Despite the fact that higher the position, higher the corruption and the highest at the policy makers in Nepal; why the maximum of cases charged by Commission for the Investigation of Abuse of Authority (CIAA) are against non gazetted employee?²⁵

Conflict theory answers that wealthy and rich people 'maintain' their position of power and wealth by penetrating into the system, they impose to make the law favorable, bribe government officials, provide illegal payoffs, engage in all forms of fraud and deceit, and commit other unethical act whatsoever in order to achieve their ends.

This theory demands drastic change into the entire political and economic system. Therefore, the possible policy implications are extremely broad, politically unpopular, and difficult to accomplish as they would hit back to their 'systematized financial exploitation'.

- Public awareness and moral education need to be speeded. People must dare to say 'no to wrong' at the time and place it occurs.
- Corrupt politicians, failed leaders, fixers and racketeers need to be socially boycotted.
- No individual should sell the vote against money or under ideological slavery.

²⁴ Mills, C. W. (1956). *The power elite*. Oxford University Press, New York. p.423.

²⁵ Commission for the Investigation of Abuse of Authority. (2073/2074). 27th Annual Report.

3.4 Organizational Theory

Organizational theory is general political science theory.²⁶ It refers to the set of interrelated concepts that explain the behavior of individuals or groups who interact with each other to perform the activities intended towards the accomplishment of a common goal. It examines the nature and structure of complex organizations and bureaucracies to determine why they function as they do and how they affect the people they employ.

According to this theory, an organization, once established, tends to take on a life of its own and the individuals who work for the organization will do anything necessary to protect and defend it. Once formed, organizations acquire their own needs, and these needs sometimes become the masters of the organization. They engage in making profit for organization, and during the course of making profit, they collectively take endeavors in the way to gain power and profit.

The longings of making organization profitable, the competitiveness with other similar organizations, and desire to make money tend them easy and fast way by corrupting government officials, involving them as sleeping partners and making laws favorable to them. Fact checking, for example, of continuous amendment in Rule 120 of Public Procurement Regulation, 2064 indicates the parameter of hit in the policy level by the corporate organization. Each amendment in this Rule has been to extend the period of contractor's agreement even though they have not performed the contractual obligation, have not progressed the task and have only collected money from government institution in the name of bid.²⁷

If organization theory is regarded as the cause of white-collar crime, the policy implications might be as below:

- Proper auditing and due diligence. Most of the organizations who have engaged in making money by illegal means have confidence of handling it with the help of false due diligence with the help of auditor.
- The methods of controlling the interrelation of organizations and bureaucracies should be made effective by publically disclosing incensement in the annual asset of the organization.
- Tax Office and Inland Revenue Office should function accurately, and even the members of organizations should be under oversight mechanism.

3.5 Strain Theory

This theory states that society puts pressure on individuals to achieve monetary goals without giving the legitimate channel. The gap between 'what to be' and 'what is with' pushes a man into stress and induces him to engage in crime to achieve the goal. The class which is more in such stress is lower economic class. Therefore, according to this theory, there is much higher rate of

²⁶ Sub-committee on Crime of the Committee on the Judiciary House of Representatives, 95th Congress, Second Session. (1978 June). White-collar crime: The problem and the federal response. p.67.

²⁷ Public Procurement (9th Amendment) Rules, 2076, *Amendment 4*; see also Public Procurement (10th Amendment) Rules, 2077, *Amendment 2*; see also Public Procurement (11th Amendment) Rules, 2078, *Amendment 18*.

crime among lower class individuals. This theory, developed by Robert Merton, was basically targeted in relation to lower class individuals' engagement in crime.

However, the 'goal blockage' is not limited to lower class individuals only; higher class individuals may also experience goal blockage and respond with crime. And the inability to achieve economic goals is frequently offered as an explanation for white-collar crime. Economic strains, for example, are more easily resolved through income-generating crimes than through aggressive acts. Also, the strain which occurs in a particular domain, such as the family, are more likely to result in crimes in that domain.²⁸

Laxman Gautam says, "The rule breakers pin points from family itself. If I break the law and provide facilities by any means that makes my family member to be happy. The violation of begins from the mind of the family members to live in the so called standard. The so called social prestige is attached with it. These are invisible fabric factors of inducing a person into committing the crime. Family does not say to commit the crime, but puts strain into the mind to earn in the way other persons are earning. This root has to be diagnosed."²⁹

There are basically two types of blockage: the Blockage of Economic Goals and the Blockage of Status Goals. To open that, an individual commits crime.

The Blockage of Economic Goals. An individual sets economic goals like that of 'others', but does not find the means. The gap between economic expectations and achievements leads the man into anger and frustration. These emotions create pressure for corrective action and increase the predisposition for crime, and makes an association with deviant others.³⁰ Individuals in such circumstances, then, are more likely to turn to crime, particularly income-generating crime.

A desire for financial gain is also motivated by the desire to prevent financial loss and the hardship it might cause.

The Blockage of Status Goals. Strain theorists such as Cohen have argued that individuals not only desire economic success, but status involving the respect and admiration of others. Individuals unable to obtain status through legal channels may turn to illegal channels.³¹

²⁸ DeCoster, S. & Kort-Butler, L. (2006). How general is general strain theory? *Journal of Research in Crime and Delinquency*, 43(4). p.325.

²⁹ Laxman Gautam, the professor of philosophy at Universal College, said these to the author while discussing the cause of white-collar crime in our community, on 11th December, 2020.

³⁰ Agnew, R. (2000). Experienced, vicarious, and anticipated strain: An exploratory study focusing on physical victimization and delinquency. *Justice Quarterly*, 19(4), 603-632. <https://doi.org/10.1080/07418820200095371>.

³¹ Cohen, A. K. (1997). An elaboration of anomie theory, in N. Passos and R. Agnew (eds.), *The future of anomie theory*. Northeastern University Press, Boston.

Lower class individuals seek to enhance their status by adopting a tough demeanor and responding to even minor shows of disrespect with violence.³² They may develop status goals beyond their reach, usually for the same reasons they develop economic goals beyond their reach.

They are deeply immersed in the ‘culture of competition’³³ which characterizes our economic system. Therefore, they attempt to achieve status by using illegal means to achieve success in this competitive struggle. In the words of Coleman and Ramos: “Along with the desire for great wealth goes the desire to prove oneself by ‘winning’ the competitive struggles that play such a prominent role in our economic system. And this desire to be ‘a winner’ provides another powerful motivation for deviant behavior irrespective of any financial gain that may be involved.”³⁴ Individuals may prove themselves to be winners by using illegal means to advance their own position or the position of the corporation with which they are associated.

4. NEPALESE CONTEXT

The theories explained above equally apply to Nepalese society as well. People commit crime not in vacuum and nor for vacuum. If we search the reasons why sophisticated crimes rates are higher in cities than in suburb and why intellectuals are engaging in such crimes than the labors, the answer will rest on the longings of the individuals to become richer and richer, and to become more powerful. The state mechanism is not adequately serious in controlling the individual’s will of gaining ‘power and profit’. Hence, the learning theory, conflict theory, organizational theory and strain theory are casual factors for the commission of white-collar crime in Nepal.

Nepalese society has largely made the parameters of earners and non-earners. This binary parameters co-exists with dignity and dishonor. Non-learners are hardly paid any tribute. An ordinary person when grows up in the community, he looks in to the way how seniors are growing up. He reacts to the system as he bears it. If there is disparity in the treatment of the system, response of the society and respect in the community; he tries to be like the one who has life of more prestigious and wealthy; but attempts to get it faster!

On the other hand, there is a long journey for an individual to be a successful person from legal means. It goes around twenty five years of age to be graduated from the university. Then only he searches for job or runs business. And, it takes time to grow up professionally. Besides, there he finds persons living high standard life, riding expensive car, visiting countries and sitting with high level figures. How it happened? The ordinary man may tend to be like that to get power and prestige sooner the possible. From this point, a person starts breaking rules and engaging in activities to be like that. When prestigious companies and respected community leaders break the

³² Brezina, T., Agnew, R., Cullen, F. T., & Wright, J. P. (2005). The code of the street: A quantitative assessment of Elijah Anderson’s subculture of violence thesis and its contribution to youth violence. *Youth Violence and Juvenile Justice*, 2(4), 303–328. <http://dx.doi.org/10.1177/1541204004267780>.

³³ Coleman, J. W. (1987). Toward an integrated theory of white-collar crime. *American Journal of Sociology*, 93, 406–439.

³⁴ Coleman, J. W. & Ramos, L. L. (1998). Subcultures and deviant behavior in the organizational context, in P. A. Bamberger & W. J. Sonnenstuhl (eds.), *Research in the sociology of organizations: Deviance on and of organizations*, 15. JAI Press, Stamford.

law, they set an example for other businesses and influence individuals, particularly young people, to commit other kinds of crime on the ground that everyone is taking what he can get.

The damage of such non-violent white-collar crimes is so deep and dangerous that may make the state not only financially weaker but also lead towards failure. However, our agencies are weak-equipped to deal with such sophisticated crimes. Nor we do have a special parent legislation that defines and controls white-collar crimes. Some laws governing ‘white-collar crime issues’ are scattered; most notable of them are provided in the table below:

White-collar crimes	Statutes that governs these crimes
Corruption	<ul style="list-style-type: none"> - Prevention of Corruption Act, 2059 - Commission for the Investigation of Abuse of Authority Act, 2048 - The Good Governance Act, 2064 - Civil Service Act, 2049 - Impeachment Act, 2059 - Army Act, 2063 - Judicial Council Act, 2073 - Special Court Act, 2059
Money Laundering	<ul style="list-style-type: none"> - Money Laundering Prevention Act, 2064
Banking and Financial	<ul style="list-style-type: none"> - Company Act, 2063 - Securities Act, 2063 - Income Tax Act, 2058 - Bank and Financial Institution Act, 2073 - Nepal Rastra Bank Act, 2058 - Banking Offences and Punishment Act, 2064
Forgery, Counterfeit,	<ul style="list-style-type: none"> - Muluki Criminal Code, 2074 - Nepal Rastra Bank Act, 2058 - Bank and Financial Institution Act, 2073
Tax and customs evasion	<ul style="list-style-type: none"> - Income Tax Act, 2058 - Revenue Leakage Act, 2052 - Audit Act, 2075 - Customs Act, 2064
Market Manipulation and Anti-competitive practices	<ul style="list-style-type: none"> - Securities Act, 2063 - Competition Promotion and Market Protection Act, 2063 - Consumer Protection Act, 2075
Internet and Cyber Securities	<ul style="list-style-type: none"> - Electronic Transactions Act, 2063

Organized Crime	<ul style="list-style-type: none"> - Muluki Criminal Code, 2074 - Organized Crime Prevention Act, 2069
-----------------	--

There are many things to do relating to control white-collar crimes in Nepal. Of which, legislation of parent white-collar crime control act and establishment of powerful central investigation authority under that act is the must.

5. CONCLUSION

White-collar crime is a system corrupting crime, but like a phoenix, it takes birth from the system itself. The corrupt system is the one where the policy makers themselves are corrupted, engaged in making laws and policies that benefit the racketeers and get the percentage of it. The leaders keep the bureaucrats under their hold and use them as required. On the other hand, bureaucrats accept the move of the leaders for their fine existence and promotion. The layers lower down accordingly. The higher position bureaucrat apprehends the lower one in the same way. And, there exists several chains. Finally, the white-collar criminal regulates by his ‘power’ and ‘money’, and lives in ‘prestige’.

If we have to analyze the scenario of Nepal, we should first look into the interconnections of corporate racketeers and law makers; and the background of them and ‘wealth, position and power’ that they have today. We do not question how a poor person grown in suburb is living richest life in the city without any profession to earn? Rather we accept it. This fact induces others to engage in similar modus. Thus, the state mechanism need to be serious with the causal reasons of individuals engaging in white-collar crimes.

According to the Transparency International, Nepal ranks 117/180 in the corruption perception index with a score of 33 in 2021.³⁵ It allows to question on the interconnections of corporate racketeers and law makers, their background and the wealth, position and power that they have today. The anti-graft body has been criticized of launching investigations on low-level officers while clearing the higher authorities of corruption charges. Even the appointments in the constitutional bodies are rigged and politically motivated. The case of the appointments of the Commissioners in CIAA itself is subjudiced in Supreme Court.

Thus, some urgent actions are required:

- a) There should be some mechanism to endorse the Parliamentary Committees’ recommendations in order to maintain the check and balance by holding the executive body accountable to the legislative body.³⁶ As such, the recommendations are made after evaluating and monitoring the activities of the government.
- b) In terms of legislation, a parent act to govern, to categorize and to control white-collar crimes and the punishments related to such offences should be legislated.

³⁵ Transparency International. Corruption Perception Index 2021. p.3, https://images.transparencycdn.org/images/CPI2021_Report_EN-web.pdf.

³⁶ Constituent Assembly Rules, 2070. *Rule 110*.

- c) Specialized state institutions to investigate white-collar crimes should be formed. While the CIB is established for special investigation and organized crimes, the body is not independent of the Nepal Police and has no separate legislation that capacitates CIB of investigating all forms of white-collar crimes under all jurisdictions.
- d) Specialization in relation to white-collar crimes is important among the stakeholders of state mechanism. It is of the utmost importance to realize the complexity of the white-collar crimes, which are much intense than traditional blue-collar crimes.
- e) Study and research focusing on white-collar crimes in the Nepalese context should be encouraged.

This article was originally published in **Nepal Bar Council L.J.**; cited as-

Subash Acharya, *White-Collar Crime: A Casual Explanation*, XX Nepal Bar Council L.J. 331 (2021).