

Bureaucracy & White-Collar Crimes in Bangladesh

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The bureaucratic system dates back to the Chinese and Assyrian culture 5000 years ago.¹ But the relevancy of bureaucracy has increased manifold in the modern times due to the emergence of 'Welfare State'. Instead of its complexity, bureaucracy is considered as the only rational system to run governmental agencies and reach the administrative goals efficiently with fairness by minimizing nepotism and systematic corruption.² But in developing countries like Bangladesh, the bureaucratic system is the breeding ground for white collar crimes. The bureaucrats hold an office entrusted with the elements of trust, power and prestige. But they tend to abuse this trust and power for their own financial and personal gain which results in White Collar Crimes. Though white-collar crimes are non-violent in nature, they are subtle murders practiced on the community, as they are committed out of greed, not for need.³

Bureaucracy

Basically, the word bureaucracy is a blend of the French word "Bureau" and Greek word "Kratein", which together means desk government.⁴ So, bureaucracy means the non-political administration within the sphere of the political government. In his famous book *Essays on Sociology*, Max Weber, a German sociologist and political economist, described bureaucracy as a system of administration characterized by expertness, impartiality and absence of humanity.

In this era of well-organized government system, bureaucracy is one of the most important integral parts of a modern state. Government changes from time to time, but the bureaucrats remain and play a vital role in policy formulation and reformation. Therefore, a proficient bureaucracy is always a mandatory element for achieving the desired socio-economic goals. Though the functions of bureaucracy were limited to certain sectors, within the progress and modernization of state mechanism, functions of bureaucracy have covered numerous important sectors. At present bureaucracy is not only considered as the "Desk Government", but also plays an important role on determining policies for important and critical sectors which has a direct impact on the whole socio-economic status quo of a country. From framing legislation to implementing legislation, it has a significant contribution on every sector of the state. The influence of bureaucracy is so undeniable that, the government itself cannot even implement a decision overlooking the bureaucrats. Sometimes, government is bound to ask for the opinions of the bureaucrats regarding important decision-makings. Thus, bureaucrats enjoy an undeniable power, influence and privilege over the government.

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¹Gbenga Lawal and Ariyo Tobi, "Bureaucratic Corruption, Good Governance and Development: The Challenges and Prospects of Institution Building in Nigeria", *Journal of Applied Sciences Research*, 2(10): 642-649, 2006.

²Taiwo Kayode, 1990. *Socio Cultural Values and Bureaucracy in Adebayo Ninalowo (ed) Bureaucracy And Social Change: Studies In Bureaucracy And Underdevelopment* Lagos, Pumark Nig Ltd.

³Dr. N.V. Paranjape, *Criminology and Penology*, Central Law Publications, Allahabad, p. 118.

⁴*Bureaucracy*, www.merriam-webster.com, last accessed 24th November, 2017.

White Collar Crimes

Though the term “White Collar Crime” was not coined before 1939, the first documented case involving white collar crime dates back to the 15th century. Popularly known as Carrier’s Case⁵, the case became a landmark in British Legal arena for developing the theory of larceny. The English Court came to a decision in this case that if someone transporting a bulk or bundle of merchandise on behalf of someone else and breaks it open to convert them into carrier’s own use, it will constitute a crime of larceny.⁶ But the emergence of white collar crimes is relatively a new phenomenon since it owes its inception to the growth of Industrial Capitalism in the 18th century.⁷ Edwin H. Sutherland first coined the term white-collar crime in a speech to the American Sociological Association. According to him, “white collar crimes are crimes committed by persons of respectability and high social status in course of their occupation.”⁸ Even before Sutherland, Albert Morris asserted the anti-social activities of people of high status committed in course of their profession in his paper titled ‘Criminal Capitalists.’⁹ Though the definition of Sutherland has not escaped controversies, but the fact that white collar crimes relates to crime of financial nature, committed without application of force and by exploiting professions that involves position of trust is an undisputable fact.

Gravity of the Situation

White collar crimes take heavy toll in the economy of developing countries, who are already struggling to combat poverty. Bangladesh, having a colonial legacy still follows the administrative structure introduced by the British rulers. The bureaucratic system and its decision-making mechanism of our country is not adapted to the modern-day needs. During the Pakistan era, the bureaucrats grew an immoral tendency to get engaged in power policies.¹⁰ Coupled with heavy politicization, excessive lobbying, factionalism and lack of transparency and accountability developed in the post-independence era, the bureaucracy of our country has become rampant with corruption. The neutral expertise that could be expected from a bureaucracy has become unobtainable in our country due to partisan and personal interests.¹¹ Due to the unfettered privileges enjoyed by the bureaucrats, they are able to abuse their power for vested interest. Thus, white collar crimes like bribery, embezzlement, extortion from public etc have become a common phenomenon and such activities are accepted as a part of usual business tactics. Though the extent of such crimes is usually not visible in the rural areas, it can be easily identified in the urban level. Bangladesh has been ranked as the most corrupt country in the world by Transparency International in its Corruption Perception Index from 2001 to 2005.¹² Though the situation has improved slightly, and Bangladesh ranked 145th position

⁵ *Anonymous V. The Sheriff of London*, The case of carrier who broke bulk, 13 Edw. IV, f.9., pl. 5 (1473).

⁶ Criminal Law – Cases and Materials, 7th Edition, 2012. Edited by John Kaplan, Robert Weisberg, Guyora Binder.

⁷ Rizvi Ahmad, Theory and Practice of Criminology Bangladesh Perspective, Titu Publications, Dhaka, p.214.

⁸ *Supra* Note 3, p. 117.

⁹ *Ibid* p.116.

¹⁰ Jannatul Ferdous, Development of Bureaucracy in Bangladesh: Historical Perspective and Problem Analysis, Journal of Education and Social Sciences, Vol 4 June, 2016, p. 268.

¹¹ Ahmed K. Rashid, The Role of the Bureaucracy in Policymaking in Bangladesh, Asia Pacific Journal of Public Administration, Vol. 36, 2014 – Issue 2, p. 1.

¹² *Corruption Perceptions Index*, www.transparency.org, last accessed 24th November, 2017.

from the top among 176 countries in 2016,¹³ the situation is not at all satisfactory. The occurrence of white collar crimes in our country causes far greater social injuries than conventional crimes because it affects a larger number of people and the interest of the nation as well. On the top of that white-collar criminals escape the law enforcing agencies due to the influence of their position and power. According to a report of Transparency International Bangladesh, 63.7% of households have reported to have paid bribes for government services.¹⁴ Government has time and again tried to introduce proper reforms in our bureaucracy, but the skeleton has remained the same.

Legal Sanctions

Realizing the threat and deep impact of white collar crimes in achieving stability and sustainable development of a society, United Nations has enacted Convention Against Corruption in the year 2003.¹⁵ It provides for criminalization, prevention and implementation of policies and laws against white collar crimes like bribery. Bangladesh has ratified the Convention in 2005 and is among the 31 members of the ABD/OECD Anti-Corruption Initiative for Asia-Pacific region. And even before this ratification, there have been laws in Bangladesh regarding corruption. Chapter IX of Penal code, 1860 contains provisions against the offences committed by public servants which covers the scope of white collar crimes by bureaucrats. Prevention of Corruption Act, 1947; which was for a long time been the sole special legislation regarding corruption in Bangladesh, contained provision regarding bribery by public servants. Anti-Corruption Commission was established in 2004 on the basis of Anti-Corruption Commission Act, 2004. Section-24 of the Act states that the commissioners of the Anti-Corruption Commission will be independent in discharging their duties. Besides, Rule-3, clause (d) of The Government Servants (Discipline and Appeal) Rules, 1985 states corruption as a ground for penalty against the government servants. The punishment for which according to Rule-4 is compulsory retirement, removal from service or dismissal from service. The Public Interest Information Disclosure (Provide Protection) Act, 2011 provides for protection of those persons who comes forward with any information regarding such crimes. But Section-197 of The Code of Criminal Procedure, 1898 forbids any court to take cognizance of any allegation against any public servant without the previous sanction of the government. The government is also empowered to specify the court before which the trial is to take place and determine the person to conduct such prosecution under this section. Also, section-15 of the Ombudsman Act, 1980 provides for exemption of any public officer or class of public officers from the operation of all or any provisions of that act by government. Such provisions clearly favor the corrupted bureaucrats and deter justice.

Recommendations

To prevent white collar crimes due to bureaucracy, reformation of our administrative structure is compulsory. Setting up multiple offices to decentralize the scope of corruption and simplifying administrative procedures by using technology to reduce delay and ensure promptness should be the priority of the government. In every department there should be proper departmental mechanisms to redress the grievances of the citizens. Adhering strictly to high standards of ethical behavior from the bureaucrats will be

¹³ *Corruption on the Rise in Thailand, Bangladesh: Index*, www.benarnews.org, last accessed 24th November, 2017.

¹⁴ *Corruption Perceptions Index 2013*, www.transparency.org, last accessed 24th November, 2017.

¹⁵ UN General Assembly, *United Nations Convention Against Corruption*, 31 October 2003, A/58/422

expected to reduce such crimes. Section-197 of The Code of Criminal Procedure, 1898 seriously restricts the scope of taking proper action against public servants and thus it must be repealed immediately. Providing for special tribunals to deal with white collar crimes will further aid the cause. Providing for harsher punishments for such crimes keeping in mind the gravity of the injury caused to society is needed as “soft sentencing justice is gross injustice where many innocents are the potential victims.”¹⁶ Such criminals should be treated like normal criminals ignoring their social status and if possible more strictly considering the abuse of position and trust committed by them.

Concluding Remarks

The heavy influence of politicization needs to be reduced and it can only be done by introducing reforms that departs from the colonial era traditions that have impregnated every aspect of our bureaucracy. But above all, changing public attitude and making them aware of the grave consequences of white collar crimes is imperative as such crimes has a close affinity to the values of culture and morality of a society. Sutherland aptly stated that the financial loss caused due to white collar crimes are far less than the damage to social relations as it violates trust, which lowers social morale and produces social disorganization on a large scale.¹⁷ Corruption and bribery has become a way of life in our country. As long as the society does not perceive white collar crimes as a serious crime, there can be no proper implementation of laws.

¹⁶*M.H.Haskot v. State of Maharashtra* (1978) 3 SCC 544.

¹⁷*Supra* Note 5