



White-Collar Crime in Kenya

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ABSTRACT: This article focuses on the concept of white-collar crime and understanding its existence and prevalence in Kenya by extensively researching various research articles, journals, books, bare acts, newspaper articles, and websites. The article will start with a brief concept of white-collar by Edwin Sutherland and his contribution to framing white-collar crime. Secondly, there are several kinds of white-collar crime i.e.; - fraud, embezzlements, insider Trading, Corruption, and Bribery cases in Kenya. Thirdly, the Existing factors that contribute to the spread of white-collar crime; like the weakness in the Regulatory Frameworks, Lack of Accountability, Greed, and Lack of strict Punishments; the impact it has on economic, political, social, environmental, and professional aspects. Fourthly, insight into the laws passed by the Kenyan legislature to be the line of defence against white collar crime in Kenya; Lastly, the law enforcement agencies put in place by the legal provisions and their duties in combating white collar crime in Kenya shall also be highlighted here.

KEYWORDS: Context of white-collar, Types, Causes, Impact, Existing Laws, Enforcement Agencies.

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I. INTRODUCTION

White-collar crime is a modern-day crime, this is so because unlike blue-collar crime or conventional forms of crime, white-collar crime is sophisticated and complex in nature.

It is a form of crime that has gone unnoticed for a very long time, Edwin Sutherland is well known for the concept of white-collar crime due to his first contribution to framing white-collar crime. He helped bring white-collar crime out into the open in his book “white collar criminality” where he defined white-collar crime as “a crime committed by people from respectable status in society in the commission of their occupation”¹

Dr Edwin Sutherland went further to give the characteristics of white-collar crime, which helped to identify and categorize several crimes that were perpetrated in the society. Through his contribution, other jurists and academicians have been able to criticize his work and offer their definitions and expertise on the topic of white-collar crime.

Today several countries can understand these crimes exist within their borders. Kenya is without a doubt struggling with this modern-day crime; examples of white-collar crime such as fraud, embezzlement, money laundering, corruption, insider trading, and tax evasion can be witnessed in Kenya.

Acknowledging the menace of white-collar crime in Kenya has helped in the framing of laws to help govern and provide a line of defense to combat it. Several legal frameworks have been brought into existence by the Kenyan legislature to combat white-collar crime.

There exist enforcement agencies within the framework in Kenya that combat white-collar crime constituted by the Directorate of Criminal Investigation (DCI) and Ethics and Anti-Corruption Commission (EACC) among others.

This article will shed light on white-collar crime in Kenya; shading light into what is still a challenge for many to know exists. Also, this paper shall discuss the legal challenges that are faced in the fight against white-collar crime.

¹ “Sutherland, Edwin H. “The White-collar criminal”. American Sociological Review 5:1–12, 1940”.

II. TYPES OF WHITE-COLLAR CRIME IN KENYA

Here are some of the white-collar related cases in Kenya, highlighted to give context to the examples of white-collar crime already witnessed within the borders.

2.1. Fraud

The Afya House Scandal 2016 is a fraud scandal.² That involved the Ministry of Health in a ksh.5 billion fraud in fake tenders as well as cost inflation of facilities and materials.

Imperial Bank Scandal of 2015³; here, fraud activities such as insider siphoning funds through fake loans and other schemes led to the collapse of this bank. This scandal was so controversial as it involved a huge figure for a bank valued at around ksh.34 billion.

2.2. Embezzlement

Cases of embezzlement in Kenya are increasing at an alarming rate, most of which involve government officials. The Kimwarer and Aror Dams Scandal of 2019 for example involved the misappropriation of ksh.63 billion allocated for construction of Kimwarer and Aror dams in Elgeyo-Marakwet county. These funds were embezzled through shady procurement and fraud transactions; it was later revealed that this scandal involved high government officials.⁴ Who later faced charges.

The National Youth Service (NYS) Scandals of 2015 and 2018⁵ are other examples of embezzlements in Kenya

2.3. Corruption

The most landmark corruption scandal to this day is the Goldenberg scandal.⁶ In the 1990s. This is a good example of corruption in Kenya as this specific corruption scandal involved the president of Kenya at the time, President Moi⁷. In this scandal, the government subsidized the exporting of Gold and diamonds far beyond its proper rates which resulted in the loss of over US\$600 to 1.5 billion dollars.⁸ Of public money.

2.4. Insider trading

What is insider trading? – insider trading is well known as the trading of a public company stock without non-public information about the company⁹. In Kenya, there are several cases reported and prosecuted by the Capital Markets Authority, such as; - the KenolKobil case of 2019 and the Uchumi Supermarkets case.¹⁰

III. FACTORS CONTRIBUTING TO WHITE-COLLAR CRIME

3.1. Weak Institutional Frameworks

Several key institutions exist that were put in place over some time with a mandate of fighting against white-collar crime. For instance, the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigation (DCI), both play a vital role in fighting corruption, embezzlement, and fraud in Kenya, especially among public servants. However, the weaknesses within these institutions in performing their primary duty are why white-collar cases are on the rise.

3.2. Political nature/ system

Politics and politicians in Kenya play a big role in most white-collar cases, either as perpetrators or as enablers. In Kenya, politicians use their influence and power to get away with crime and sometimes hinder investigations and prosecution processes. Every white-collar case involving a politician in Kenya ends with the prosecution of the politician. Instead, most of such cases end with cases being tossed out of court or being postponed indefinitely.

² Felix Olick, “New audit confirms Shs. 5 billion Afya House scandal”, The Star (Mar. 6, 2018), <https://www.the-star.co.ke/news/2018-03-06-new-audit-confirms-sh5-billion-afya-house-scandal/>.”

³ Mazera Ndurya, “How Imperial's founders siphoned billions from banks”, Nation (Nov. 3, 2015), <https://nation.africa/kenya/news/how-imperial-s-founders-siphoned-billions-from-banks-1142070>.

⁴ Hellen Githaiga, “Aror, Kimwarer dams scandal suspects face eight charges”, Nation (July 22, 2019),” <https://nation.africa/kenya/news/aror-kimwarer-dams-scandal-suspects-face-eight-charges-188290>.”

⁵ John Kamau, “Revealed: Firms that gained from Sh9bn NYS scandal”, Nation (May 17, 2018), <https://nation.africa/kenya/news/revealed-firms-that-gained-from-sh9bn-nys-scandal-44656>.

⁶ “Roman Grynberg & Fwasa K Singogo, “Gold fraud: the Goldenberg scam that cost Kenya billions of dollars in the 1990s – and no one was jailed”, The Conversation (June 18, 2023)”, <https://theconversation.com/gold-fraud-the-goldenberg-scam-that-cost-kenya-billions-of-dollars-in-the-1990s-and-no-one-was-jailed-206136>.”

⁷ ““Moi 'ordered' Goldenberg payment”, BBC News (Feb. 17, 2004), <http://news.bbc.co.uk/2/hi/africa/3495689.stm>.”

⁸ Supra, see “Gold fraud: the Goldenberg scam”

⁹ Akhilesh Ganti, “What Is Insider Trading and When Is It Legal? Investopedia” (May 15, 2024), <https://www.investopedia.com/terms/i/insidertrading.asp>.”

¹⁰ “James Anyanzwa, “Flaws in law expose East Africa’s bourses to insider trading”, The East African (Nov. 5, 2018),” <https://www.theeastafrican.co.ke/tea/business/flaws-in-law-expose-east-africa-s-bourses-to-insider-trading-1405884>.”

3.3. Lack of Accountability

Accountability is a virtue not well practiced in Kenya; white-collar criminals especially public officials never take accountability for their actions in office. Because of this, a lot of money is raised as revenue is embezzled and misappropriated in various departments and sectors of the government every day.

3.4. Greed

Greed is a common trait for all white-collar criminals, infant it is a motivating factor for committing these kinds of crimes. The desire to take more is why various sectors of ministries keep losing money allocated to them, this is seen in procurements where contracts awarded do not match the money allocated. Greed is the biggest factor here and without the element of greed, there would be no white-collar crime.

3.5. The stealth undetectable nature

The nature of white-collar crime makes it nearly impossible to be detected. It's well known that these are crimes committed by professionals in the performance of their duty. A patient for example can't know if the hospital is defrauding the patient's insurance. In cases of fraud and embezzlement, it is always impossible for victims to know that they are being targeted. And the nature of these crimes is the reason why there are so many cases of white-collar crime.

3.6. Crime of Opportunity

White-collar crime is an occupational crime. It's committed during the commission of a profession; this is why the perpetrator of this crime differs from organized crime. A judge in a case taking bribes to rule in favor of who paid them is a clear example of this.

3.7. Lack of strict punishments

If white-collar crime had strict punishments for its crimes, then many would be warned not to attempt. But because the penalties are not as strict, perpetrators would rather commit the crime and pay the fine which is not anywhere near the figure of money that are accused of stealing or defrauding.

IV. IMPACT OF WHITE-COLLAR CRIME

4.1. Political impact

Kenya is currently facing the impact of white-collar crime that has been taking place for a considerably long time now. The current protests by the Gen Z population in Kenya show that the youths in Kenya do not trust the government in place or any word the president says, hence the staged protests that saw them march into the Kenyan parliament on 25th June 2024.

A lot of civil unrest¹¹ was witnessed across Kenya with several public and private businesses being burned down by the angry protesters. In these protests houses and businesses belonging to some politicians were targeted; looted and destroyed.

4.2. Economic impact

White-collar crime's impact on the economy results in the uneven distribution of public resources, leading to an uneven development process. Leaving places with poor people poorer and areas with rich people more developed.

The other impact is a disruption in development work; when money set aside for the development of various projects is embezzled, the project is suspended. Thus, leaving behind unfinished development projects.¹²

4.3. Impact on society

As a result of increased cases of white-collar crime, society witnessed a spike in lawlessness, a loss of confidence in government, and a change in perception towards corruption and other forms of white-collar crime in Kenya.¹³

4.4. Environmental impact

White collar impact on the environment is seen through the increase of adulterated food and products in the market; and the spike in pollution (Water, Air, and Noise) by big corporations who would rather pay fines than invest in proper ways of waste and chemical disposal from their plants.¹⁴

4.5. Impact on professions

Kenya has witnessed a rise in cases of professional misconduct involving doctors, lawyers, police, engineers, educational institutions as well as corporations. Involved in all manner of white-collar crimes like fraud, corruption, embezzlement, witness tampering, illegal surveillance, illegal contracts, and the sale of unlicensed drugs among other¹⁵.

¹¹ "Kilel K. Benard and Rajesh B. Deshmukh, "The General Impact of White-Collar Crime: Reference to India and Kenya" 4. "Indian Journal of Law and Legal Research". Page: 2696-2705 (2022).

¹² Id, See page: 2700

¹³ Id, See page: 2701

¹⁴ Id

¹⁵ Id

V. EXISTING LEGAL FRAMEWORK TO ADDRESS WHITE-COLLAR CRIME IN KENYA

5.1. The Penal Code (Chapter 63) 1930

5.1.1. **Forgery** – The penal code of Kenya chapter 63 has defined forgery as the making of a false document that is intended to deceive and or defraud others¹⁶. Section 348 to Section 363 of the penal code provides for punishments on various acts of forgery, such as forgery of wills, judicial or official documents, forgery relating to stamps, altering cheques, creating unauthorized documents, buying forged notes, falsifying warrants, falsifying register, using false marriage certificate and using forged documents to register birth, death, and marriages.¹⁷

5.1.2. **Counterfeiting** - Section 364 defines “counterfeit coin” as a coin that is not genuine; however, intended to resemble a genuine coin.¹⁸ Having papers forged to resemble currency is a felony and is liable to seven years imprisonment.¹⁹ The act also finds one liable for three months in prison and or with a fine of not more than two thousand shillings for the act of willfully defacing, cutting, or tearing currency notes.²⁰ A person who is found knowingly circulating counterfeit currency is guilty of a misdemeanor.²¹, however, a person found to be a repeat offender shall be guilty of a felony and shall be liable to three years in prison²². A person who exports counterfeit currency without authority or lawful excuse, knowing it to be counterfeit currency is guilty of a misdemeanor.²³. Selling counterfeit Kenyan or any other currency²⁴ Or banknote without lawful authority in Kenya is a misdemeanor and is liable to six months in prison.

Counterfeit involving stamps like a person who is found in possession of dies²⁵ Used to make stamps without proper authority; who is found fraudulently using the die with the intent of counterfeiting stamps according to this law is guilty and punishable by seven years in prison. However, a person is found with both paper and dies in their possession.²⁶, to make or mend stamps shall be guilty of a misdemeanor as well as liable for one year in prison and or with a fine of three thousand. Also, any stamps within their possession by law will be forfeited.

Counterfeiting Trademarks is another area of focus in this act; this chapter defines what a trademark is.²⁷ According to the Trademark Act (Cap. 506), a mark registered under the law and lawfully used by the registered person for whatsoever purpose or sold by such a person. Counterfeiting in trademark, however, is a misdemeanor if the action was without intent to defraud²⁸.

5.1.3. **Fraud** -Under this act, when one person knowingly defrauds or intends to obtain or receive a stolen item²⁹ Shall be found guilty of a misdemeanor and shall serve three years in prison. Any person who obtains execution of a security by fraud means with the intent to defraud others of their valuable items is guilty of a misdemeanor which is punishable by up to three years in prison. Cheating is also a fraudulent act to trick someone, it is a misdemeanor and punishable with up to three years in prison. The act of obtaining credit through fraud to incur debt is also an offense under the law where one shall be found guilty of a misdemeanor and a prison term of one year. Another misdemeanor offense seen lately is the use of bad cheques, mostly perpetrated with intent to defraud a person; this misdemeanor offense is punishable with a fine of fifty thousand or with a prison sentence of not more than one year or both. Conspiracy to defraud another person by an act of deceit is also a misdemeanor punishable by three years in prison. Fraud involving the sale of mortgage property by either seller, advocate, or agent is an offense guilty of a misdemeanor and a prison term of two years.

Sections 327 to section 331 of the penal code provide penalties for fraud committed by trustees and people in positions of trust or public offices. ³⁰in the commission of executing or disposing of a trust property³¹.

5.1.4. **Theft**- the penal code defines theft in this chapter and goes further to elaborate on the things or items that are identified by this act as capable of being stolen. Further the act in detail from section 275 to section

¹⁶ Penal code, Sec 345 (1930)

¹⁷ Id. Sec.348 - Sec 363

¹⁸ Id. Sec 364. (Act no. 1 of 2009, sixth sch.)

¹⁹ Id. Sec 367

²⁰ Id. Sec 367A. (Act No. 15 of 1966, Sch.)- Mutilating currency notes

²¹ Id. Sec 372 – “uttering counterfeit coin”

²² Id. Sec 373- Repeated Uttering.

²³ Id. Sec 375_ “exporting counterfeit coin”

²⁴ Id. Sec 378 _ “Possession of die used for making stamps”

²⁵ Id. Sec 378 _ “Possession of die used for making stamps”

²⁶ Id. Sec 379_ “Paper and dies for Postage Stamps”

²⁷ Id. Sect 380- “trademark defined”

²⁸ Id. Sec 381- “counterfeiting trademarks”

²⁹ Id. Sec 313- Chapter XXX “False Pretenses – Obtaining by False Pretenses”

³⁰ Id. Sec 331- “fraudulent accounting by public officer”.

³¹ Id. Sec 327- Fraudulent disposal of trust property.

284³²Talks about various examples of theft and its punishment provided for in the penal code. If any offender had been convicted of theft under section 275 to section 284 before, then is found guilty again. He shall then be sentenced to seven years in prison.³³

5.2. Income Tax Act 1974

The purpose of this law is to charge, assess, and collect income tax, as well as determine the income to be charged. It also includes administrative and general provisions and other related topics; this legislation came into operation 1st January 1974.

This legislation provides penalties for offenses such as; filing incorrect returns.³⁴, filing fraudulent returns³⁵, obstruction of officers³⁶, and fraud³⁷.

5.3. The Public Officer Act 2003

This legislation came into operation 2nd May 2003, its main mandate is to improve public officer ethics by establishing a Code of Conduct and Ethics, mandating financial declarations for some officers.³⁸, and other related provisions on ethical responsibilities.

This legislation is divided into six parts each with a specific mandate; parts I, II, III, IV, V, and VI; Part III, deals with the general code of conduct & ethics; and lays down the framework on how a public servant should present themselves in office, such as; observing rule of law.³⁹, avoiding conflict of interest⁴⁰, not practicing nepotism⁴¹, always giving true advice without malice⁴² and avoiding misleading the public⁴³. Part IV; deals with the Declaration of income, assets & Liabilities; in this part, all public officers are required to submit declarations.⁴⁴; if any clarifications regarding declarations⁴⁵ Are required by the commission, then public officers shall submit them within time; all information submitted by a public officer shall be correct.⁴⁶; this information in the declarations shall then be accessible to the general public⁴⁷; a public officer who fails to submit a declaration shall be found liable for offense and fined amount not more than one million or imprisonment of one year or both⁴⁸; are what is provided for in this part. Part V deals with the investigation.⁴⁹ Into public officers for breaching the code of conduct. It provides for disciplinary actions.⁵⁰ For any officers found guilty of breaching such code of conduct; however, any actions taken of a disciplinary nature shall be made public through publication.⁵¹ For the general public to see. Referrals shall also be made possible for cases with potential civil or criminal proceedings.⁵².

5.4. The Anti-Corruption & Economic Crimes Act 2003

This act commenced on 2nd May 2003, its mandate is to prevent, investigate, and punish corruption, economic crime, and associated offenses, as well as related problems.

³² Id. Sec 275- 284

³³ Id. Sec 285- Stealing after previous conviction.

³⁴ Income tax Act, 1974 Sec 110- Incorrect Returns

³⁵ Ibid, see Sec 111- Fraudulent Returns

³⁶ Ibid, Sec 112- Obstruction of Officer in conducting duties

³⁷ Ibid, Sec 113- Evidences in Cases of Fraud

³⁸ The Public Officers Act 2003; preliminary report and mandate of its function.

³⁹ Ibid, sec 10

⁴⁰ Id. Sec 12- conflict of interest

⁴¹ Id. Sec 17

⁴² Id, Sec 18

⁴³ Id, Sec 19- misleading the public etc;

⁴⁴ Id, Sec 26- Declaration Required

⁴⁵ Id, Sec 28- clarifications; any clarification on declarations should be within six months of declaration submission.

⁴⁶ Id, Sec 29- information to be correct

⁴⁷ Id, Sec 30- access to the declaration

⁴⁸ Id, Sec 32- offences

⁴⁹ Id, Sec 35- investigations

⁵⁰ Id, Sec 36- "Disciplinary Action; only when investigations prove that a public officer has violated code of conduct."

⁵¹ Id, Sec 37- Publication of Actions; commission shall make public details regarding the public officer who violated the code of conduct as well as any actions taken.

⁵² Id, Sec 38- Referrals for possible civil or criminal proceedings; investigations that yield to be a serious breach of conduct shall be referred to the Attorney General or the appropriate authority.

The Anti-Corruption & Economic Crimes Act deals with various offenses; including abuse of office.⁵³, conspiracies⁵⁴, conflict of interest matters involving public servants⁵⁵, secret inducements⁵⁶ and Bid rigging⁵⁷ among others; Investigations⁵⁸ and penalties under this⁵⁹ Acts are also laid down.

5.5. Anti-Counterfeit Act 2008

This legislation came into operation on 7th July 2009⁶⁰; this legislation establishes the Anti-Counterfeit Authority, which is mandated to handle matters regarding counterfeiting. Legislation also outlaws the sale of counterfeit goods and pursues related objectives.

5.6. The Proceeds of Crime and Anti Money Laundering Act, 2009

This legislation was operational on 28th June 2010; this legislation aims to define the crime of money laundering, provide penalties for doing it, and establish procedures for locating, tracking, freezing, seizing, and taking possession of the proceeds of crime, among other things.

5.7. The Kenyan Constitution (Chapter 6) 2010

Chapter 6 of the 2010 Kenyan constitution talks about leadership and integrity; it has eight articles vital in selecting and appointing state officers, without meeting the qualities in these eight articles, one cannot be selected for state office in Kenya. They are; - knowing the responsibilities of leadership⁶¹; State Officers Oath⁶²; Conduct of state officers⁶³; Financial Probity of state officers⁶⁴; Restriction on activities of state officers⁶⁵; Citizenship and leadership⁶⁶; Legislation to establish the Ethics and Anti-Corruption Commission⁶⁷ and Legislation on Leadership⁶⁸.

5.8. Ethics and Anti-Corruption Commission Act 2011

This legislation came into operation on 5th September 2011; This Commission's objective is to fight and prevent corruption by enforcing the law, taking preventative actions, educating the public, and promoting the highest standards and ethical behavior.⁶⁹

5.9. The Public Procurement and Assets Disposal Act 2015

This legislation came into operation on 7th January 2016; it establishes mechanisms for effective public procurement and asset disposition by the public. This provision provides for the role of the national treasury.⁷⁰ as well as establishing an authority on procurement known as the public procurement regulatory authority⁷¹ That monitors the public procurement system.

This act also provides provisions on the disposal of public property as well as offenses and sanctions.⁷² Imposed in violation of procurement.

5.10 . The Bribery Act 2016

This is one of the legal frameworks that governs against bribery in Kenya; it commenced on 13th January 2017⁷³. The objective of this act is to prevent, investigate, and punish bribery and related activities.⁷⁴ This act works in support of other existing legislations like the Anti-corruption & Economic Crimes Act 2003 (which handles

⁵³ The Anti-Corruption & Economic Crimes Act (2003). Sec. 46

⁵⁴ Ibid. See Sec 47A- Attempts, Conspiracies etc. (Act No.7 of 2007, Sch.)

⁵⁵ Ibid. See Sec 42- Conflict of interest

⁵⁶ Ibid. see, Sec 40- Secret Inducements

⁵⁷ Ibid. see, Sec 44- Bid Rigging

⁵⁸ Ibid Sec 23-37- Investigations under the act. Investigators, identification of investigators, arrest of persons, a search of premise, admissibility of things found, investigation reports.

⁵⁹ Ibid sec 48- Penalties under this part

⁶⁰ Anit-Counterfeit Act 2008, preliminary- the mandate of the act, and preamble

⁶¹ Kenya constitution, Art 73- Responsibilities of Leadership

⁶² Ibid, Art 74- State Officers Oath of Office

⁶³ Ibid, Art 75- Code of Conduct

⁶⁴ Ibid, Art 76- state officers' financial Probity

⁶⁵ Ibid, Art 77- activity restriction of state officers

⁶⁶ Ibid, Art 78- Citizenship and Leadership

⁶⁷ Ibid, Art 79- Acts creating the Commission on ethics and Anti-corruption

⁶⁸ Ibid, Art 80- Leadership Legislation

⁶⁹ Mandate, "Ethics and Anti-Corruption Commission" <https://eacc.go.ke/en/default/about-us/>.

⁷⁰ Public Procurement Act, 2015

⁷¹ Ibid, sec 8- The Public Procurement Regulatory Authority (PPRA)

⁷² Ibid, See sec 176- 178 regarding offenses and sanctions.

⁷³ Kenya – "Global bribery offenses guide, DLA PIPER" (Jan. 11, 2022),

["https://www.dlapiper.com/en/insights/publications/2019/09/global-bribery-offenses-guide/kenya"](https://www.dlapiper.com/en/insights/publications/2019/09/global-bribery-offenses-guide/kenya).

⁷⁴ The Bribery Act 2016, (Act No. 47 of 2016, Act No. 18 of 2018.) mandate of the act.

bribery cases), Ethics and Anti-corruption Commission (which looks into bribe matters involving public officers), and Public Officer Ethics Act 2013⁷⁵.

VI. ENFORCEMENT AGENCIES IN PLACE

6.1. DCI

The Directorate of Criminal Investigation is a vital enforcement machinery in the Kenyan criminal justice system. It plays a major role in the investigation of various crimes within its jurisdiction, with the help of a specialized unit within the directorate of criminal investigation called “investigative bureau”.

The investigative bureau is tasked with conducting deeper investigations in various matters, its primary role in the DCI is gathering information, analyzing evidence, and uncovering facts relating to specific cases or issues before the directorate. It is mandated to also effectively detect, investigate, and help prosecute criminal cases in its purview.

The investigative bureau unit has been further sub-divided into several sub-units to widen its scope of crime; below are some of the sub-units: -

6.1.1. Capital Markets Authority Investigation Unit

This unit is tasked with investigating matters that have of impact on capital markets, insider trading, market manipulation, and securities fraud. They also ensure that laws and regulations governing trading and capital markets securities are well enforced. They also act as liaisons between different authorities and other law enforcement agencies in matters dealing with capital markets.⁷⁶

6.1.2. Insurance Fraud Investigation Unit

This Unit DCI is tasked with combating the spread of fraud cases in the insurance business and proactively addressing other insurance fraud-related offenses in collaboration with the Insurance Regulation Authority.⁷⁷

6.1.3. Economic and Commercial Crimes Unit

The Economic and Commercial Crimes Unit (ECCU) is a branch of the Investigation Bureau (IB) that looks into economic and financial crimes. ECCU has officers attached to other government institutions such as the State Department of Immigration Services, the Ethics and Anticorruption Commission, the United States Embassy in Nairobi, the County Government of Nairobi, the Financial Reporting Centre, the Assets Recovery Agency, and the Central Bank of Kenya's Cyber Fusion Unit⁷⁸.

6.1.4. Financial Investigation Unit (FIU)

The Unit was founded in 2013 to execute the Proceeds of Crime Act 2009. The Act established a Financial Reporting Centre, which analyzes questionable financial transactions and then distributes the same report to the DCI for further investigation⁷⁹. It also has officers of various ranks who take on assignments as they are reported and assigned for inquiry.

6.1.5. Banking Frauds Investigations Unit

The Banking Frauds team focuses on investigating offenses against banks and other financial organizations regulated by CBK, such as identity theft, credit card fraud, and unauthorized access. It preserves the banking sector's trust and stability by working with banking partners and employing cutting-edge forensic methods.⁸⁰

6.1.6. Capital Markets Authority Investigations

Insider trading, market manipulation, and securities fraud are all examples of crimes affecting capital markets that experts in this field investigate. Protecting the integrity of financial markets helps to level the playing field for investors and maintains public trust.

Despite its present officer strength, the Unit has been able to assist the Authority's Directorate of Markets Operations (DMO) in reviewing complaints received. The Unit has also maintained regular communication with all Market Intermediaries, including Investment Banks, Stockbrokers, Listed Companies, and Share Registrars, to provide proactive leadership in the early detection of potential Market Malpractices.⁸¹

⁷⁵ Supra, Global bribery offences guide- Kenya. paragraph 2

⁷⁶ Directorate of Criminal Investigation, The Investigation Bureau, Directorate of Criminal Investigation. <https://www.dci.go.ke/investigation-bureau>.

⁷⁷ The Investigation Bureau, Directorate of Criminal Investigations <https://www.dci.go.ke/investigation-bureau>.

⁷⁸ Ibid. Economic and commercial crimes unit.

⁷⁹ Ibid. Financial Investigation Unit

⁸⁰ Ibid. banking fraud investigations unit.

⁸¹ Ibid. Capital Markets Authority Investigations unit

6.1.7. Transnational Organized Crimes Investigations Units

This Unit is in charge of investigating organized crimes that cross multiple local and international jurisdictions, including but not limited to human trafficking and trafficking in persons, child trafficking, money laundering, narcotics trafficking in collaboration with ANU, and illegal wildlife trafficking.⁸²

This team works internationally to combat transnational criminal networks that engage in people trafficking, drug smuggling, and other cross-border crimes. Dismantling these networks promotes global security and fairness.

6.2. Ethics and Anti-Corruption Commission

The EACC, previously known as "the Kenya Anti-Corruption Commission" (KACC), is a public body established under Section 3 (1) of the Ethics and Anti-Corruption Commission Act of 2011. The Commission's objective is to combat and prevent corruption in Kenya through law enforcement, preventive measures, education, and the promotion of integrity and ethical standards⁸³. On August 29, 2011, President Kibaki signed the act, which formed the EACC.

6.3. Financial Reporting Centre

The Financial Reporting Centre (FRC) is a government agency established by the Proceeds of Crime Act 2009 (POCAMLA) in June 2011. It is a neutral entity whose primary goal is to help uncover criminal proceeds and prevent money laundering, terrorism financing, and proliferation financing⁸⁴.

6.4. CBK

The CBK is responsible for overseeing and enforcing compliance with the Proceeds of Crime and Anti-Money Laundering Act, 2009, and associated regulations of financial institutions under its authority.⁸⁵ In carrying out its mandate, the Central Bank of Kenya aims to safeguard Kenya's financial system and the larger economy against money laundering, terrorism financing, and proliferation.⁸⁶ This serves to increase the banking sector's integrity while also improving the nation's defense and security.

6.5. Capital Markets Authority

The Capital Markets Authority (CMA) is a state body established by an Act of Parliament, Cap 485 A, inside the National Treasury and Economic Planning.⁸⁷ It is primarily responsible for supervising, licensing, and monitoring the actions of market intermediaries such as the Stock Exchange and the Central Depository and Settlement Corporation (CDSC). It also oversees all licensees under the Capital Markets Act, such as Online Forex, Commodities, and regulated exchanges.

6.6. Anti-Counterfeit Authority

The Anti-Counterfeit Authority formed as a State Corporation under the Anti-Counterfeit Act 2008, with the following primary mandates: developing and promoting anti-counterfeit training programs; working with national, regional, or worldwide organizations active in combatting counterfeiting; and educating and enlightening the public on subjects relevant to counterfeiting, combating counterfeiting, commerce, and other transactions with counterfeit products.⁸⁸

6.7. Directorate of Public Prosecution (ODPP)

The Directorate of Public Prosecution was established under Article 157 of Kenya's 2010 Constitution. The Office of the Directorate of Public Prosecution Act 2013 later operationalized the office and mandated it with prosecuting all persons charged by the enforcement agencies while preserving, defending, and promoting the human and constitutional rights of all persons.

VII. CONCLUSION

This article acknowledges the fact that Kenya has a problem of white-collar crime especially among its public servants. It is evident by the cases highlighted in the types section of this article that a lot of money is lost during the commission of this crime as opposed to any other form of crime. This is a course of concern to any citizen in Kenya who wishes well for its country to remedy this problem by using the framework that has been highlighted above to eradicate white-collar crime. The best course to take in ensuring that white-collar crime is deterred successfully in Kenya is by strictly following the frameworks available; ensuring stronger, well-trained, skilled, and funded enforcement agencies are in place; and having strict penalties in place as opposed to lenient ones that are in place now.

⁸² Ibid. Transnational Organized Crimes Investigation Unit

⁸³ "Ethics and Anti-Corruption Commission Act Mandate"

⁸⁴ Financial Reporting Centre https://www.frc.go.ke/?page_id=7.

⁸⁵ Central Bank of Kenya, <https://www.centralbank.go.ke/aml-cft-cpf/>.

⁸⁶ Ibid,

⁸⁷ Capital Markets Authority, <https://www.cma.or.ke/about-us/>.

⁸⁸ Background, Anti-Counterfeit Authority <https://www.aca.go.ke/background>.

The biggest challenge in the fight against white-collar crime in Kenya is the political class. Politicians are responsible for passing laws that if properly implemented could put an end to this kind of crime. Also, if the politicians who are involved in any form of white-collar crime cases were barred from running for any office in the future, the country could be heading in a better direction. Accountability among public officials for crimes committed within their offices should also deter any further crime from taking place again by the same people. It is clear through this article that Kenya has in place a framework to deal with white-collar crime, and it also shows that while the framework exists, there is a need for improvements.