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Modern Era Corporate Crime(s) Vis-à-vis White-Collar Crime(s): A Critical Analysis from Indian Perspective

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ABSTRACT

Corporations is a conglomeration of companies which are controlled by a single organization. Nowadays, corporate frauds have risen in India. Corporations committing corporate frauds is no longer a western concept for India. India's earlier corporate crime dates to 1958, Mundra Scam. In this paper, an attempt has been made to analysis the emerging trends of corporate crimes in India. This has been done through studying various methods of commission of corporate crimes, how the background of the offender gives impetus to commit corporate crimes, motivation behind the corporate crimes and various model of corporate frauds. Further, short comings of legislations and recommendations/suggestions to discourage corporate crimes are also discussed.

INTRODUCTION

In the end decade of 20 Century the Indian economy experienced a boom due to liberalization, privatization and Globalization with the expansion of the economy models were required to Strengthen the Corporate Governance framework India to discourage Corporate Frauds and enhance the trusts of Shareholders and investors in the markets. The question of how Corporate Governance discourages corporate crimes will be dealt. Since, India had a Gross Domestic Product between 8-9%, it becomes very important that the stock markets which play a crucial role in economic growth should be free from any kind of corporate crimes. These can be achieved through placing mechanism in place to check corporates financial functioning.

Corporate crimes are White-Collar crimes, which do not involve violent means. Corporate crimes though non-violent in nature are dangerous for investors and for the fragile economy of India[1]. Corporate crimes can swipe out several billions of from the economy and can put it under immense pressure, shake trust of investors and can raise serious trust issues on the corporate sector of the country[2]. India has seen some major corporate frauds Harshad Mehta scam, Cobbler Scam, Mundra Scam, PNB Scam, 2G Scam, UTI Scam to mention a few.

Corporate crimes can shake the core of any society. To address the gravity of corporate crimes, in 2013 the Parliament of India enacted new Companies Act. In the new companies Act, Section 447 was introduced, which penalized corporate crimes. The aim of the new section

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was to discourage people from engaging in corporate crimes and punish the wrongdoers, both in the form of punishment and through imposing monetary penalty.

Corporate Crimes are committed through various methods like manipulation of financial statements, bribe, sharing sensitive information. Corporate crimes are committed by people who have high social status, hold position of authority in organizational settings and are motivated by a range of factors discussed later, in the research paper. Over the period researchers have developed various models of corporate frauds to categorise corporate crimes. The government has placed various legislation in place to curb corporate crimes along with the section 447 of the Companies, Act, 2013. Despite of this the corporate crimes have been on a rise in India.

CORPORATE CRIMES: A WHITE-COLLAR CRIME

In 1940, Edwin Sutherland[3] the first time coined the term, White Collar Crimes. According to Sutherland, White collar crimes, are committed during occupation by the people who have high socio-economic status, respect in society and authority for financial gains. White-collar Crimes can be simply defined as wilful contravention of lawful acts through series of illegal acts, which are non-violent, for the purpose of wrongful gains either in the form of money or property or from abstaining to perform legal duty for the purpose of wrongful gains either in the form of money or property[4].

White Collar crime is a very wide concept and include several other crimes which are committed by people who have professional ability, by government officials, by politicians, by businessperson or by corporations.[5] For instance, illegal sex determination by doctors, production of fake affidavits by lawyers, bribes taken by government officials to do or from abstaining to do something legal, bribes taken by politicians for providing favours etc. taken b etc. are all the forms of White-Collar Crimes[6].

Corporate crime is one of the species of White-Collar crime, a genus. Corporate crimes are committed by corporations through an individual acting on its behalf or by a business entity[7]. The Corporate Crimes are committed to come secure unethical profits for the corporates through contravention of legal provision.[8] Corporate crimes benefit the individuals acting on its behalf by ensuring job security, good salaries, and higher return on shares.[9]

Difference between Corporate Crimes and White-Collar Crimes

1. White Collar Crimes is a wider concept and Corporate Crimes is a sub-category of it.
2. White Collar Crimes can be committed by the people in any high socio-economic settings like hospitals, government offices, Courts. While Corporate crimes are committed in corporate settings.
3. White Collar Crimes are committed by individuals, who can be doctors, lawyers, politician, or other professionals. Corporate Crimes are committed by individuals or business entities on their behalf.
4. White Collar Crimes benefit a particular individual who is committing the crime. Corporate crimes benefit the corporates, individuals or business entities committing the crimes on their behalf[10].
5. White Collar Crimes committed by individuals include bribing for favours such as getting contracts from government, issuing fake medical certificates, taking large donation for admissions, fabricating evidence. Corporate Crimes committed by corporates include manipulating financial statements like balance sheets, income statements and cash flow statements, physical padding, fake sales, manipulation of stocks[11].

Inter-relationship between Corporate Crimes, Corporate Frauds and Fraud

Post to the enactment of The Companies Act, 2013, frauds committed by the corporates were dealt under Section 17, The Indian Contract Act, 1878. The Contract Act imposes civil liability on the defaulters. The corporates started exploiting this provision. The companies can commit Corporate Fraud can walk away easily, leaving the economic markets in a dangerous situation.

The circumstances lead to the removal of the Companies Act, 1956. The Parliament enacted The Companies Act, 2013 to bring Corporate Frauds under the umbrella of crime with the help of Section 447 of the Act

[9] D. Silviya Dixina and S.Indrapriya, (2018), "A Study of Corporate Crime In India", *International Journal of Management and Humanities*, 2(11), pp. 1-6.
[10] *Ibid*.

[11] Ibrahim El-Sayed Ebaid, (2023), "Board Characteristics and The Likelihood of Financial Statements Fraud: Empirical Evidence From Emerging Market", *Future Business Journal*, available at https://doi.org/10.1186/s43093-023-00218-z
[12] *Ibid*.
[13] *Ibid*.

which talks about the "Punishment for Fraud", the section does not use the term crime, on the reading the provision it becomes abundantly clear that the punishment prescribed is for committing corporate crime. The Section imposes criminal liability on the offenders. As Section 447, does not use the term crime, this often leads to the terms "Corporate Fraud" and "Corporate Crime' are used interchangeably.

Rise of Corporate Crimes in India

The Corporate Crimes have been on a steady rise in India. The statement is supported by the fact that India has seen a wide number of scams starting from post independence to till date. Harshad Mehta Scam can be seen as the first scam which attracted lot of attention of the public and media. But this was not the first corporate fraud committed in India. India's first corporate fraud was in 1958, Mundra Scandal.[12]Mundra influenced the politicians and bureaucrats to invest in the shares of his six companies to keep the sinking companies afloat. As result, government ended up investing 1.24 crores of Life Insurance corporation (LIC) bypassing the legal mandates of the LIC[13]. The scandal exposed illicit alliances between government, and businessperson to gain undue advantages. Similarly, in Jayanti Dharma Teja Scam[14] top brass politicians were involved. The offender was convicted but was released earlier. The government lost some 13 crores due to this scam. The too corporate scams occurred in pre 1970s[15].

Indian Stock Market Scam, popularly known as Harshad Mehta Scam[16]shook the conscience of Indian economy and many lives were destroyed due to this scam. Indian banks had to maintain Cash Reserve Ratio (CRR) and Statuary Liquidity Ratio (SLR), due to which major amount of banks was blocked, and banks were not able to make monetary benefits[17]. Banks were left with little amounts to lend, which banks must lend first to MSMES,

small businesses, professionals at lower rate of inte

rest. The banks were frustrated with these regulations and wanted commercial gains. Harshad Mehta exploited the shortcomings of the system[18].

At that time, the securities were not digitally regulated.

The Bank Receipts (BR) served as confirmation for sale of securities. For instance, in 'Ready Forward Deal,' Bank A is in the need of the funds to maintain its CRR ratio, it would sell its securities to Bank B. Bank B would later brought back its securities from Bank A at higher rates. The difference between sale and purchase price was the interest paid by the Bank A to Bank B. In this transaction, stockbrokers served as the intermediaries.

Thus, in the current situation Bank A would issue Bank Receipts confirming sale of securities. The broker would show issued 'Bank Receipt' to Bank B and would get the money sanctioned and money was transferred into brokers account, which was another drawback.

Harshad Mehta, with the help of bank officials started getting fake BR issued, got money from the banks, and invested the money in the stock market. With the help of this money, he plummeted the stocks which yields benefits to him. This scam wrecked up the Indian stock market. The banks and Non-Banking Financial Institutions (NBFCS) suffered a loss of 4,000 crores as given by Janakiraman committee.[19]The committee adopted Problem Exposure Methodology to determine value which banks and NBFCs could not recover. But the committee did not access the losses suffered by the Public Sector Undertakings (PSU), so the actual losses can be much higher than estimated by the committee[20].

After this scam Satyam Scam[21]racked up the trusts in Indian corporates. The offenders manipulated the financial statements to inflate profits. The offenders also created a sham company. The stock prices of the company were plummeting leading to investments. When the scam was exposed, it shocked the trusts of investors in Indian corporates. This was huge scam of 8,000 Crores[22].

[14] Ashok H Desai, (1959), "Afterthoughts on the Mundhra Affair", *The Economic Weekly*, 11(28-30), p.-937.

[15] *Ibid*.

[16] Handa, Rakesh K and Prakash, Vani., (2021), "Corporate Frauds In India And The Effectiveness Of The Companies Act,2013", *Ideal Journal of Legal Studies*, pp. 29-38.

[17]*Ibid*.

[18]Santosh Nair, "Scam1992 Explained: How Harshad Mehta, Brokers And Banks Gamed The System", (2022) available at https://www.cnbctv18.com/ market/scam-1992-harshad-mehta-scam-explained-74171101.htm

[19]*Ibid*.

[20]*bid*.

[21]Reports Of the Committee To Enquire Into Securities Transactions Of Banks And Financial Institutions, Janakiraman Committee Appointed By The Reserve Bank Of India available at http://opac.igidr.ac.in/cgi-bin/koha/opac-detail.pl?biblionumber=30126.

[22] *Ibid*.

[23] Tanushree Jaiswal, (2023), "Satyam Scam", available at https://www.5paisa.com

[24] *Ibid*.

India has witnessed several scams. Before Satyam Scam, like Cobbler Scam, UTI scam, Ketan Parekh Scam,

and after Satyam Scam, like King Fisher Airline Scam, Nirav Modi scam. Some Scams have been briefly discussed in the research paper.

Reasons for Rise in Corporate Crimes in India

1. The Companies Act, 1956[23], provided long procedures and enormous licensing regulations. This helped few industrial families to licenses flourish by abusing their powers to get.
2. The promoters were usually family and friends of the affluent families, who indirectly invested in the companies. Thus, they have access to maximum voting rights, access to majority of finances and large stakes in Company
3. All these lead to failure of economy. The affluence of few people in the corporate Governance led to miss appropriation of funds, inter-corporate investments, loans and divergence of funds leading to collapsed economy[24].
4. The Corporate Governance model listed in Clause 49 and The Companies Act, 2013 is still not sufficient to address the issues of corporate crimes in India. Some of the reasons can be Lacks procedural rights for stakeholders which make it difficult for directors to fulfil their duties[25].
5. There is capitalists' system in India, which leads to promoters having maximum shareholding gives impetus to the conflict of interest can be prevalent between minority and majority shareholders. This creates a risk that the promoters can transfer business to their controlled organizations.
6. The concentration of more power in the hands of minority shareholders can lead to hindrance in taking business decisions. Thereby, forcing the majority Shareholders to take unethical means.
7. The modification in The Companies Act, 1956, can be seen because of rising corporate crimes in India
8. After, the Satyam Scandal the Confederation of Indian Industry looked into underlying corporate governance problems which allowed Corporate crimes to take place.
9. Three years after the Satyam Scandal occurred Companies Bill, 2012, was presented with the aim to regulate Corporate Governance and tackle corporate crimes.

Corporate Crimes: Crimes Through Organizational Process

Corporate Crimes are also known as 'Organisational Crimes,' they are committed systematically where many people in the position of authority are involved, in such crimes the whole management of the Corporate is involved, staining the entire system. Corporate is a separate legal entity under The Companies Act, 2013, which is capable to sue and being sued. A corporate can be sued, as it is an artificial person in the eyes of law, the members who engage in corporate crimes are sued for corporate crimes[26]. Therefore, from the interpretation of Companies Act it becomes clear that the Corporate Crime is an outcome of well-coordinated actions of the management which are done in the contravention of the legal framework[27].

TYPES OF CORPORATE CRIMES COMMITTED IN INDIA

Corporate crimes can be categorized into following several types.[28].

Bribery and Corruption

Bribery and paid in cash either voluntary or involuntary, on instance of the officials in position, to omit from doing something legal. Whereas corruption is a wider concept, and bribery falls into the concept of corruption[29].

In Ponzi Scheme scam, CR Bhansali[30]bribed the company officials and induce them to sell their shares to the CR Bhansali Corporation at lower rates and promised, the companies to give double returns, later. This scam illustrates bribery corruption where the CR Bhansali

[25]Handa, Rakesh K., (2023), "A Critical Analysis of Legal Reforms of Corporate Governance in India", *Russian Law Journal*, 11(6), pp. 971-982.
[26] *Ibid*.
[27] *Ibid*.

[28]*Ibid*.
[29] *Ibid*.
[30]Handa, Rakesh K., and Vani Prakash, (2022), "Emerging Trends in Corporate Crimes: An Indian Legal Perspective", *Journal of Positive School of Psychology*, 6(4), pp. 5088-5091.
[31]*Ibid*.
[32]Bilimoria Mehta and Co., "Case Study on Bhansali Scam" available at https://tax guru.in/chartered-accountant/case-study-Bhansali-scam.html/

Corporation officials prevented the companies from per forming their legal obligations in lieu of unethical profits[31].

To raise funds, the corporations can engage in unfair practises of manipulating their balance sheets, inventory records, sales, securities, spreading false information among the investors[32].

Misappropriation of Assets

A Corporation has both tangible and intangible assets which it can manipulate to take undue advantage of markets[33].

Tangible Assets manipulation would amount to misappropriation of assets which are physically assessable to the corporations like Showing fake sales, less stocks or more stocks, fake transfer of assets, fake requisition of assets, fake billings, manipulation with the records of inventory[34].

In King Fisher Airline Scam[35] the corporation kept on collecting provident fund, transport tax from travellers and income tax from staff. But the corporation did not report this information to the State Bank of India (SBI), resulting SBI declaring the corporation without any funds. Due to this declaration several banks granted the loans to the corporation.

The corporation misappropriated the loan, which is also an asset. The corporation did not pay salaries to the employees. Due to which the corporation ran into bankruptcy. The corporation committed a huge fraud of 9000 crores taking loans from seventeen banks[36]. Intangible Assets manipulation would amount to misappropriating of information or securities for the unethical benefit of the corporation[37].

Financial Statement Frauds

Financial Statement Frauds are on the rise by the corpo ration to fuel their economic were growth in an unethical way which is in contravention to the legal framework[38].

The corporations committing such frauds engage of in manipulation of balance sheets, cash flow statements and profit and loss statements by applying accounting techniques in inappropriate manner to suit their economic agendas[39].

Motive For Manipulation of Financial Statements

Balance Sheet is a statement of company's assets and liabilities. It is a first impression of whether a company is engaged in profit-making business or not. It helps the investors to calculate debt to equity ratio of a company.

When a company wants more people to invest it can manipulate its balance sheet. Thus, for instance, by showing incorrect debt to equity ratio corporation can attract more investors.

Profit or Loss Statement or Income Statement, is a summary of a company which shows profit or losses of a company after deduction of taxes, expenses and earnings per share. It helps the investors. In predicting company's future performance by analysing company's present performance.

Cash Flow Statements gives an exact picture of company's cash inflows and outflows. Cash Inflows means money that a business is getting from its current operations. Cash Outflows, shows company's expenses to fund business activities.

The Balance Sheets, Income Statement and Cash Flow Statement are maintained for better management and good governance of a corporate. At the same time, they can serve as a tool to commit fraud with people. Investors rely heavily on these instruments to invest in the corporation. If such statements are false, it would mislead people resulting in investing in loss making company[40].

For instance, Section 23, prescribes that a public company[41]can raise money by issuing securities to the public through the prospectus. In the prospectus, the company should disclose all the information, whether it is a profit making or loss-making company. When Paytm issued securities through IPO, people flocked to buy shares, but

Paytm shares hit the bottom line on the day of opening. While issuing securities Paytm had disclosed that it is a loss-making company in the Prospectus, unfortunately, public did not go through the prospectus clearly thor

[33]*Ibid*.
[34]*Ibid*.
[35]*Supra* note 28 at 5090.
[36] *Ibid*.
[37]Vijay Mallya Scam: Biggest Corporate Fraud In Indian History available at https://www.finishing.com/Corporate-Scams/Vijay-Mallya-scam.
[38]*Ibid*.
[39]*Ibid*.
[40]Supra Note 28 at 5091

[41]*Ibid*.
[42]*Ibid*.
[43] The Companies Act, 2013

oughly. So, in this case the corporate has not committed any fraud, as the corporate has furnished valid information about the economic performance and assets of the company.

In CR Bhansali scam [44]the auditors manipulated the balance sheets of the company and projected the corporate engaged in profit making business. It led to deception, with people heavily investing in the artificially plumped shares and later, losing the capital.

Corporate Espionage

The employees of the company who are custodians of the confidential information of the company share this confidential information with competitor company for monetary benefits[43]. Confidential Information can include customer data base, trade secrets, patents, trademarks or copyright, product details. Customer data, for instance, is a very confidential information for the companies as it affects its marketability. If any employee, who is entrusted with this information, shares customer data with another competitor company it will affect profitability and the employee the of the company will be guilty of be Corporate Espionage.

Procedural Fraud

The corporates are required to follow the procedures[44] illustrated in various statues like The Companies Act, 2013, SEBI Act etc. If the corporates act in the contravention of these Acts, deliberately, with an intention and motive to gain undue advantage, they are guilty of corporate frauds[45].

In the Companies Act, the 'Doctrine of Ultra vires' under Section 4(1)(c) laid down, which prevents the corporate to act against their objectives stated Memorandum of Association (MOA). Any contravention against the objectives stated in MOA can lead to contract void ab into and corporates can go further to commit Corporate Crimes.

Interplay of Social Status, Organisational Positions and Motivation in Commission of Corporate Crimes

In the commission of the corporate crimes, the social status and the organisational position[46]of the offender plays a key role. Corporate crimes are committed by the offenders who have high social status and hold key managerial positions in the corporations, this will be dealt in detail in the paper. Also, it raises a question what motivates people with such affluence to commit crime.

Social Status of the Offenders of Corporate Crime

In the Corporate Crime, the social status of the offenders plays a significant role. Corporate crimes[47]are committed by the wealthy socio-economic classes. Some criminologist theorists would not accept this distinction. Corporate crimes can only be committed by a person who hold higher socio-economic position during occupation, in a corporate. A security guard employed in corporate, cannot alter the financial statements of the corporate, this alteration can only be done by a Bonafide auditor.

The Companies Act, 2013, lays down eligibility of the auditors, who must hold professional accounting or auditing qualification and experience. Under Section 143, of the Act the auditor[48]must prepare and aid in audit reports, comply with standards of auditing, conduct enquiries and report frauds. The qualification prescribed and responsibilities endowed on the auditor indicates that the auditor has high socio-economic position during the course of occupation. The section 147[49] of The Companies Act, prescribes punishment for auditors for the contravention of procedures provisions of the Act.

From this instance, it can be clearly interpreted the social status of offender during course of occupation plays course of pivotal role corporate crimes. Therefore, the Companies Act prescribe punishment for auditors.

The Cobbler Scam was committed by the politicians with the help of the banks. The socio-economic status of the politicians was pivotal in the commission of the scam. Thus, social status of the offenders cannot be disregarded while analysing corporate crimes.

[44]Bilimoria Mehta and Co., "Case Study on Bhansali Scam" available at https://tax guru.in/chartered-accountant/case-study-Bhansali-scam.html/
[45]*Ibid*.
[46]*Ibid*.
[47]*Ibid*.

[48]Supra Note 5 at p-61
[49]*Ibid*.
[50]The Companies Act, 2013
[51]*Ibid*.

Organisational Position of Offenders of Corporate Crime

The Cambridge Dictionary, defines, Corporation, a large company or a conglomerate of companies controlled by a single organization. An organization helps the corporate or offenders to facilitate illegal activities and brushing them under the mat. In India, Sahara group used organisational setting to raise funds illegally.

Sahara Groups[50] was restricted by the Reserve Bank

of India (RBI) to raise funds through public issue of shares. The group to bypass RBI orders, formed two new Companies Sahara India Real Estate Corporation (SIREC) and Sahara Housing Investment Corporation (SHIC) to raise funds from public by issuing Optionally Fully Convertible Debentures (OFCDs). When a probe was done on account of irregularities, it was discovered that Sahara Group has committed a fraud of 17000 Crores. In this scam, organizational setting played an intrinsic role. The Sahara Group incorporated two new companies, namely, SIREC and SHIC, two complete organizational settings to commit corporate fraud[51].

In India, scams have also taken place where organizations have come into existence on paper without physical existence to commit frauds. This is the explanation of importance of organizations in the process of committing corporate frauds. Cobbler Scam is one of the best illustrations of it. In Maharashtra, the government had brought a scheme to give monetary benefits to cobbler Cooperatives. The politician's manufacturers got the money sanctioned from the banks, for the cooperatives only existent on the paper without doing any genuine business[52].

In ABRIL Case[53] the holding company formed a subsidiary company, which existed only on paper with no genuine business taking place. The corporate formed the subsidiary company for the purpose of bonus evasion. From the cases, it becomes abundantly clear that organisational settings play a pivotal role in corporate crimes[54].

Motivation Behind Corporate Crimes

Motivation is a key behind any crime. Corporate crimes cannot be committed without motivation and motive. Motive behind Corporate Crime can be profit making, cover up financial losses, exploiting the position of authority or due to cultural influence to commit such crime for progress in carer. In the research paper, the factors which led to motivation to commit corporate crimes have been stated briefly.

The offenders engaging in corporate crimes[55]con

vince themselves that the violation of law by them is not a grave crime. This technique is known as neutralization, which use by offenders committing all kinds of crime. The individuals who are committing corporate crimes deny to themselves they are not responsible for any unpleasant outcomes. For instance, if an auditor has manipulated the financial statements of a corporation, due to which investors suffered losses. The auditor will think s/he is not responsible for the losses suffered by the investors[56].

There is gap between corporate crimes offenders and the victims of Corporate Crimes The offenders do not know who the victims are. So, the offenders can easily deny the harm caused to the victim without feeling guilty for their actions. This gap leads to the lack of empathy among the offenders towards the victims. The offenders committing Corporate Crimes assure themselves, it was for larger good. For instance, offenders practising tax evasion would be of opinion that tax rule and regulations are so stringent and exorbitant, it is right to evade tax to afford good living and keeping business running[57]. The offenders are tempted by the opportunities which promise higher returns and chances of getting caught in corporate crimes are low.

In a corporate culture, where manipulation of auditing is allowed, anew normal, the auditor would find it difficult to not manipulate the financial statements due to fear of falling out of the professional circle through which s/he can get various career opportunities. The professionals can face peer pressure, which can motivate them to commit corporate crimes[58].

Analysing Models of Corporate Frauds with respect to Indian Context

Corporate crimes have been on a rise not only in India, but

[52]*Sahara India Real Estate Corporation Ltd. And Others*. Vs *Exchange Board of India* (2012), 10 SC 603

[53] *Ibid*.

[54] *Ibid*.

[55]*Associated Rubber Industries Ltd. (ARIL)* V. *Workmen of ARIL* (1985) 4 SCC 114

[56] *Ibid*.

[57] Michael L. Benson and Sarah M. Manchak, (2014), The Psychology of White-Collar Offending, *Oxford Handbook Topics in Criminology and Criminal Justice*, Oxford University Press, available at https://doi.org/10.1093/oxfordhb/9780199935383.013.008

[58] *Ibid*.

[59] *Ibid*.

[60]*Ibid*.

across the globe. So, the researchers have tried to identify the models on which the corporate crimes are based. In this research paper, an analysis would be made whether these popular models of corporate frauds would fix in the Indian context .[61]

Fraud Triangle

Fraud Triangle[59] was devised in 1970s by Donald R. Cressey. It is based on the three factors. First, is pressure which is financial. Second, the opportunity to commit crime due to familiarity with the pros and cons of the system. Third, rationalization, ability to justify the corporate crime committed[60].

Satyam group[61]started manipulating the accounts books to meet standards of the Capital Market. Price Waterhouse Coopers (PwC) was external auditor of the Satyam Groups for about a decade. PwC did not notice the scam which Merrill Lynch noticed merely in ten days. PwC tried to justify by claiming that it relied on the information provided to them by the management. PwC was rationalising its action and with further investigation it was revealed that Satyam Group was paying twice the fees to PwC for their services[62].

In Satyam Group scam, PwC was also committing fraud. PwC was aware of the shortcomings in the Satyam Group financial statements and exploited the opportunity. When PwC was caught the firm tried to rationalize their crime[63].

Fraud Scale

Fraud Scale[64]theory was developed by Albrecht in 1984 after Fraud Triangle. It has three factors. First two factors are like Fraud Triangle, pressure and opportunity. While third factor is personal integrity The factor of personal integrity is present in corporate crime. Higher integrity is indirect in indirect correlation with chances of committing corporate crime[65].

Fraud Diamond

The model of Fraud Triangle was further elaborated by Wolfe and Hermanson. Another dimension[66]was added to the model, fraudster's capabilities such as professional and organizational positions. Organizational position is the most crucial element corporate crime. Also, such crimes are committed by people professionally qualified and highly intellectual. All the Corporate crimes committed in India have one thing in common is that all the crimes are committed by highly intellectual people who hold the position of great authority in the Corporations.

MICE (Money, Ideology, Coercion and Ego)

MICE theory[67]expands the horizon of earlier propounded theory of frauds. This model states, that a person can be driven to commit corporate crime because of factors like money, ideology, coercion, and ego other than the financial pressure. For instance, in most corporate crimes ideology to expand business serve as basis of the corporate crimes. Kingfisher Airlines scam was driven by ideology to expand business operations of Airlines across the globe. In Harshad Mehta Scam money and an urge to live high status lifestyle played the basis of corporate crime.

A-B-C Model

A-B-C model[68]was propounded by Ramamoorti through analysing sociological and psychological approaches. The model categorises fraud into bad Apple, bad Bushel, and bad crop.

A bad by Apple refers to fraud committed by individual. A bad Bushel refers to fraud committed in collusion. A bad Crop is the most dangerous fraud, as it is committed in collusion with cultural and social mechanisms.

After analysing all the models of corporate fraud, it can be said that a fraud cannot be fitted into any single model of fraud. As the corporate committed have several

[62] Van Akkeren, J. (2018), Fraud Triangle: Cressey's Fraud Triangle and Alternative Fraud Theories. In: Poff, D., Michalos, A. (eds) *Encyclopaedia of Business and Professional Ethics*. Springer, Cham. available at: athttps://doi.org/10.1007/978-3-319-23514-1_216-1

[63] *Ibid*.

[64]Supra Note 21 at p-7.

[65]*Ibid*.

[66]*Ibid*.

[67]Albrecht, W. S., Howe, K. R., & Romney, M. B. (1984). *Deterring fraud: The internal auditor's perspective*. Institute of Internal Auditors' Research Foundation,

[68] *Ibid*.

[69]*Ibid*

[70]Ibid

[71] Novita Pupasari, "Fraud Theory Evolution And It's Relevance To Fraud Prevention In The Village Government In Indonesia", (2016)

elements and these elements tend to overlap with more than one model of corporate fraud.

Legislations Against White-Collar Crimes: Corporate Crimes

In India, a lot of legislations[69]exists which identify and punish the offenders for the commission of corporate crimes. In this research paper, an attempt has been made to identify the legislation punishing White Collar, 'Corporate Crimes' and subsequently addressing their shortcomings.

The Companies Act, 2013

The new Companies Act was brought to promote corporate governance, and the Act has proven to be effective. Section 447 was introduced to penalize corporate frauds. But the Act has shortcomings, this is evident of the fact that some great scams, PNB scam Kingfisher Airlines scam, Bank of Baroda scam, PACL scam have taken place after its enactment. In 2020, the government of India also brought the Amendment Act. The Amendment Act[70]was brought to increase ease of doing business by decriminalizing certain offences and reducing sentence of punishment in certain cases. The government allowed in-house adjudication. The government brought these reforms to increase trust in corporates, thereby, strengthening the economy and reduce burden of the Courts. The Amendment Act, 2020, also raise concerns that decriminalization and reduction in sentence of imprisonment in certain offences can lead to exploitation by the Corporations, as an excuse to commit frauds. At the same time, the process of issuing of IPO, by the private limited companies, is embodied with great complexities which can discourage them to launch IPO for public, which is a loss for the economy.

The Income Tax Act, 1961

The government of India imposes taxes to generate revenue. This revenue can help the government to undertake activities like development of infrastructure, advancement of hospital, undertaking welfare schemes, among others. Indian tax system[71]is embodied with complexities like high taxes, weak of enforcement mechanisms, complex regul ations which leads to tax evasion. Corporations engage in malicious practises like underreporting of income, manipulation of financial statements to avoid payment of taxes. Also, many economic activities are undertaken in informal sector, which are outside the purview of Income Tax Act.

Bhartiya Nyaya Sanhita (BNS), 2023

Bhartiya Nyaya Sanhita (BNS), 2023 does not address the issue of white-collar crimes, which is a crime affecting society largely. When Harshad Mehta Scam, Ponzi Scheme scam took place it destroyed lives of several people. Even Bhartiya Naya Sanhita, has no provision white-collar crimes, which define and punish corporate crimes. The Act has provision for forgery[72]but the provision has limited application in the cases of corporate crimes.

Prevention of money Laundering Act, 2002

The Act curbs money laundering not only domestically, also, internationally by enacting strict foreign exchange policies. At the same time, with the advancement of technology and introduction of crypto currency money laundering has been on a rise. The laws need to keep up with the advancement of technology to deter away money laundering.

The Indian Contract Act, 1878

The Act defines 'Fraud'[73]and imposes civil liability on the wrongdoers. The definition of Fraud under the Act is restricted, and it is not wide enough to include corporate crimes. So, it does not impose criminal liability on the offender.

The Information Technology Act, 2000

The Act was brought to regulate electronically services and check digital transactions[74]. But the Act is now outdated, as it does not deal with corporate espionage, frauds through mobile names, intellectual property rights of computer programs, protection of personal and professional data. The Act needs to be amended to address contemporary issues like corporate frauds committed in digital realm.

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[72] Rakesh K Handa and Vani Prakash, "Emerging Trends In Corporate Crimes: An Indian Legal Perspective", Journal of Positive School of Psychology, (2022)
[73] The Companies (Amendment) Act, 2020
[74]The Income Tax Act,1961

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[75]The Indian Penal Code, 1860
[76]The Indian Contract Act,1878
[77]The Information Technology Act,2022

The Prevention of corruption to (Amendment) Act, 2018

The Act was passed to curb corruption. The Act[75]prescribes long and tedious proceedings. It gives an advantage to officials to locate and exploit the loopholes. Thus, making it easier for offenders to go unpunished.

The Fugitive Economic Offenders Act, 2018

The Act allows the government to confiscate properties and assets offenders who abscond to other countries. The drawback, the government can only act if the fraud is off at least 100 million.[76]Thus, people who commit fraud less than 100 million amount escape from this legislation.

An Overview of Emerging Trends of Corporate Crimes

Now, the trends which are emerging in sphere of corporate

crimes will be summarised after the research analysis.

1. Corporate crime is a subcategory of White-Collar Crimes, which are committed in organisational settings. In India, white-collar crimes which are fake educational certificates, fake medical certificates, bribery for taking undue advantages are on the rise in India. These crimes are different from corporate crimes, these crimes include manipulation of securities, miss-utilization of assets among many other corporate crimes.
2. Offenders of corporate well crimes bare placed socially, economically, highly respected and hold position of dominance. Despite, this the offenders feel motivated to commit corporate crimes due to financial pressure, ego, peer pressure, lack of empathy towards victim, opportunities and profit making.
3. Offenders follow a modus operandi,[77]where they bribe, act corruptly for monetary or physical assets. The offenders engage in the manipulation of assets, through misappropriating assets, underreporting income, manipulating securities, spreading false information, alerting inventory records showing fake sales or producing fake bills. The offenders rationalize the corporate crimes by thinking their acts are for larger
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4. The adoption of such techniques, neutralisation and rationalisation, has led to increase in corporate crimes in India. Harshad Mehta, PACL, UTI, PNB, Saradha, Satyam are some of major corporate crimes in India.
5. The models of corporate frauds, Fraud Triangle, Fraud Scale, Fraud Diamond, MICE and A-B-C Model have been analysed to understand which model suits well in the Indian context. After analysing all the models of corporate fraud, it can stated that none of the model fits completely in the Indian context. The factors of models tend to overlap with one another.

There are various legislations which are enacted by the Parliament to curb corporate crimes. Unfortunately, there are various Shortcomings of the legislations. The shortcomings become more evident by the fact that the corporate crimes are on the rise in India.

Recommendations To Discourage Corporate Crimes

Corporate Crimes can be discouraged by adopting good Corporate Governance[78] and enforcing strict mechanisms to enforce the rules of the Corporate Governance. The recommendations are-

1. The Companies should formulate framework, which are to be updated quarterly, to access the areas where the business is fragile and risk of financial crimes such as risk of money laundering, to ensure business is streamlined and capital of investors and shareholders is safe.
2. The Companies should update their corporate governance framework accordingly with the legislations and policies passed by the Parliament of India. The policies and legislation are brought to discourage corporate crimes by strict compliance of procedures illustrated in legislations.
3. Both the employees and the Board of Directors should undergo mandatory training to raise awareness among
4. them about the current areas of risk and trends. This will help them to identify the risks at the preliminary stage. Thus, discouraging corporate misconducts.

CONCLUSION

Corporate Crimes have risen in India, in the research an

[78]The Prevention of Corruption (Amendment)Act, 2018
[79] The Fugitive Economic Offenders Act,(2018)
[80]Rakesh K Handa and Vani Prakash, " Emerging Trends In Corporate Crimes: An Indian Legal Perspective", Journal of Positive School of Psychology, (2022)

[81] "Corporate Crime and Investigations-What now for 2024", available at www.ashrut.com/en/insights/corporate crimes-and-investigations-what now-for-2024

attempt has been made to identify the factors which are propelling corporate crimes and putting Indian economy in eminent danger. In the research, it is found out that highly placed individuals commit corporate crimes. These offenders lack empathy that is why they do not deter away from committing corporate crimes. The legislations are in place to these corporate crimes. Unfortunately, the offenders' devises mechanisms to break these regulations. The government needs better enforcement authorities which are under strict vigilance of the Ministry of Finance and Ministry of Corporate Affairs to ensure that the officials do not engage in unconstitu tional affairs. The committee should be appointed within the corporations, controlled by the Ministries for moral checking within the corporations.