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CORPORATE FRAUDS: A STUDY OF HIGH-PROFILE CASES IN INDIA

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ABSTRACT

Corporate fraud poses a substantial threat to national economic prosperity, as evidenced by its increasing prevalence amid global trends of globalisation, liberalisation and privatisation. This research paper meticulously examines the complex dimensions of corporate fraud, defined herein as an intentional act employing deception to accomplish illicit financial gain, and elucidates the fundamental constituents of its perpetration. Demonstrably false statements, unquestionable knowledge of their falsity, victim reliance upon said falsehoods, and demonstrable financial detriment. Concentrating on prominent Indian instances, including the Coal Scam, Punjab National Bank fraud, the Satyam Scandal, the Kingfisher Airlines Debt Default, the Yes Bank Crisis, and the Sharadha Chit Fund Scam, this paper endeavours to ascertain the motivations, methodologies, and execution strategies employed by perpetrators. Through an exhaustive analysis of these cases, the study aims to identify systemic vulnerabilities and recurring patterns that facilitate such offences, and to critically appraise the effectiveness of existing corporate governance frameworks, governmental regulations, and ethical paradigms within India. The research, inherently theoretical, synthesises data from scholarly literature, official government reports, and authenticated online sources to ensure an accurate and precise exposition. Ultimately, this paper contributes to a deeper comprehension of the formidable challenges in counteracting corporate fraud and proposes avenues for reinforcing regulatory oversight and ethical conduct within the Indian commercial sphere.

Keywords: Corporate fraud, financial loss, scam, regulations.

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INTRODUCTION

The seriousness of corporate crime can be traced from the words of Schmallegger(1991), who says, “More money has been stolen at the point of a pen than at the point of a gun”². With the advent of Globalisation, Liberalisation, and Privatisation, corporate fraud has become a hindrance to a nation’s growth. Increased standards and cutthroat competition have led the corporate sector to attain wealth by unfair means, especially targeting loopholes in the system. In terms of **Standard on Auditing(SA240)**, a fraud can be defined as, “an intentional act by one or more individuals among management, those charged with governance, employees and third parties, involving the use of deception to obtain an unjust and illegal advantage”³. Fraud is an intentional act to deceive the government and public. It is committed either for or against a business firm by fraudsters (Singleton & Singleton, 2010). As per Golden *et al.* (2006), there are four essential ingredients of commission of fraud which are stated as follows:-

- False statement of material nature
- Knowledge of a fraudster of a false statement
- Victims relief in false statement
- Results in financial damage

Hence, this research paper, while focusing on the different reasons and causes of corporate fraud, seeks to study the high-profile cases in India. This will guide us to the mindset of the fraudsters, on what led them to commit such offences and what strategies they employ. Significantly, how do they execute their plans and whether they are assisted by any other entity or not?

OBJECTIVES AND METHODOLOGY

The main objective of this paper is to understand the nature and circumstances that give rise to the commission of fraud. In addition, this paper will examine the patterns followed by the fraudsters to prevent further commission of fraud. This research is a theoretical research that

² Frank Schmallegger, Ph.D. (1991), Towards a Sociology of Organizational Crime, <http://www.financialexecutives.org/KenticoCMS/getattachment/Communities/Chapters/Indianapolis/news---announcements/FEI-Indianapolis-December-16th-Presentations/Indy-FEI-fraud-deck-Crowe-Horwath.pdf.aspx>

³ Institute of Chartered Accountants of India set up Audit Practices Committee (renamed as Auditing and Assurance standards Board) in 1982. It issues Statement on Standard Auditing Practices (known as Standard on Auditing) in line of integration with International Standard on Auditing.

is carried out by obtaining data and information from various research papers and articles published in various international or national journals. However, for authenticity and precise information, data has been gathered from government websites, books, government reports and such other material.

CORPORATE FRAUD IN INDIA

Since the beginning of the business society, corporate fraud has been an essential part of it, and will remain till the end of business. However, it is just like another criminal offence as it involves both the essential components of crime, *viz. actus reus* and *mens rea*. **Edwin H. Sutherland**⁴ defined corporate fraud as a crime committed by an individual of high social status and respect in their area of occupation. Eventually, corporate fraud is like murdering the economy of a nation. Corporate fraud in India is at its highest level since the policy of LPG (Liberalisation, Privatisation and Globalisation) came into existence. Various scandals and scams like the Harshad Mehta scam, the Satyam scam, the Kingfisher scam, the Enron scam, the Shraddha Chit Fund scam and the Yes Bank crisis. Due to increased corruption and system manipulation techniques, fraudsters take advantage of the liberalised machinery of the government. In recent decades, developing nations witnessed a spike rate of corporate fraud, posing serious controversial questions before academicians, researchers and professionals on the efficacy of corporate governance mechanisms, government regulation mechanism and the role of corporate and individual ethics. Post scams, the government officials and machinery are more strengthened to address the loss caused to various entities and the general public. However, the seriousness of the Indian scenario is making the Indian economy breathe freely, which eventually puts the Indian economy on the verge of bankruptcy. The global financial crisis in 2006-07, and large corporation failures alongside, highlighted that while the corporate governance in India is combating certain existing lacunae and weaknesses may have their embedded roots in the ethos of business entities.

As per the ViVian Bose Commission of Inquiry, 1963 and the KPMG survey of 2010, the persistence of corporate fraud and a risk to large and medium-sized businesses. Conclusively, there is still a need for more improvements and to fill the existing gaps to slow down the pace of the spiking rate of corporate fraud. Since independence, there has been several legislations that have been enacted to curb the menace of corporate fraud statutes like Companies Act, SEBI Act, Indian Penal Code, Prevention of Money Laundering Act, Banking Regulations

⁴ 1939, Founder of White Collar Fraud, a Criminologist and Sociologist.

Act, Income Tax Act, Foreign Exchange Management Act, Prevention of Insolvency and Bankruptcy Fraud Bill, Competition Act etc. are directly and indirectly regulating the affairs of the corporate sector. These legislations empower the government entities to frame and implement various rules and regulations in order to ensure the uninterrupted and smooth functioning of corporate governance.

TYPES OF CORPORATE FRAUDS

Corporate frauds are not limited to a small ambit, instead, they encompass a variety of criminal and civil violations. By the passage of time, it has become more complex and exhaustive in nature. The complexion of a corporation involves three major components, which are as follows:

- **Opportunity** – Primarily, the fraudster looks for any chance available to do mischief, which then gives rise to further steps.
- **Motivation** – After accomplishing the task successfully, the fraudster strongly desires to gain more and more. It necessitates the fraudster to commit further fraud. For such a purpose, they frame their strategy and foolproof plan to execute the next step.
- **Rationalisation** – Fraudsters justify their strategy and method in their mind. Further, their mindset becomes more inclined to commit fraud. It eases their guilt and prompts them to further commit fraud.

Broadly, a corporate fraud can be divided into:

- **Asset Misappropriation** – it encompasses the gathering of assets and cash by employing various mechanisms. For instance, cash skimming, cash larceny and theft of inventory or equipment, shell company scams, etc., are some asset misappropriation fraud.
- **Financial Statement** – fraudsters draft a forged financial statement that encapsulates exaggerated information. Consequently, it led threat to the integrity, transparency and quality of financial information.
- **Corporate Espionage** – it wholly depends on the business relevant to the business. It could be a client list, supplier agreement, personal rewards, research documents or prototype plans for a new product or service.

- **Occupational Fraud** – These frauds have similar characteristics, but they cannot be detected easily, as implied above.

HIGH PROFILE CASES OF CORPORATE FRAUDS IN INDIA

COAL SCAM AKA COALGATE

In 2012, it was one of the biggest corporate scams involving major political personalities. It involved the allocation of coal blocks to public sector enterprises and private companies. From 2004 to 2011, these coal blocks were allocated to private companies, without any bidding or auction, at very low prices with due advantage of political connections. The whole issue revolved around the INC government led by then Prime Minister Manmohan Singh. This system lacked transparency and accountability, as well as fairness and integrity.

The Comptroller and Auditor General of India, in his 2012 report, unfolded the wrapped pages of the scam prevailing since 2004. The report alleged the financial loss of approximately Rs. 1.86 lakh crore by allocating coal without following the prescribed procedure of fair auction or bidding. This became the spotlight of the public at large and ignited the national anger. Crucially, many political figures like Prime Minister Manmohan Singh, Minister of Coal Pawan Kumar Bansal, Congress MP Vijay Darda and Chairman of Aditya Birla Group Kumar Mangalam Birla, were alleged to be involved in this scam.

In 2014, the Hon'ble Supreme Court of India ruled that coal allocated from 2004 to 2011 was illegal due to a lack of transparency and not abiding by the constitutional requisites for allocation of coal. Further, the Court ordered the cancellation of these allocations. Following the ruling of the Apex Court, investigations were launched by the CBI. In addition, the Indian National Congress saw its political setback in the 2014 Lok Sabha Elections, in which the Bharatiya Janata Party won the majority.

PUNJAB NATIONAL BANK VS. UNION OF INDIA (2022)

This case involved the banking fraud amounting to Rs. 15000 crores. Two prominent jewellers, viz. *Mehul Choksi and Nirav Modi* were involved in this scam. Both Jewellers were carrying out the business of exporting polished diamonds. They have country-wide retail chains of diamond business in India and other destinations across the globe. Simultaneously, the company started defrauding Punjab National Bank and other banks. Multiple large transactions, without any assistance from junior-level banking officials, were carried out. Approximately INR 16000 crore rupees were involved in the whole scandal. Thereafter, the

RBI issued an alarming order to all the banks to address system deficiencies. Post this scam in 2018, the government gave approval to the Fugitive Economic Offenders Bill to prevent economic offenders from evading the prescribed process of Indian law. The government was empowered to confiscate the assets of fugitives. The proposed bill covers several economic offenders like loan defaulters, fraudsters, individuals who violate the laws governing taxes, black money, benami properties, the financial sector and corruption.

SATYAM COMPUTER SERVICES SCANDAL

Satyam Computer Services was one of the leading and fastest-growing IT companies. It was a part of financial statement fraud which involved the manipulation of the balance sheet, i.e. there was a difference in the figures stated in the balance sheet and the actual reality.

In 1987, Satyam Computer Services was established as an IT company. After 3 years of its establishment, in 1991, it was listed on the Bombay Stock Exchange. Thereafter, in 2003, the first-ever evidence of accounting malpractices was recorded, which was embedded under the weight of files. In 2008, the company was honoured with the Golden Peacock Award for corporate governance. Later on, the plan of acquiring Maytas Infra and Maytas Properties, worth \$1.6 billion which was scrapped due to strong opposition from investors. The World Bank barred the company for a period of 8 years for offering improper benefits to its staff to win contracts. Annually, Satyam Computer Services dealt worth Rs. 100 million.

In 2009, the whole scandal was busted with the revelation of various shocking realities explained by the Chairman of the Company. He confessed to the accounting fraud of over Rs. 7000 crore and resigned as the Chairman of the Company. Later, he, along with nine other persons, was arrested and sentenced by the Court. The stakes of the company were then vested with Tech Mahindra after an auction overseen by the Government of India.

Therefore, the root of this scandal originated from the small adjustment in accounts to fill the gap between actual and reported profits. This small adjustment resulted in such a misappropriation of financial statements, of balance sheets, etc.

The major factors that are responsible for this scandal are regulatory dysfunction, irregularities in checks and balances of financial statements, and giving arbitrary powers to the companies. In a nutshell, there should be a regulatory authority shall keeps an eye on such companies to ensure fairness, transparency and accountability.

KINGFISHER AIRLINES DEBT DEFAULT

This is one of the most famous and historical financial scandals in India, involving a high-profile industrialist. It shook the whole financial stability and exposed the loopholes existing in the designed framework. It raised concerns about the governance and accountability issues of the regulatory authorities. Vijay Mallya was the main figure of this scam, who faced allegations of defaulting on loans amounting to Rs. 9000 crore. Later on, he escaped to the UK and fought prolonged legal battles.

In 2005, Kingfisher Airlines was incorporated under the Chairmanship of Vijaya Mallya. It was alleged that the then UPA government had disbursed various loans to the Airlines, which significantly raised the growth of the company at a much faster rate. However, the loan was not disbursed with due diligence and other improprieties.

Thereafter, the investigations of the CBI revealed shocking truths. The loan amount was spent for the purpose of purchasing luxury items rather than expanding the business. Presently, Vijaya Mallya is absconding from the legal sanctions of Indian Law. He was receiving the benefits of extradition provided by the United Kingdom.

YES BANK CRISIS

Yes Bank is one of the private banks that was caught in a serious financial scam. Unpaid loans are called non-performing assets (NPA). At the end of September 2019, the gross NPA was 7.4%; however, by the end of December 2019, it had risen to 18.87%. The crisis originated when the huge NPA issue became public.

Many high-profile industrialists and business entities like Anil Ambani, Café Coffee Day, Mantri Group, Essel Group, Vardaraj Cement, etc. had obtained huge amounts of loans with the help of the founder of the bank, i.e. Rana Kapoor, due to his personal connections. The gross NPA amounted to Rs. 40000 crore.

In order to manage the affairs and operations of a bank, it needs fresh capital. The Yes Bank failed to collect such capital, which significantly lowered its ratings and made capital-raising even more difficult. For this purpose, RBI has ensured a “credible revival plan” in the interest of both the public and the bank’s depositors. RBI placed the bank under a moratorium. This led to take over for 30 days with the appointment of Deputy Managing Director and Chief Finance Officer of State Bank of India, Prashant Kumar, as an administrator of the bank.

The major loophole was the inability and overburdened nature of the RBI. It must be relieved from unnecessary pressure and should be given much more liberalised powers and functions to manage debt affairs and regulate the performance of private banks.

SHARADHA CHIT FUND SCAM

Till the collapse in April 2013, the group collected nearly \$4-6 billion from over 1.7 million depositors. The State Government of West Bengal instituted an inquiry commission to investigate the reason behind the collapse of the Sharadha Group. On similar lines, the Central government also launched a multi-agency probe to investigate the Saradha scam and Ponzi schemes. Later on, in 2014, the Apex Court observed some discrepancies like possible international money laundering, serious regulatory failures and alleged political nexus. Furthermore, the investigation of the Ponzi schemes and the Sharadha scam was handed over to the Central Bureau of Investigation. Various prominent personalities were arrested for their involvement in a scam, including MP Kunal Ghosh, MP Srinjoy Bose, and Former West Bengal DGP Rajat Majumdar and other such persons. Soon after the unearthing of the scam, a four-member judicial enquiry headed by Shayamal Kumar Sen was constituted. The enquiry was concluded by August 2013, and nearly 1.7 million depositors filed a complaint with the commission. In addition, the State government was urged to set off the assets of Sharadha Group. After the collapse of the scheme, the Assam Government passed the Assam Protection of Interests of Depositors (in financial Establishments) (Amendment) Bill (2013). A similar situation occurred in the areas of Odisha and Tripura, adjoining the State of West Bengal.

CONCLUSION

The pervasive and escalating threat of corporate fraud, as meticulously examined throughout this paper, unequivocally underscores its detrimental impact on national economies, particularly within the dynamic landscape of India. The intricate nature of these illicit acts, characterised by deceptive financial practices and the exploitation of systemic vulnerabilities, necessitates a robust and multifaceted approach to prevention and remediation. Our in-depth analysis of prominent Indian corporate fraud cases—including the Coal Scam, Punjab National Bank fraud, Satyam Scandal, Kingfisher Airlines Debt Default, Yes Bank Crisis, and Sharadha Chit Fund Scam—has illuminated recurring patterns in motivations, methodologies, and execution strategies. These cases consistently demonstrate that corporate fraud is not merely an isolated incident but rather a symptom of deeper structural

deficiencies, often exacerbated by the confluence of globalisation, liberalisation, and privatisation.

A critical appraisal of existing corporate governance frameworks, governmental regulations, and ethical paradigms in India reveals both strengths and significant lacunae. While a comprehensive legal framework exists, encompassing statutes such as the Companies Act, SEBI Act, Indian Penal Code, and Prevention of Money Laundering Act, the efficacy of their implementation and enforcement remains a considerable challenge. The recurring theme across these high-profile cases is the exploitation of loopholes, the manipulation of financial reporting, and the insidious influence of personal connections and political patronage. The "fraud triangle" elements of opportunity, motivation, and rationalisation are demonstrably present in nearly every instance, highlighting the psychological and environmental factors that facilitate such offences. The findings suggest that a reactive approach, while necessary for punitive measures, is insufficient to effectively counter the evolving sophistication of corporate fraud. There is an urgent need for proactive strategies that strengthen regulatory oversight, enhance the independence and capacity of auditing bodies, and foster a culture of ethical conduct within the commercial sphere. Specifically, the paper advocates for:

- **Reinforced Regulatory Vigilance:** Greater scrutiny and more frequent, unannounced audits by independent regulatory bodies are crucial. This includes empowering regulatory authorities like the RBI to exercise more liberalised powers in managing debt affairs and overseeing private banks, as evidenced by the Yes Bank crisis.
- **Technological Integration:** Leveraging advanced analytics, artificial intelligence, and machine learning can aid in identifying anomalous transactions and predictive fraud patterns, thereby enhancing detection capabilities.
- **Whistleblower Protection:** Robust and easily accessible whistleblower protection mechanisms are essential to encourage employees to report suspicious activities without fear of reprisal, a critical aspect often overlooked.
- **Corporate Governance Reforms:** Emphasising genuine independence of board members, strengthening internal control systems, and promoting transparency in financial reporting are paramount. The Satyam scandal, in particular, underscored the catastrophic consequences of compromised financial statements and the need for rigorous checks and balances.

- **Ethical Leadership and Culture:** Cultivating a strong ethical culture from the top down, where integrity and accountability are prioritised over illicit financial gains, is fundamental. This involves continuous training and awareness programs for all levels of corporate hierarchy.
- **International Cooperation:** Given the transnational nature of some frauds (e.g., the Kingfisher Airlines Debt Default involving international extradition challenges), enhanced international cooperation in information sharing and asset recovery is vital.

In conclusion, combating corporate fraud in India requires a concerted effort from all stakeholders—government, regulatory bodies, corporations themselves, and the public. By addressing systemic vulnerabilities, promoting ethical practices, and reinforcing regulatory mechanisms, India can aspire to create a more resilient and trustworthy commercial environment, safeguarding its economic prosperity against this persistent menace. The insights gleaned from this research paper serve as a call to action for a more vigilant, transparent, and ethically grounded corporate future.