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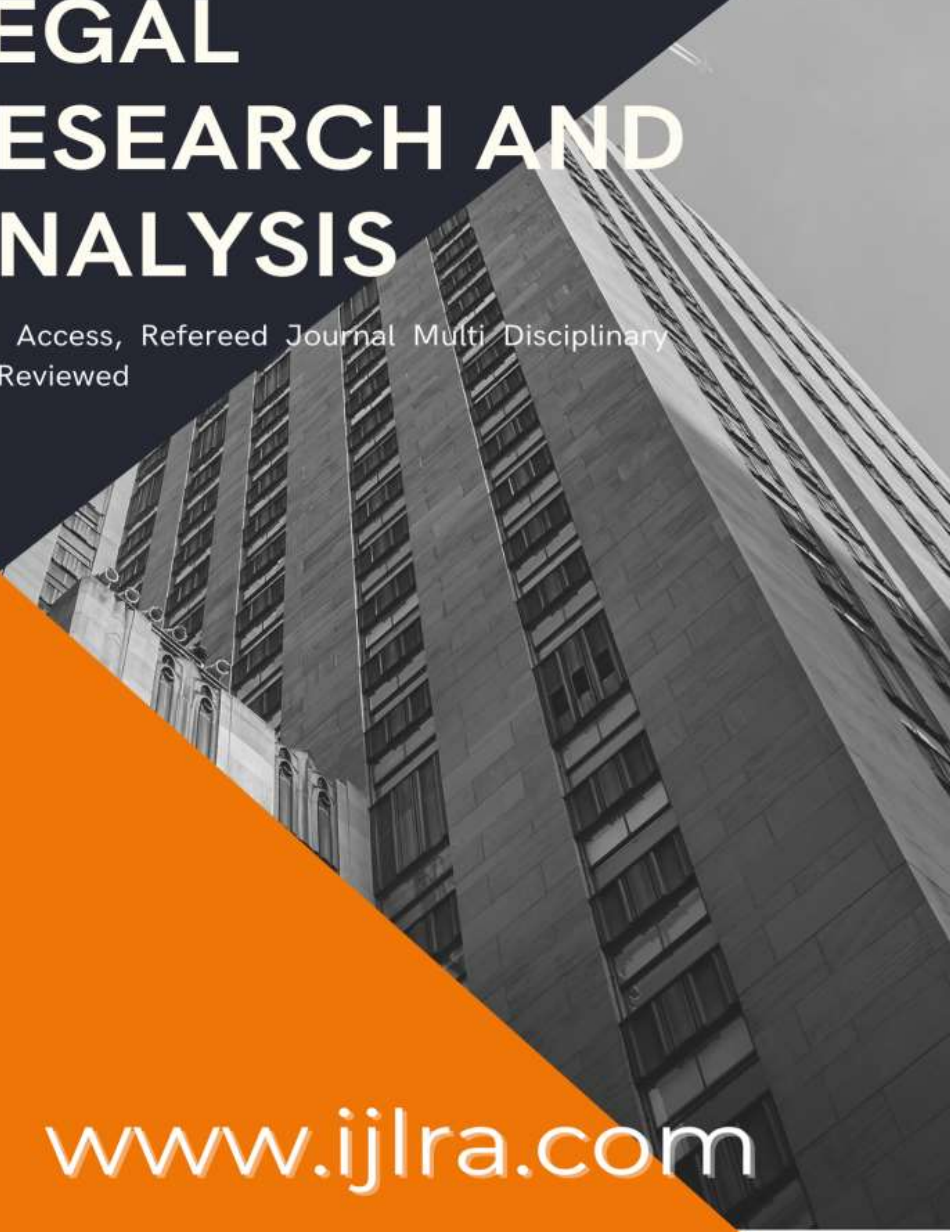

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AN ANALYSIS OF WHITE-COLLAR CRIMES: THROUGH THE LENS OF CORPORATE SOCIAL RESPONSIBILITY

AUTHORED BY - ASHMIT KHURANA

Abstract

Corporate social responsibility (CSR) is a relatively recent concept that can be interpreted in a number of ways. Government policies on corporate social responsibility (CSR) are a reassertion of state power in an area where the involvement of public authorities was once meant to be limited. Nonetheless, the trajectory and consequences of these governmental initiatives on CSR hinge on the explicit objectives of the policies and the dynamics of the relationship between the government and the corporate sector. This paper shall extensively examine the point of intersection of white-collar crimes and CSR along with the implications of misuse of CSR funds concerning white-collar crimes. White-collar crime, a generic term encompassing all forms of criminal misuse of trust, creates numerous problems related to economic, political, and moral harm to all sectors of society and contributes to the perpetuation of common or street crime. A problem inherent to this study is a concrete definition of white-collar crimes. Categorising white-collar crime by its descriptions is challenging because new variations constantly appear. A psychological study identifies the social settings of white-collar crime, dividing it into four primary categories. Identifying the reasons why such crimes are committed, ranging from the need for monetary benefit to obstacles to goal attainment, expertise proficiency, the belief of helping the victim, and the impact of group behavior, is essential to prevent and solve such crimes. These efforts can be varied, including attempts to direct business actions toward accomplishing political goals and offering governmental support to business strategies. Firms that emphasize Corporate Social Responsibility (CSR) are not free from white-collar crime. The weakness lies in individuals taking advantage of their commanding positions for personal gain, regardless of the firm's moral principles. Firms implement CSR initiatives more to improve their reputation and avoid legal consequences than for genuine commitment towards social welfare. CSR is the thoughtful and responsible way of doing business. White-collar crime involves illegal activities performed by those in power. The link between CSR and white-collar crime is complex, but there is room for real change.

Through this paper, the reader is able to determine the stance of CSR regarding white-collar crime.

Keywords: Corporate Social Responsibility, White-Collar Crimes, Intersection, Implications, Government.

Introduction

The concept of Corporate Social Responsibility (CSR) was first coined by Howard Bowen in 1953 and was introduced for the first time in his influential work, "Social Responsibilities of the Businessman"[1]. It has been defined as *'obligations of businessman to pursue those policies, to make those decisions, or to follow those lines of action which are desirable to the objectives and values of our society'.*

At the turn of the 21st century, organisations such as the United Nations and the OECD, among other international bodies, noted the critical function of Corporate Social Responsibility (CSR) in driving social equity and development. With the growth of companies and becoming key elements of national economies, it was largely accepted that businesses have a crucial function in society's progress. Profits made by shareholders are fed back into the economy through spending, taxes, and investment on social causes. The taxes fund public services. In essence, the financial success of businesses can fund initiatives that help reduce poverty, preserve the environment, and undertake other activities to promote equitable and sustainable growth. India, demonstrating a profound dedication to socialist principles and the welfare of its populace, mandates specific categories of enterprises to comply with Corporate Social Responsibility (CSR) obligations as stipulated under Section 135 of the Companies Act[2]. Section 135 and the CSR Rules are intended to extend the range of compliance obligations to cover holding and subsidiary companies and foreign companies with branches or project offices in India if they meet established criteria. The criteria set forth are worth at least Rs. 5 billion, turnover of at least Rs. 10 billion, and net profits of at least Rs. 50 million during any of the preceding 3 financial years. CSR entails companies actively participating in benefiting society by weaving together economic, environmental, and social goals within their operational and growth strategies[3]. The company often misuses these funds because of social and equitable welfare and

[1] Howard R. Bowen, *Social Responsibilities of the Businessman*, 3 (Iowa City: University Of Iowa Press, University of Iowa Faculty Connections), 2013.
[2] Companies Act, No. 18 of 2023, § 135 (India).
[3] Nitin Kumar, *A Study of CSR Rules under Companies Act, 2013,* Vol. 2 Issue 5, AJMS, 142, 143-144 (2014).

development from CSR funds. White Collar Crimes (WCC) have been prevalent since the dawn of age. Edwin Sutherland defined White Collar Crimes as *"A crime committed by a person of responsibility and high Social Status in the course of occupation".* This definition encompasses 4 criteria: A crime Committed by a person of Social Status in his profession, and a violation of trust. Edwin Sutherland introduced white-collar crime to describe offences committed by individuals of high social status and respectability within their professional lives. This concept, first presented in 1939 during a speech to the American Sociological Society, has sparked ongoing debates about what specific crimes fall under the umbrella of white-collar crime. Financially motivated non-violent crimes fall under this category. Essential instances of white-collar crime include insider trading, fraud, breaking environmental regulations, and breaking antitrust laws. White-collar crime also encompasses money laundering and public corruption, which are strategies to stop public officials from abusing their positions of authority. White-collar crimes are still largely unaccounted for by a single criminological theory despite advances in our understanding of this type of crime[4]. This demonstrates the different perspectives criminology, law, and sociology professionals hold. Furthermore, many people know the detrimental societal deeds that influential people have done during their professional or economic lives. These actions draw attention to more significant social problems that go beyond classic crimes like robbery, murder, and assault. Various types of crime occur within the corporate structure, often called White Collar due to their non-violent and financial nature. Various crimes fall under the umbrella of WCC, including but not limited to money laundering, insider trading, insurance fraud, counterfeit currency, and fund manipulation. The paper is highly concerned with the intersection of White Collar Crimes (WCC) and Corporate Social Responsibility (CSR) and, subsequently, the implications that arise out of it, including multiple factors to determine an effective control and regulatory mechanism. These questions will be answered sequentially in 3 limbs.

Where does the intersection of Corporate Social Responsibility and White-Collar Crimes occur?

The opportunity approach to white-collar crime, as discussed by Simpson and Michael L. Benson, provides a sophisticated explanation of how these crimes arise not just from personal deviance but from the identification and exploitation of opportunities in organizational contexts. This approach posits that white-collar crimes are not motivated by intrinsic

[4] Gorasiya and Chudasama, *White Collar Crime in Indian Context*, Vol. 4 Issue 2, NJCSL, 1, 2-3 (2021).

criminality but by situational and organizational factors that enable or even promote illegal acts. Technically, people commit white-collar crime because they see opportunities arising from lax regulations, poor regulation, or systemic failure in the environment in which they work. For instance, loose regulatory systems, weak laws that are poorly enforced, or absence of internal checks and balances can facilitate the deviants to take advantage of these loopholes for self-benefit. The opportunity approach also identifies the influence of situational factors, such as access to confidential data, the ability to manipulate finance records, or the force to meet unrealistic performance targets, which can compel people to engage in unethical or illegal acts. Organizational structures and culture are also significant in creating opportunities for such offenses. Hierarchical structures with less transparency can permit upper-level workers to hide illegal activity, while a profit-first corporate culture might tacitly condone or ignore unethical behavior. These environments are fertile grounds for white-collar crime to flourish, not only due to individual decision-making, but because the setting actively promotes opportunities for criminal behavior[5]. There is an implicit recognition of the relationship between Corporate Social Responsibility and White Collar Crimes. A crucial yet meaningful scope of improvement can be made concerning their intricate relationship. CSR can be divided into 4 categories: Environmental Responsibility, Economic Responsibility, Philanthropic Responsibility, and Ethical Responsibility. Due to the lack of existing theoretical literature on the relationship between WCC and CSR, it becomes essential to hypothesize the problem to determine their relationship effectively[6]. White Collar Crimes are of various kinds[7]:

- Money laundering: Strongly associated with organized crime, converts proceeds obtained unlawfully into assets that appear to be legitimate. This procedure gives thieves a false sense of legitimacy in addition to helping them manage their illegal riches. Tighter regulation is required since this practice negatively affects a country's political stability and economy and encourages the expansion of illicit enterprises.
- Insider Trading: Directors, executives, and major shareholders who own more than 10% of the company's stock securities are considered corporate insiders. Conducting business with the company's shares using confidential information is considered fraudulent since this violates the fiduciary obligation of shareholders. Insiders breach their commitment to the shareholders when they make purchases or sales based on

[5]Sally S. Simpson, *Making Sense of White-Collar Crime: Theory and Research*, 8 OHIO ST. J. CRIM. L. 481 (Spring 2011).
[6] H. Manchiraju and S. Rajgopal, *Does Corporate Social Responsibility (CSR) Create Shareholder Value? Evidence from the Indian Companies Act 2013,* Vol. 55 No. 5, JAR, 1257, 1259 (2017).
[7] *Id.*

confidential information about the business. However, the word “insiders” for illicit insider trading goes beyond significant shareholders and company executives. It may also apply to anyone who violates a trust duty by trading shares based on secret information.

- Bank Fraud: Financial criminals have targeted cooperative and nationalized banks, stealing substantial amounts of money through shady relationships with the management teams of the institutions. These big borrowers account for most of the nationalized banks’ non-performing assets. In Andhra Pradesh, Maharashtra, and Gujarat, several Urban Cooperative Banks (UCBs) were founded by dishonest individuals in the 1990s. Their ability to offer unaffordably high interest rates allowed them to amass massive deposits. Subsequently, these funds were embezzled by loans to themselves or colleagues within their criminal organization. These malpractices unavoidably caused these bank failures to devastate many small investors[8].

A significant question that needs to be answered concerning the relationship between CSR and WCC is *‘Whether there is any impact of CSR on shareholder value’?* The challenge of determining whether the links between CSR and business success are truly causal or are only the result of model errors is made more difficult by unobserved variability at the firm level that is associated with CSR[9]. One of the key challenges to measuring the actual effect of CSR on shareholder value is that there is observed firm-level unobserved heterogeneity, which has a potential to greatly affect results. Company culture, management style, sector type, and organizational effectiveness tend not to be controlled for in research, yet may have a close relationship with CSR practices as well as to financial results. What this implies is that any reported correlation between shareholder value and CSR could be a result of these unmeasured variables, and not CSR in and of itself being the cause.In some cases, CSR can lead to long-term benefits, such as improved reputation, customer loyalty, and operating efficiencies, that can contribute to shareholder value. But in others, CSR might be considered a cost or distraction from the primary business mission, thus potentially hurting profitability and shareholder returns. The financial performance effect of CSR is generally mediated by the firm-specific circumstances that are intractable to measure or monitor, which results in making it challenging to provide conclusive evidence. The primary points of view in the present

[8] Nihal Gulammahiyuddin Shaikh and Dhaval Chudasama. *Research on Cyber Offenses under Information Technology Act, 2000. Recent Trends in Parallel Computing*, Vol 8 Issue 1, pp. 14–20, 2021, ISSN: 2393-8749 UGC Approved (S. No 47081).

[9] Himmelberg, Hubbard, and Palia, *Understanding the Determinants of Managerial Ownership and Link Between Ownership and Performance,* 53 JAF 353, 356-357 (1999).

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theoretical discourse are stakeholder value maximization and shareholder expense views. According to the shareholder expense view, a company's social duty is to increase profits above all else. According to Friedman, corporate social responsibility (CSR) is when managers use the money shareholders donate to support social issues; he compares this to collecting taxes and distributing the money they collect[10]. In his opinion, a company's precious resources—which ought to be used to maximize shareholder value—are being misused by CSR. The study conducted by *Manchiraju & Rajgopal*, the first to examine the impact of legislatively affirming firms to mandatorily spend on CSR, demonstrated that this mandate often leads to negative consequences for the shareholders[11]. Various criminological theories explain how white-collar crime (WCC) occurs at the organizational and managerial levels, usually resulting in the misappropriation of funds; insider trading occurs at macro and micro levels within organizations involved in WCC activities, thereby increasing the risk to shareholders' value. Social Learning Theory (SLT) and the Differential Association Theory (DAT), hold that social encounters learn criminal behaviors[12]. Through these exchanges, people pick up meanings and attitudes that make them more likely to commit crimes and the skills necessary to carry them out. This theory and SLT are similar in that they substantially impact how people perceive, feel, and justify illegal and compliant behaviour. White-collar crime has been explained by SLT, which suggests that people develop the motivations and drives needed to commit this type of crime through favourable definitions. It is conceivable that white-collar crime occurs when definitions that support breaking the law outweigh those that do not[13]. A conclusion can be drawn concerning the convergence of CSR and WCC. White Collar Crimes are exhibited by firms and companies that aim to maximize shareholder value through illicit means, and shareholder value impacts Corporate Social Responsibility; therefore, a connection between them can be drawn. Contextualising it after considering the factual matrix present, it can be established that when companies engage in behaviour related to embezzlement and fraud, it subsequently reduces the shareholders' value, impacting the funds concerned explicitly with the appropriation of CSR activities.

[10] Dunn, Craig P. and Burton, Brian K., *Friedman's "The Social Responsibility of Business is to Increase its Profits": A Critique for the Classroom* (2006). Management. 7.
[11] Supra at 5.
[12] Tim V. Eaton & Sam Korach, *A Criminilogical Profile of White-Collar Crime,* Vol. 32 No. 1 JABR 129, 131-138 (2016).
[13] Rachel E. Severson, Zachery H. Kodatt, and George W. Buruss, *Explaining White-Collar Crime: Individual-Level Theories,* (Melissa L. Rorie, The Handbook of White-Collar Crime, 1st Edition).

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What are the implications that arise out of this intersection?

Several important implications can be inferred from this overlap. These include financial implications, legal implications, social confidence impacts, and psychological implications. The four major areas of corporate social responsibility (CSR) include financial responsibility, philanthropic responsibility, ethical responsibility, and environmental responsibility. Whenever funds that are supposed to be utilized for CSR activities are unlawfully transferred using any embezzlement scheme, it has a negative impact on the social and equitable welfare schemes that aim to promote societal harmony[14]. Markets respond well to the needs of society when the social costs and private costs are aligned. When there exists a gap in this, it leads to a conflict between corporations and society[15]. Thus, both prevention of WCC and incorporation of CSR as a component of corporate strategy will result in a decrease in the contradictions that occur between them. Conversely, while CSR practice aims to instill moral behavior, public welfare, and ethical business practices, white-collar crimes such as fraud, embezzlement, insider trading, and corruption are usually carried out by those individuals or organizations possessing the means and ability to utilize their position to their own benefit or corporate interest. The first direct implication of the confluence of CSR and white-collar crime is that it does reputational damage to a firm. Companies spend millions of dollars in undertaking CSR efforts with a hope of earning stakeholder trust among investors, customers, employees, and society as a whole. If such a firm gets implicated in a case of white-collar crime, the credibility of CSR activities takes a hit. The public, stakeholders, and even regulatory authorities might perceive that the company is hypocritical because it has not maintained the ethical and social norms it professes to adopt publicly. Such erosion of trust could lead to lower consumer loyalty, market share, and declining stock prices[16]. The link between CSR and white-collar crime is especially relevant when a stake is considered in terms of shareholder value. Shareholders, for the most part, are concerned with maintaining or growing the value of their holdings. But if a company's CSR practices are being used as a front for something shady or criminal in nature, shareholders are open to a greater financial risk. The reputational and legal consequences of white-collar crime can lead to crashing stocks, flight of investors, and the loss of dividends. In a worst-case scenario, corporations engaged in widespread white-collar crime may be driven

[14] Geoffrey Heal, *Corporate Social Responsibility: An Economic and Financial Framework,* 30 The Geneva Papers 387, 389-390 (2005).
[15] *Id.*
[16] Khurram Sultan Langraw & Adil Zaman, *Corporate Social Responsibility and White Collar Crimes: Exploring how companies can promote ethical behaviour and prevent white collar crime within their organisation,* Vol 3 Issue 2. IJSSE 349, 353-361 (2023).

into bankruptcy or takeover by other corporations, resulting in the total destruction of shareholder value[17]. The genesis of conflict between these parts of society can be traced back to different perceptions concerning what is just and fair. An example elucidated through this paper is that the financial sector often indulges in practices related to discrimination and insider trading, a form of WCC, therefore increasing the tension between private interests and social interests. A serious implication of this intersection can be attributed to the value of the stock in the stock market value. A study conducted in 1995 by Hamilton examined the effect on stock prices of companies whose toxic release inventory (TRI) data was made public by the U.S. Environmental Protection Agency (EPA). This analysis helped to clarify the relationship between CSR and capital markets. Hamilton examined the effects of harmful release announcements on the releasing companies' stock market values relative to the whole market using the event study approach. His research centred on the 1989 initial TRI data release, revealing that the disclosures had a markedly detrimental effect on stock prices[18]. The fact that these results clearly show social costs exceeding private costs and that capital markets are penalizing the release of harmful chemicals is an intriguing feature of the data. Harmful chemical releases are a negative externality imposed on the rest of society. Reducing the excess of societal over private expenditures increases the stock market value and benefits shareholders. These are the various implications that arise out of this convergence.

A need for effective control and regulatory mechanism

An improvement that is long overdue in the corporate operational governance regulatory mechanism is important to prevent misuse of CSR funds via white-collar crime (WCC) tactics. As increasing numbers of corporations integrate CSR into a part of their brand and business model strategy, the menace lies that such funds may get misused or are spent for individual or organisational gains. For these to be mitigated, the internal controls have to be tightened up and stronger governance frameworks need to be instituted. Studies indicate that a number of key practices, such as formal communication, contingent employee compensation, and well-defined, established company policies and procedures, are significantly associated with reduced white-collar crime rates. These factors, when properly applied, can foster a culture of accountability and transparency that discourages the temptation or possibility for unethical

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[17] *Id.*
[18] Hamilton, *Pollution as News: Media and Stock Markets Reactions to the Toxics Release Inventory Data*, 28 JEEM 98-113 (1995).

activities to take root[19]. Formal communication in a business is the transparent and open sharing of information on expectations, ethical standards, and codes of conduct that gives rise to an effective organizational culture. If employees are aware of the company's stand on integrity and have access to information on proper conduct, they would be less likely to resort to illegal activities. Contingent employee compensation, or compensation structures that are directly connected to individual or organizational performance, will similarly have the ability to make a difference in limiting white-collar crime. Basing bonuses or increases on long-term, sustainable objectives instead of short-term profit maximization will encourage moral decision-making and inhibit behavior that will artificially inflate earnings or find ways to cut corners for personal reasons. A firm's explicit policies and procedures are at the core of preventing white-collar crimes. These policies must be comprehensive and should include proper definitions of what constitutes acceptable behavior, tough reporting procedures, and the provision for discovering and correcting unethical activity in a timely manner. The policies should apply not only to the lower echelons of the firm but to every echelon of management so that nobody is exempt from the law[20]. Firms with codes of conduct, audit committees, and contingent compensation for board members have been reported to have lower crime rates. These elements act as protectors of conduct by establishing standards of behavior, having periodic audits to evaluate compliance with those norms, and holding those entities at the helm responsible for upholding ethical governance. The management control term has also been widely used in studies to explain the rules of the organizational game. Management control is a firm's internal mechanisms, including accounting, planning, and budgeting procedures, that offer control and ensure efficient use of resources and in accordance with corporate objectives. A sound management control system assists institutions in achieving their goals while providing protection against white-collar crime in the form of fraud, embezzlement, or similar acts. Included in this extensive system is an accounting system comprising procedures for recording, processing, and retaining accounting data. Compared to a system that is subjected to self-scrutiny, change, and features widespread employee training as well as organizational accountability for improved reporting, an accounting system that is simply constituted to deliver reasonable assurance that errors and inaccuracies are few can be a weak system. Weak systems do not identify early warning signals of white-collar crime and may let small discrepancies grow into large-scale fraud or embezzlement. Conversely, firms that have open policies and procedures, which stress ongoing monitoring, regular internal auditing, and regular

[19] Michael Levi & Nicholas Lord, *White Collar and Corporate Crime*, 6th Ed OUF 1, 5-10 (2017).
[20] *Id.*

employee training stand a better chance of preventing white-collar crimes from happening. It is not only important to create these policies but also to enforce them at all levels of the firm. This includes creating evident lines of duty, communications that are directed to company-wide knowledge, and administrative programs that call attention to the importance of major policies, processes, and mechanisms[21]. By creating a culture of continuous learning and ensuring that employees are always reminded of the necessity of ethical behavior, companies can create robust internal mechanisms of responsibility. Furthermore, extensive recruitment is one of the most essential procedures in reducing the risk of white-collar crime. Conducting a thorough background check to thoroughly screen applicants is crucial in ensuring that individuals who have a history of unethical behavior or criminal record are not hired into positions of power or responsibility within the company. Past work history, education records, fiscal standing, and criminal background checking can assist enterprises in determining any potential red flags before the selection of an employee. By interviewing prospective employees very cautiously and having the assurance that the candidates carry with them both technical competencies and a moral background, companies are able topreclude candidates from being placed who might someday exploit their function for personal motivations. Finally, enhancing the regulatory framework of corporate governance and internal controls is necessary in the mitigation of white-collar crime and the misuse of CSR funds. Clear communication, contingent employee compensation, clearly stated policies, an effective management control system, and a rigorous recruitment process are all necessary in developing a strong corporate governance structure.

Conclusion

This offers new understanding of the intricate relationship between CSR and WCC and the wider implications for corporate welfare and governance. Firms adopt integrating CSR initiatives into their business, but it is important to note that such projects can be exploited or abused by people who want to advance their personal interests and objectives. White-collar crimes misappropriating CSR money, for example, undermines the social and moral purpose of policies and severely challenges corporate integrity and shareholder value. Strong accountability controls, transparent and clear reporting processes, and inimitable standards of ethics- all facilitators of good corporate governance- are critical in empowering effective

[21] McGurrin, Danielle, Melissa Jarrell, Amber Jahn and Brandy Cochrane. 2013. *White Collar Crime Representation in the Criminological Literature Revisited*, 2001-2010. Western Criminology Review 14(2):3-19.

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attempts toward CSR that concur with the firm's interests and values. There is a dilemma between CSR and WCC. CSR might strive to improve social good along with ethical corporate acts, but it may, on the other hand, serve as an entry point for exploitation. Many white-collar crimes- such as insider trading, fraud, and embezzlement-are fueled by a profit maximization culture that is sometimes more bereft of any serious consideration to morality than simply amoral. Hence, in such a cultural setup, some company employees defend corporate and business crimes because they think it has been viewed as a way of attaining financial goals or sustaining competitive advantage in the business world. In this regard, it is significant to recognize CSR and WCC interaction as a complex relationship between actions, motivations and structural weaknesses rather than simply based on a comparison of ideas. Again, the financial implications of white-collar crimes can never be overemphasized. The theft of CSR funds directly affects allocated resources for social programs. The attempt to face the urgent societal concerns relating to community development, environmental sustainability, and poverty alleviation is thus hindered. Many case studies have demonstrated that the financial outcomes of WCC could lead to a critical decline in stock prices and further shareholder value, creating a vicious cycle where the pursuit of unethical behaviour ultimately threatens the economic safety of the corporation. This, in turn, underlines the importance of efficacious governance mechanisms and the importance of being aware of all possible hazards associated with CSR activities. This makes the question of whether corporate social responsibility walks hand in hand with white-collar crimes a very complex one, which requires an active response from regulators, lawmakers, and even executives in a firm. Corporate cultures where moral action is the root can be fostered and developed by more vital stakeholders who realise that CSR schemes are for illicit ends. This can only be achieved through an accountability culture, improved regulatory settings, and rendering CSR activities truly positive to society rather than as a tool for the purpose. In the current scenario, only through ethical practice and social responsibility should business plans of the new corporate era facilitate growth and progress in society.