

UNMASKING CORPORATE CORRUPTION IN INDIA: THE URGENT NEED FOR CIVIL ENFORCEMENT UNDER THE PREVENTION OF CORRUPTION ACT, 1988

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Abstract: The paper will showcase India's lack of civil enforcement against corporate corruption. The paper identifies the victims of corporate corruption and suggests the remedies that can be adopted for the victims' restitution. Civil enforcement is essential to restore the damages incurred by the victims due to acts of corruption. However, Indian legislation only provides criminal remedies against corruption, often failing to act as an effective deterrent. The paper attempts to understand the concept of civil enforcement in the USA's FCPA and how it has effectively acted against corrupt practices by foreign companies in India. The primary focus of the paper is to present examples of corruption wherein the Indian legislation has been unable to prevent or prosecute the acts, whereas a foreign jurisdiction has ensured the companies who have committed such offenses are optimally reprimanded. The research showcases the lacunae in the Indian legislation and how it hurts the economy and competition in the country. The paper also briefly delves into the provisions of Indian legislation used to combat corruption. The paper attempts to contribute insight and advice to policymakers to adopt measures of civil enforcement to combat corporate corruption in India.

Keywords: Corruption, Civil Enforcement, remedy, victim, FCPA

1. INTRODUCTION

1.1. *Corporate Corruption*

Business corporations are pivotal in a nation's economic development and progress. Corporations influence what people eat or wear or even how they live. However, corporations depend on society for their resources and have important responsibilities toward the society in which they exist.¹ They are prominent vehicles of growth and are increasingly responsible for providing employment, goods, services, and infrastructure.² However, corruption undermines the legitimate economy and escalates ethical problems. It is immoral, unethical, unfair, and violative of equity. Corruption is the antithesis of development and good governance. Bribery and corruption are major obstacles to the nation's socio-economic progress, growth, and development. It increases poverty levels, so tracking how corruption impacts the economy is necessary. Corruption even affects the rule of law as it overrides basic human rights. It distorts national and international economic relations. Transnational bribery threatens democracy, development, national security, public health, and safety.³

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³ M.A. Almond & S.D Syfert, *Beyond Compliance: Corruption, Corporate Responsibility and Ethical Standards in the New Global Economy*, 22 North Carolina Journal of International Law and Commercial Regulation 389, 403 (1996).

The act of bribery deprives nations' right to honesty and faithful service.⁴ Corruption originates from the Latin adjective 'corruptus', meaning spoiled, broken, or destroyed.⁵ Corruption is contagious and does not respect sectoral boundaries, undermining legal and moral norms and facilitating further corrupt acts. Restricting corrupt practices is very difficult since it reduces morality and trust levels.⁶ The trust in dealing with the business and the state is reduced by corruption. The wider cooperation and competition are lost due to corruption, and business life becomes fractured into the hands of illegal mafias.⁷ The affected party is unaware of his injury and seldom realizes it has lost a profitable contract because of an illegal payment and unhealthy competition.⁸ Fair and healthy competition among companies is vital for increasing efficiency in this globalized economy. Competition in business is a good sign for the quality of service to be delivered. Corruption degrades the quality of the services and ruins the commoner's life. Prevention is better than cure, and the same applies to corruption. Hence, it is the responsibility of the Government to create a level playing field to increase competition and sustain the economy.

The evil of corruption has spread its tentacles in all walks of life. Corrupt acts raise the price of infrastructure and can reduce the quality and economic returns to infrastructure investment. Furthermore, it discourages efficiency and weeds out competition. Developed countries are not immune to corruption, but comparatively, many emerging markets have a weak legislative structure and a business culture that tolerates, if not encourages corruption. This increases the risks for companies that abide by the rules and skews the competition in favor of companies that don't. Therefore, it becomes crucial to highlight the failures of Indian legislation in preventing corruption and how such lacunae can be overcome.

2. CORRUPTION NOT A VICTIMLESS CRIME

Corruption harms the financial trust and credibility of the Government. Corruption is not a victimless crime. Individuals suffer as corruption siphons away funds allocated for public service. Corruption is measured in generations of missed opportunities, and hopes made barren.⁹ Bribery is damaging the integrity of governmental, financial, and regulatory institutions.¹⁰ Corruption impacts governance, the standard of living, and the rule of law, which are highly undermined by its prevalence. Bribery and corruption affect many victims, and taxpayers must pay for the costs of bribes added to the price tag.¹¹ Corporate corruption is not a victimless crime. Victims include millions of vulnerable women, children, and men. All crime involves physical, financial, or moral injury to another. The offender is responsible for compensating the victim for the damages caused by his acts and omissions.

⁴ *Ibid*, at 405.

⁵ G.M. Hodgson & S. Jiang, *The Economics of Corruption and the Corruption of Economics: An Institutionalist Perspective*, 41 (4) *Journal of Economic Issues*, 1044 (2007).

⁶ *Ibid*, at 1047.

⁷ *Supra* 89, at 1057.

⁸ J. C. Jr. Coffee, *Corporate Crime and Punishment: A Non-Chicago View of the Economics of Criminal Sanctions*, 17 *American Criminal Law Review* 419, 442 (1980).

⁹ Yury Fedotov, *Corruption not victimless crime*, *New Straits Times* (10/06/2016), available at <https://www.nst.com.my/news/2016/06/150898/corruption-not-victimless-crime>, last seen on 12/04/2021.

¹⁰ *Is Bribery a victimless crime?* FCCD (27/03/2018), available at <https://fcccd.com/is-bribery-a-victimless-crime/#:~:text=Rationalising%20bribery%20as%20a%20victimless,achieving%20personal%20or%20business%20goals.&text=There%20are%20classic%20examples%20of,the%20monopoly%20of%20natural%20resources>, last seen on 12/04/2021.

¹¹ R. Bistrong, *The Illusion of No Victims: The Final Component of "Rationalizing Bribery"*, *Corporate Compliance Insights* (11/09/2014), available at <https://www.corporatecomplianceinsights.com/the-illusion-of-no-victims-the-final-component-of-rationalizing-bribery/>, last seen on 12/04/2021.

The consequence of corporate corruption is twofold- criminal and civil. The state initiates criminal prosecution against the erring employees and companies for their corrupt activities. Conviction and sentence are imposed on the offender once the criminal offense is proved beyond a reasonable doubt. Apart from the criminal prosecution, necessary measures may also be taken to make fair restitution to victims and their dependants. Victims' rights to restitution and compensation play an important role in the administration of justice. Restitution includes the payment of expenses incurred due to the victimization, payment for the harm or loss suffered, the restoration of rights, etc. The offender is also liable for civil consequences since the state incurs substantial expenses to administer justice. In restitution, the offender compensates the victim, whereas compensation is made to the victims from public funds.

3. LEGISLATIONS IN INDIA

The legislation in India does not tolerate corruption and considers it a purely criminal offence. The Indian statutes that provide for investigation, prosecution, conviction, sentencing, and compensation for corporate corruption are the Indian Penal Code, 1860 ("IPC"), Prevention of Corruption Act, 1988 ("POCA"), Code of Criminal Procedure, 1973 ("CrPC"), Central Vigilance Commission Act, 2003, and Competition Act, 2002. The Competition Commission of India ("CCI") is vested with ample power to investigate and impose heavy penalties, which acts as deterring punishment for the violation of the Competition Act 2002 ("CCA"). The CCA penalizes anti-competitive practices and any person abusing a dominant position. Deterrent punishments are imposed under the CCA before completion of the inquiry or after completion of the inquiry. The failure to provide information and documents for investigation to the CCI or Director General ("DG") attracts a penalty that may extend to one lakh rupees for each day during which such failure continues subject to a maximum of rupees one crore.¹² If any person makes false statements, omits material facts, or willfully alters, suppresses, or destroys documents, then CCI or DG may impose a penalty extending to one crore rupees.¹³ Failure to give notice of the combination to CCI attracts a penalty that may extend to one percent of the total turnover or the assets, whichever is higher, of such a combination.¹⁴ Suppose a party to a combination makes a false statement or omits to state any material particulars. In that case, such a person shall be liable to a penalty which shall not be less than rupees fifty lakhs but may extend up to one crore.¹⁵

In case of abuse of dominance, CCI may, after inquiry, impose a penalty of up to three times the profit or ten percent of the average turnover of the previous three financial years, whichever is higher.¹⁶ For indulging in anti-competitive practices, a total penalty of Rs. 840 crores has been imposed by the CCI on 126 companies in the last three financial years.¹⁷ Compliance with competition law became a necessity considering the hefty penalties imposed, which act as a deterrent. Corporate criminal liability is recognized under the Indian Penal Code.¹⁸ The two limitations of corporate criminal liability are certain offenses that can only be committed by an

¹² S. 43, The Competition Act, 2002.

¹³ S. 45, The Competition Act, 2002.

¹⁴ S. 43A, The Competition Act, 2002.

¹⁵ S. 44, The Competition Act, 2002.

¹⁶ S. 27, The Competition Act, 2002.

¹⁷ A.S. Thakur, *CCI imposed Rs 840 crore fine on 126 companies in last three financial years*, Financial Express (10/02/2020), available at <https://www.financialexpress.com/industry/cci-imposed-rs-840-crore-fine-on-126-companies-in-last-three-financial-years-says-anurag-singh-thakur/1863368/>, last seen on 12/04/2021.

¹⁸ S.11, The Indian Penal Code, 1860. "Person", The word "person" includes any Company or Association or body of persons, whether incorporated or not.

individual human being, for example, murder, treason, rape, perjury, etc. Secondly, certain offenses entail corporeal punishment or imprisonment, and a company cannot be subject to such punishment.¹⁹ The Prevention of Corruption Act is the primary law dealing with offenses about corruption in India, and it repealed the provisions of Sections 161 to 165 and 165A of the IPC. It is a social welfare legislation framed to remove corruption in the public service and provides for an expeditious trial by special judges. A noticeable procedural delay in prosecuting a public servant under POCA is the prior sanction of the competent authority for the court to take cognizance of the offense.

The Central Vigilance Commission (“CVC”) has been constituted to enquire into the offenses alleged to have been committed under the POCA by certain categories of public servants. On receipt of a complaint against a public servant, CVC inquires and investigates the offenses, and it also supervises the vigilance and anti-corruption work in the Government and other public sector undertakings. It is an independent apex anti-corruption body for eradicating corruption in India. Statutory coverage for compensation in India is provided in the Criminal Procedure Code. As per the 41st Law Commission Report (1969), section 357 has been incorporated into the CrPC to compensate the victims of crime. In the interest of justice, the court may award compensation to the victim, but, unfortunately, the judges rarely use discretion. The state government shall prepare a scheme for compensating the victims of crime or their dependents in coordination with the central Government. The quantum of compensation to be paid from the scheme shall be decided by the legal services authority on the recommendation made by the court. The state can compensate the victim or his dependents if the offender is not traced or identified.²⁰ A duty is cast upon the state to pay compensation to the victims as per section 357A (1), (4), and (5) of the CrPC, which is a substantive law and not a procedural law. The victims are entitled to compensation under Section 357A (4) of the CrPC for the incidents before the section came into force.²¹ Chapter XXXII of the CrPC provides for recovering fines and money awarded under the code. Section 421 of the CrPC empowers the court to attach and direct the sale of movable and immovable property of the offender to compensate the victims. However, the conditions prescribed in the proviso to sub-section (1) of section 421 must be satisfied before issuing warrants for imprisonment in default. As per section 431 of the CrPC, the court can recover any money (other than a fine) payable under the order passed under the CrPC. The court is competent to impose a sentence of imprisonment for non-payment of a fine under Section 64 of the IPC.

While awarding the compensation, the court is duty-bound to consider the nature of the crime, injury suffered, justness of the compensation claim, the offender’s capacity to compensate, and other relevant circumstances.²² Supreme Court in *Hari Singh v. Sukhbir Singh and Ors*²³ held that the power of the court under Section 357 of the CrPC to award compensation is not ancillary to other sentences but in addition to it, and it is intended to reassure the victim that they are not forgotten while administering the justice. The compensation awarded must be reasonable, and all the criminal courts should exercise this power liberally to meet the ends of justice.

¹⁹ State of Maharashtra v. Syndicate Transport Co. (P) Ltd., AIR 1964 Bom 195.

²⁰ S. 357A, The Code of Criminal Procedure, 1973.

²¹ District Collector Alappuzha v. District Legal Services Authority Alappuzha, W.P. (C) 7250/2014 (Kerala High Court, 22/12/2020).

²² Swaran Singh v. State of Punjab, AIR 1978 SC 1525.

²³ Hari Singh v. Sukhbir Singh and Ors., AIR 1988 SC 2127.

Compensation is an alternative to imprisonment, held by the Supreme Court in *Swaran Singh vs. the State of UP*.²⁴ Courts have also used compensation as a mitigating factor and reduced the sentence imposed. To have a deterrent and effective punishment, the measure of damages payable by the tortfeasor must be correlated to the crime's magnitude and the enterprise's capacity to pay the compensation.²⁵ To obtain evidence from a person directly or indirectly involved in the crime, Sections 306 and 307 of the CrPC empower the court to grant a grand pardon to an accomplice on the condition of making full and true disclosure of the facts to his knowledge. The pardon would be granted on the condition that the accomplice makes a full disclosure, and the court can revoke the pardon if it is not satisfied with the disclosure or believes that the accomplice has concealed essential evidence. Section 133 of the Indian Evidence Act 1872 says the accomplice shall be a competent witness against the accused. The individual offenders are only considered in the sentencing framework existing under the Indian legal system. If a corporation is convicted of criminal offenses, then effective deterrent punishment will be imposed to prevent the corporation from committing further crimes. The fine is the only option available to the court since bodily imprisonment cannot be imposed on an artificial person like a company.²⁶ Sentencing policy in India concerning corporate crime ought to focus on corporations as a collective and individuals to achieve the purpose of deterrence.²⁷ However, none of the above laws have had any effective measure to compensate the victim as restitution for the corrupt acts committed. Unlike the Foreign Corrupt Practices Act, in the USA, no comprehensive legislation effectively deals with corrupt practices and the remedies against them.

4. FAILURE OF LEGAL ENFORCEMENT MECHANISMS IN INDIA

Indian legislation considers corruption a criminal offence, and the involvement of public officials or the instrumentality of the state in the alleged offence is mandatory to run the wheels of the legal system in India. The Prevention of Corruption Act 1988 is oblivious that corporations are actively involved in bribery and conspire to commit corruption for business purposes. The Prevention of Corruption Act 1988 is majorly concerned with passive bribery. Serious Fraud Investigation Office ("SFIO") has been established to investigate the frauds relating to the Companies.²⁶ It is a multi-disciplinary organization for carrying out investigations to prosecute white-collar crimes and serious corporate frauds. SFIO is equipped with experts in law, corporate affairs, accounting, forensic audit, information technology, capital market, etc.²⁷ In the public interest, the Central Government investigates the company's affairs to SFIO.²⁸ SFIO can arrest any person, based on the material in possession, if it believes that the person has committed an offense under section 447 of the Companies Act.²⁹ The punishment under section 447 of the Companies Act will be attractive for the fraudulent activities mentioned below.

²⁴ Singh vs. State of U.P. (1998) 4 SCC 75.

²⁵ Union Carbide Corporation v. Union of India, AIR 1990 SC 273.

²⁶ Central government notification F. No. A-35011/2011-admn. III (21/07/2015).

²⁷ S. 211(2), The Companies Act, 2013.

²⁸ S. 212(1), The Companies Act, 2013.

²⁹ S. 212(8), The Companies Act, 2013.

- i. Furnishing of false or incorrect information or suppressing material information during incorporation of the company.³⁰
- ii. The company incorporated by fraudulent means by furnishing false or incorrect information or suppression of material information.³¹
- iii. Misleading or untrue statement in the prospectus.³²
- iv. They are fraudulently inducing a person to invest money in securities.³³
- v. Personation for purchase of securities.³⁴
- vi. Issuance of duplicate share certificates.³⁵
- vii. Fraudulent transfer of shares by depository of depository participant.³⁶
- viii. Concealing the name of the creditor entitled to object to the reduction in share capital, misrepresenting the creditor's claim, or abet the concealment or misrepresentation as aforesaid.³⁷
- ix. Direct or indirect fraudulent act by the auditor, or abetting or colluding by the auditor about the company, its directors, and officers.³⁸
- x. Business of the company is carried on for a fraudulent or unlawful purpose.³⁹
- xi. Conducting the company's business with intent to defraud the creditors or for unlawful purposes.⁴⁰
- xii. Furnishing of false statements, mutilation, and destruction of documents.⁴¹
- xiii. Fraudulent application for removal of name from company register.⁴²
- xiv. Fraudulent conduct of business.⁴³
- xv. Making false financial statements, returns, certificates, prospectuses, etc.⁴⁴

An inclusive definition of 'fraud' is given for section 447 of the Companies Act 2013. Any person who commits any act or omission or abuses their position or conceals facts with intent to deceive, gain undue advantage, or injure the interest of the company, its shareholders, creditors, or any other person shall be punishable with imprisonment for a term which shall not be less than six months but shall be extendable up to ten years, irrespective of the wrongful gain or wrongful loss. If public interest is affected due to the fraud in question, then the term of imprisonment shall not be less than three years. It also provides a fine equivalent to the fraudulent amount in question, which may extend up to three times that of the fraudulent transaction amount. Indulgence in corrupt activities by corporations for securing or retaining business is not covered within the ambit of 'fraud' under the Companies Act. To attract punishment for fraud under section 447 of the Companies Act, the alleged act or omission must injure the interest of the company, its shareholders, creditors, or any other person. SFIO, since

³⁰ S. 7(5), The Companies Act, 2013.

³¹ S. 7(6), The Companies Act, 2013.

³² S. 34, The Companies Act, 2013.

³³ S. 36, The Companies Act, 2013.

³⁴ S. 38(1), The Companies Act, 2013.

³⁵ S. 46(5), The Companies Act, 2013.

³⁶ S. 56(7), The Companies Act, 2013.

³⁷ S. 66(10), The Companies Act, 2013.

³⁸ S. 140(5), The Companies Act, 2013.

³⁹ S. 206(4), The Companies Act, 2013.

⁴⁰ S. 213, The Companies Act, 2013.

⁴¹ S. 229, The Companies Act, 2013.

⁴² S. 251, The Companies Act, 2013.

⁴³ S. 339, The Companies Act, 2013.

⁴⁴ S. 448, The Companies Act, 2013.

its inception in 2003 up to 2016-17, has investigated 312 cases and 1237 prosecution cases filed in various courts.⁴⁵ Companies Act does not consider the profit made by the individual or company due to fraud while imposing the penalty. To have more deterrent effect, the penalty amount should have been equivalent, or more than the consequential benefit enjoyed by the company or the individual, instead of concentrating on the amount involved in the fraudulent transaction. Companies Act does not authorize SFIO to impose any penalty on companies that indulge in fraudulent activities like the UK Serious Fraud Office. Suo moto power to investigate is not given to SFIO, and investigation can be conducted only on assignment by the Central Government. FCPA serves as an example to the countries seeking to prevent bribery, and the United States leads the world in prosecuting corruption.⁴⁶ FCPA is part of the Securities Exchange Act 1934 and is divided into two parts:

- a. Anti-bribery Provisions, which make bribery to foreign officials a crime;
- b. Accounting provisions: bookkeeping obligations are imposed upon companies.

Anti-bribery provisions require *actus reus* and *mens rea*, whereas the bookkeeping provisions impose affirmative obligations on companies.⁴⁷ In India, the accounting and bookkeeping obligations of the companies are not utilized in their true sense to prevent and detect corporate corruption.

5. ADVANTAGES OF CIVIL ENFORCEMENT

The recovery of assets from the accused is possible only on conviction of the persons on proving the charges beyond a reasonable doubt. Hence, the confiscation, forfeiture, and recovery of assets of a public servant or the proceeds of corruption is a major challenge in India. In the USA, the SEC uses several non-criminal enforcement mechanisms such as fines, non-prosecution agreements, disgorgement of profits, pre-judgment interest, and cease and desist orders prohibiting current and future violations. Non-criminal enforcement mechanisms help judicious utilization of scarce prosecutorial resources and prevent loss of revenue. The multiple avenues for enforcement ensure a working relationship and coordination with the business community.

Collateral consequences of criminal prosecution are that companies do not cooperate fully with the investigation, disciplining the delinquent employees is not possible, and there is remote possibility of restitution of the victims. Alternative procedures provide a diverse set of enforcers and enhance the effectiveness of anti-corruption measures. Enforcement through multiple agencies creates multiple avenues of anti-corruption enforcement and facilitates monitoring relationships with the companies. It also reduces the burden of the court and prevents a backlog of cases in the courts. Alternative enforcement mechanism decreases the concentration of power in one agency, and extra-judicial enforcement mechanisms facilitate the recovery of assets from public officials and impose fines on the bribe-giving company without initiating criminal charges.⁴⁸

⁴⁵ S. Mathur, *Treating the SFIO as a Joke is Costing the Country Dear*, Moneylife (23/08/2018), available at <https://www.moneylife.in/article/treating-the-sfio-as-a-joke-is-costing-the-country-dear/55101.html> last seen on 12/04/21.

⁴⁶ J. Lippman, *Business Without Bribery: Analyzing the Future of Enforcement for the UK Bribery Act*, 42(3) *Public Contract Law Journal* 649, 663 (2013).

⁴⁷ L.A. Ross, *Using Foreign Relations Law to Limit Extraterritorial Application of the Foreign Corrupt Practices Act*, 62(2) *Duke Law Journal* 445 (2012).

⁴⁸ E. Solomon, *Targeting Corruption in India: How India Can Bolster its Domestic Anticorruption Efforts Using Principles of the FCPA and The U.K. Bribery Act*, 34(3) *University of Pennsylvania Journal of International Law* 901, 950 (2013).

Imprisonment wastes society's resources and the offender's productive capacity.⁴⁹ Fines do not involve the costs of the prison system. Hence, it is cheaper for society, and the victims can be compensated.⁵⁰ The frequency of enforcement of corporate crime legislation is less, and its penalties are often lower than those under corporate civil liability.⁵¹ Government agencies and private litigants enforce corporate civil liability, whereas the Department of Justice enforces corporate criminal liability.⁵² Potential reputational harm, expenses, and uncertainty force companies to avoid FCPA litigation. Prosecutorial freedom and weighty criminal sanction incentivize the FCPA investigation targets to enter into non-prosecution agreements or plea bargains. Those who support the investigation, self-report, cooperate, or assist the government investigations are given lessened punishment.⁵³

6. CHALLENGES

Private litigants may bring frivolous or questionable suits against corporations to make financial gains.⁵⁴ Prosecutors acting within their limited resources to maximize convictions generally do not indulge in frivolous criminal prosecutions and prosecute matters truly in the public interest.⁵⁵ Corporates are inclined to criminal prosecutions since they can influence criminal enforcement agencies by lobbying and cannot do it for civil liability enforcement by private litigants.⁵⁶ Corporates would prefer law enforcement by state agencies due to its infrequency.⁵⁷ Criminal liability requires proof beyond a reasonable doubt, and there is a bar on double jeopardy, whereas, in civil enforcement, the proof of liability only by a preponderance of the evidence is sufficient.⁵⁸ The enforcement action against companies is settled out of court through plea agreements, deferred prosecution agreements, or non-prosecution agreements.

Consequently, there is no substantial opportunity for judicial review of the unsettled legal questions that arise from FCPA.⁵⁹ The court approval of the settlement agreement acts as a system of checks and balances in exercising discretion by the enforcement agency. The publication of the settlement agreement on the website fosters transparency and consistency and encourages companies to disclose anti-corruption activities voluntarily.

7. CONCLUSION

Corruption disturbs capital inflows, undermines the markets, and prevents domestic and foreign investment. It creates uncertainty in the business environment and is disruptive to economic growth. Corruption leads to loss of opportunity, economic underperformance, and inefficiency and is a major obstacle to the growth and development of the nation. Sufficient measures shall be taken to curb corporate corruption by increasing transparency and accountability in public services. The legislation in India considers corporate corruption a

⁴⁹ J. C. Jr. Coffee, *Corporate Crime and Punishment: A Non-Chicago View of the Economics of Criminal Sanctions*, 17 *American Criminal Law Review* 419, 421 (1980).

⁵⁰ *Ibid.*

⁵¹ V.S. Khanna, *Corporate Crime Legislation: A Political Economy Analysis*, 82 *Washington University Law Quarterly* 95 (2004).

⁵² *Ibid.*

⁵³ M. J. de la Torre, *The Foreign Corrupt Practices Act: Imposing an American Definition of Corruption on Global Markets*, 49 *Comell International Law Journal* 469, 473 (2016).

⁵⁴ *Supra* 218.

⁵⁵ E.D. Cavanagh, *Detrebling Antitrust Damages: An Idea Whose Time Has Come?* 61 *Tulane Law Review* 777, 807 (1987).

⁵⁶ *Supra* 217.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ I.V.C. Romano, *Extraterritoriality and US Corporate Enforcement*, Whitecase, available at <https://www.whitecase.com/publications/article/extraterritoriality-and-us-corporate-enforcement>, last seen on 12/04/2022.

purely criminal offence and assumes that the victims' claims are satisfied if the state punishes the offender. There is no specific law like FCPA for taking civil enforcement action against corporate corruption in India. To have a deterrent effect and prevent corporate corruption, the legislature in India must enact a new law for taking civil enforcement action, which will act as an additional mechanism in preventing corporate corruption. Multiple legal avenues will act as a deterrent mechanism to prevent corporates from indulging in corrupt business practices. The Competition Act has in place a system to penalize cartelization, abuse of dominance, and other anti-competitive practices by imposing hefty fines. An apex body similar to CCI may be established, which, upon receipt of a complaint or information, take suo moto cognizance, inquire, and investigate the unethical and corrupt practices committed by the corporates in their business practices.