IOSR Journal Of Humanities And Social Science (IOSR-JHSS)
Volume 29, Issue 8, Series 4 (August, 2024) 12-19
e-ISSN: 2279-0837, p-ISSN: 2279-0845.
www.iosrjournals.org

Corporate Governance And Fraud Prevention In Large Companies: An Analysis In Light Of Agency Theory

First Author[1], Second Author[2]
[1]*(Department, College/ University Name, Country Name)*
[2]*(Department, College/ University Name, Country Name)*

Abstract:
Background: *This theoretical essay aims to analyse the difficulty of punishing large companies involved in corporate fraud.*
Materials and Methods: *For the development of the study, qualitative methods were used, based on bibliographic research, books, national and international regulations, and recently published scientific articles. Methodologically, the study is configured as a theoretical essay in which the author's critical reflective analysis is presented.*
Results: *The results obtained highlight the complexities involved in detecting and punishing fraud in large corporations. The analysis reveals that, due to the inherent conflicts of interest between agents (managers) and principals (shareholders), as well as information asymmetry, it becomes challenging to ensure the effective accountability of these fraudulent agents. Corporate governance, despite its efforts, often proves insufficient to prevent such frauds.*
Conclusion: *The study indicates that conflicts of interest between managers and shareholders can facilitate fraud and complicate punishment, highlighting the insufficiency of current corporate governance mechanisms. Furthermore, it underscores the importance of robust monitoring, auditing, and incentive practices to prevent fraud, using examples of high-profile fraud cases to provide a practical analysis.*
Key Word: *Corporate Governance, Fraud, Agency Theory.*

Date of Submission: 03-08-2024 Date of Acceptance: 13-08-2024

I. Introduction

Corporate fraud often involves complex schemes that are difficult to detect and understand. Costa and Wood (2012) mention that in recent years, scandals involving fraud within institutions have become emblematic, such as Enron, Global Crossing, and Bernard L. Madoff in the United States, and Banco Santos, Boi Gordo, and Daslu in Brazil.

According to Ibracon (2023), large publicly traded companies have a peculiar phenomenon. While small businesses are typically managed by their owners, in large corporations, those in charge of business management are generally not the owners of the company. This gives rise to the agency conflict.

Jensen and Meckling (1976) consider that the organisation operates within an environment of conflicts of interest between the agents (managers) and the principals (shareholders). These conflicts of interest differ in various aspects, such as information asymmetry and agency costs. Shareholders are identified as the owners, those who hold the economic resources, and the managers are their agents (Assaf, 2022, p.25), who receive remuneration from the principal to make decisions that align with their interests.

The fact is that both the principal and the agent are utility maximisers, and both parties seek to maximise their returns, not always with aligned interests (Hoque, 2018). Wheelan (2014) mentions that economics as a discipline begins with a very important premise: individuals act to maximise their life, seeking to maximise their utility.

According to Ibracon (2023), the response to this challenge is what has become known as corporate governance. Corporate Governance is a system comprised of principles, rules, structures, and processes by which organisations are directed and monitored, with the aim of generating sustainable value for the organisation, its shareholders, and society in general. The governance system involves the relationship between shareholders, board members, fiscal council members, directors, governance officers, members of advisory committees to the board, as well as internal and independent auditors (IBGC, 2023).

However, corporate fraud, when discovered, shows that existing controls were not sufficient to safeguard assets, protect stakeholders' interests, and, above all, the companies' image. According to Perera,

Freitas & Imoniana (2014), internationally, such events have caused great concern among investors regarding both the preservation of invested assets and the possible protective measures against fraudulent agents.

The objective of this theoretical essay is to analyse the difficulty of punishing large companies involved in corporate fraud. A recent case, which has been permeating social media, is the accounting fraud at Lojas Americanas, which will be part of this study in more detail.

To achieve our objective, the article is structured into six sections, the first being this brief introduction. The second part presents the theoretical framework of agency theory. The third section discusses corporate fraud and the challenges of governance. Following this, the fourth section addresses the topic of punishing fraud in large companies. The fifth section, as discussion and results, presents the case of Lojas Americanas and some reflections and discussions on the subject. Finally, the sixth section concludes the article.

II. Theoretical Framework: Agency Theory

It is a concept widely used in the fields of economics, management, and accounting to explain the relationships between the owners (principals) and the managers (agents) of a company. Steven Ross published a seminal work on Agency Theory in 1973. Later, Jensen and Meckling (1976) expanded this theory by combining elements of Agency Theory, Property Rights Theory, and Financial Theory. They demonstrated that the directors of public companies should manage shareholders' resources more carefully than they would their own resources. However, it cannot be expected that these directors will care for shareholders' resources with the same diligence as the owner of a private company.

Jensen and Meckling define an agency relationship as: "a contract under which one or more persons engage another person to perform some service on their behalf which involves delegating some decision-making authority to the agent. If both parties to the relationship are utility maximizers, there is good reason to believe that the agent will not always act in the best interests of the principal" (Jensen & Meckling, 1976, p. 308).

In practice, agency conflicts are unlikely to be avoided for two main reasons: (i) the non-existence of a complete contract – there is no contract that can foresee all possible situations and establish rules for each one of them; and (ii) the non-existence of the perfect agent – agents may have imperfect behaviours that deviate from the interests of the principals. These incomplete contracts and imperfect behaviours create room for the misalignment between the interests of managers and shareholders, generating so-called agency costs.

This contractual relationship is not always explicit, as agency costs are generated at all levels of the organisation. Thus, both the principal and the agent assume a certain risk and, generally, the greater the risk assumed by the agent, the higher the remuneration demanded by them (Hoque, 2018). Lambert proposed a model to evaluate the basic elements of an agency relationship and after jointly observing the performance measures, the agent is compensated according to the terms of the contract.

When the agent no longer acts in the best interest of the principal, an agency problem is established. Tirole (2010) highlights that various actions performed by managers may serve their personal interests and benefits rather than the shareholders' wealth maximisation objectives, for example, decisions aimed at maintaining their positions or putting them in a comfortable position of knowledge and control.

Hoque (2018) mentions that the agency problem can be exacerbated by information asymmetry, such as moral hazard and adverse selection. Generally, managers have privileged information. Moral hazard arises from the agent's actions, who acts more riskily or absolves themselves of responsibilities without the principal's knowledge. Adverse selection is reported as the principal's inability to verify if the effort made by the agent is the best course of action.

Thus, starting from the principle between the two most common sets of interactions between shareholder-manager and debtor-shareholder, strategies for mitigating the agency problem follow. It is worth noting that the debtor-shareholder relationship refers to the creditor of the debt assuming the role of the principal, as the resources loaned to the company will be controlled by the manager in the role of the agent.

In an attempt to ensure that their preference is prioritised, according to Jensen and Meckling (1976), the principal can limit divergences from their interest by establishing appropriate incentives for the agent and incurring monitoring costs. Additionally, in some situations, it will be worthwhile for the agent to provide resources (bonding costs) to ensure that they will not take certain actions that would harm the principal or to ensure that the principal will be compensated if they do take such actions.

Monitoring costs refer to the necessary expenses to supervise the agent's actions, such as audit expenses, investments in governance, formalisation of procedures, and adoption of computerised systems (Hoque, 2018). Among these actions, corporate governance is frequently reported as a set of practices that reduces information asymmetry, increases transparency, and the reliability of organisational actions. It is precisely with this intention that the stock market requires companies to have corporate governance.

Besides monitoring, another fundamental strategy to mitigate opportunistic behaviour is the implementation of incentive structures for the agent. Lambert (2001) describes this approach as the best solution

and Hermalin and Weisbach (2003) indicate that providing strong contractual incentives to management could solve the problem.

Bonding costs are related to measures that seek to align the interests of the agent with those of the principal, such as implementing incentives or reward systems that reduce losses from inadequate performance or opportunistic behaviour, making their actions more efficient and less harmful to the company. The principal can offer bonuses, stock options, and organisational perks to align managers' interests with their own. According to Hoque (2018), a fundamental view derived from the Agency Theory framework is the existence of a trade-off between risk and incentives, where compensation packages are seen as a contingent component that induces agents to work, but at the same time minimises any possible risk transfer to them.

III. Corporate Fraud And Governance Challenges

The Association of Certified Fraud Examiners classifies fraudulent actions into (i) corruption, (ii) asset misappropriation, and (iii) financial statement fraud. The most prevalent type of fraud within companies is asset misappropriation (around 85%), followed by corruption, and finally, financial statement fraud, which accounts for only 9% of fraud incidences. Despite financial statement fraud being the least frequent category, it causes the most significant economic impact on organisations (ACFE, 2014).

According to Silva (2020), fraud can be (i) in the name of the organisation or (ii) committed against the organisation. In the latter, frauds are perpetrated by employees, suppliers, or consumers who aim for personal gain and harm the company. Fraud in the name of the organisation is mainly financial statement fraud, executed by managers or analysts to manipulate financial information, giving a false impression of solidity and benefiting the company through an increase in share value.

Cressey (1953) mentions that the occurrence of fraud is linked to three dimensions: pressure, opportunity, and rationalisation - constituting the fraud triangle. Pressure refers to situations that lead an individual to consider fraud as a solution to their problems. These can be personal reasons, such as financial difficulties and maintaining a lifestyle, or professional reasons, such as pressure to achieve performance targets. Opportunity arises when an individual perceives they can commit fraud without being detected. This usually occurs due to weaknesses in internal controls or failures in corporate governance. Finally, rationalisation is the process by which the individual justifies their fraudulent conduct, convincing themselves that fraud is an acceptable practice and internalising the idea that the action is not severe and can be understood (Castro, 2016; Silva, 2020; Machado & Gartner, 2017). As evidenced in the fraud triangle, internal control and corporate governance are relevant factors in reducing the risk of fraud.

The risk of fraud is represented by the possibility of fraud occurrence impacting the achievement of the organisation's objectives. According to IIA Brazil (2009), the likelihood of fraudulent action is based on three factors: (i) the ease of perpetrating the fraud; (ii) the motivational factors of the perpetrator; and (iii) the organisation's history of fraud (IIA Brazil, 2009).

Thus, when the application of audit procedures, planned based on risk assessment, indicates the probable existence of fraud and/or error, the auditor must consider the potential effect on the financial statements (Crepaldi, 2023). In this aspect, attention to cash and cash equivalents fraud should be meticulous. Cash frauds are among the most common types. In verifying assets, simulated cash balances may be presented. Often, a very high balance does not mean there is cash; on the contrary, there may be nothing to represent it physically (Sá, 2019).

In the field of equity, there can be capitalisation with "promissory notes" receivable from non-existent persons or "associated" companies (which never settle the title); such practice, accounting-wise, capitalises a company without corresponding to the effective entry of assets, representing a false form of capital formation (Sá, 2019). In this context, if it is believed that such frauds and errors could result in material misstatements in the financial statements, the auditor must modify their procedures or apply others (Crepaldi, 2023).

Another usual fraud relates to costs. To falsify the cost value, the value of its components, materials, labour, indirect expenses, are falsified. Fraud in materials (raw materials, auxiliary materials, consumables, ingredients) occurs in various ways, such as acquisition through bogus invoices (the invoice exists, but the material does not enter); acquisition through "padded invoice" (the invoice value is different from what is paid to the supplier). Unless there are circumstances clearly indicating otherwise, the auditor cannot assume that a case of fraud and/or error is an isolated occurrence. As necessary, they should review the nature, timing, and extent of audit procedures (Crepaldi, 2023).

Fraud in result accounts is also common. Among many cases of expense fraud, there can be the acquisition of fake invoices for goods or services; payment of wages to non-existent people, but with full coverage of false personnel records; contracts for advertising, organisation, market research without the production of services; expenses for vehicle repairs with fake service invoices (Sá, 2019).

Bergamini (2005) asserts that good corporate governance practice demands that: (a) risk management is conducted by the administrator, aligning with the owner's risk propensity; (b) the administrator is responsible for

clear accountability, demonstrating how their management aligns with the strategic guidelines set by the owner (accountability); and (c) the administrator presents the obtained performance transparently, providing relevant, sufficient, and timely information (disclosure).

When the interests of shareholders and managers are not aligned, an agency conflict arises. This phenomenon occurs when administrators make decisions that may not be in the best interest of shareholders, harming the company as a whole. To resolve this conflict, Agency Theory proposes the use of contracts, incentives, and monitoring mechanisms to ensure that managers act in a way that achieves the shareholders' objectives (Girão & Barreto, 2023). According to Rodrigues (2015), in companies with dispersed capital structure, the main conflict of interest occurs between managers and shareholders. In contrast, in Brazilian companies with high ownership and control concentration, combined with low legal protection for shareholders, the main agency conflict is between controlling and minority shareholders (Nassif & Souza, 2013).

Conflicts between majority and minority shareholders can be mitigated through corporate governance mechanisms. The "outcome agency model of dividends" suggests that companies with better governance practices offer greater protection to shareholders, allowing minority shareholders to pressure agents to distribute higher dividends instead of using excess cash for their benefit (Rodrigues, 2015). Additionally, it is crucial to clarify contract rules, reducing conflicts caused by self-promotion, defensive strategies that avoid layoffs, and accounting manipulations that only benefit agents.

Regulatory bodies, in turn, have an important role. The SOX requirement for companies to report the quality of internal accounting controls has encouraged the adoption of good corporate governance practices related to accountability and transparency. Initially, the goal was to ensure a minimum transparency about the company's performance, communicated to various stakeholders through financial statements. However, the increase in transparency of these statements has led to significant improvements in the accountability process (Bergamini, 2005).

It can be inferred that Agency Theory helps companies invest in information systems that control agents, while recognising that the company's future is influenced by risks such as laws, technological advancements, and competition. Acceptance or denial of these risks affects the contracts between principal and agent (Nassiff & Souza, 2013).

The combination of robust legislation, an effective integrity programme, and the influence of institutional logics are fundamental for the prevention and punishment of fraud. Studies like those of Castro, Amaral, and Guerreiro (2019) highlight the importance of adherence to anti-corruption law parameters and the implementation of internal controls. Finally, the research by Ayres and Fonseca (2022) emphasises the crucial role of accountants and the influence of institutional logics in the decision to report irregularities, reinforcing that ethics and morals are essential elements in the fight against corporate corruption.

IV. The Punishment Of Fraud In Large Companies

Legislation can influence the inhibition and punishment of fraud, serving both a preventive and punitive function. Castro, Amaral, and Guerreiro (2019) investigated the relationship between adherence to the integrity programme parameters of the anti-corruption law (Law No. 12,846/2013) and the implementation of new internal controls in publicly traded companies. The study indicated that companies adhere to the integrity programme parameters and that this adherence is related to the implementation of new internal controls. National and multinational publicly traded companies have been striving to comply with the integrity programme, with greater adherence in aspects such as senior management involvement, codes of ethics, whistleblowing channels, protection for good-faith whistleblowers, and assessment of irregularities.

Referring to large publicly traded companies in Brazil, the CVM (Brazilian Securities and Exchange Commission) is responsible for regulating and supervising the securities market, establishing rules for information disclosure, corporate governance, and management accountability, in line with Law 6,404/76 and other resolutions. However, when monitoring mechanisms, internal and external audits, and internal controls align with these interests, there is a risk that their actions may evolve into fraud.

Punishing large companies for accounting fraud presents a series of complex challenges, ranging from diagnosing fraudulent schemes to legal and institutional limitations, in addition to the economic impact on the country, which undeniably can be a relevant aspect.

Large companies have significant resources to implement sophisticated and difficult-to-detect accounting fraud schemes. These schemes may involve several subsidiaries, international operations, and access to specialised professionals such as accountants and lawyers, making detection and investigation even more challenging (Rezaee, 2002). Regulations fail to keep up with innovations in the financial market and accounting, leaving gaps that can be exploited (Sikka, 2009). Additionally, regulatory capture, where regulators become excessively influenced by those they should regulate, can undermine oversight and punishment efforts (Stigler, 1971).

Severe punishment of large companies can have significant economic and social impacts, including job losses and negative effects on financial markets. Regulators and judicial authorities may be reluctant to impose severe penalties due to the potential adverse economic impact, especially on companies considered "Too Big to Fail," as mentioned by Morgenson and Rosner (2011).

In Brazil, the legal norm that regulates the judicial recovery of companies is Law No. 11,101, of 9 February 2005, known as the "Corporate Recovery and Bankruptcy Law." This law establishes the process of judicial recovery, extrajudicial recovery, and bankruptcy of the businessman and business society.

"Judicial recovery aims to make it possible to overcome the debtor's economic-financial crisis, in order to allow the maintenance of the productive source, the employment of workers and the interests of creditors, thus promoting the preservation of the company, its social function, and the stimulus to economic activity" (Law 11,101, Art. 47).

"Too Big to Fail" is an economic concept referring to financial institutions and other large companies whose failure would cause severe damage to the economy, thus justifying government interventions to prevent such collapse. The idea is that these entities are so integrated and crucial to the financial system that their collapse would have catastrophic consequences in terms of employment, economic stability, and market confidence. The term gained prominence during the 2008 financial crisis when several global financial institutions faced imminent collapses that threatened the worldwide financial system. The United States government, along with other governments around the world, intervened to save these institutions, arguing that their failure would cause a catastrophic domino effect on the global economy (Mishkin, 2010).

In contrast to what has been mentioned above regarding the benefits of intervention mechanisms in favour of judicial recovery and maintenance of such companies, the associated moral hazard is also considerable. Financial institutions take excessive risks, believing that they will be bailed out by the government in case of failure. This can lead to irresponsible behaviour by these institutions (Mishkin, 2010). Another questionable point is that government bailouts of large financial institutions are generally funded by taxpayers, which can be seen as an unfair use of public resources to save private entities (Baker, 2010).

Finally, the benefits obtained by companies in the judicial recovery process can lead to unfair competition, where large institutions have an advantage over smaller ones, as they can count on the security of a possible government bailout, while smaller ones do not have this luxury (Stiglitz, 2010).

Punishing large companies for accounting fraud is a multifaceted challenge that requires significant reforms in the regulatory system, greater transparency and independence in audits, and a stronger commitment from authorities to combat corruption and regulatory capture. Only with these changes will it be possible to adequately address the complexities and obstacles associated with punishing these companies.

V. The Americanas Case And Some Reflections

Americanas S.A., popularly known as Lojas Americanas, is a nearly centennial retailer with 94 years of history. It is a publicly traded company, part of the Novo Mercado of the Brazil, Bolsa, Balcão (B3). Currently, it faces an uncertain future following the discovery of an accounting gap of around R$ 20 billion, which at the time led to the dismissal of the CEO and the CFO, as well as the opening of two administrative proceedings by the Brazilian Securities and Exchange Commission (CVM) to investigate the inconsistencies (Bolzani, 2023).

In a material fact announcement on 11 January 2023, Americanas S.A. reported the occurrence of fraud, explaining on its official page that accounting inconsistencies were detected in the reductions to the suppliers' account. These inconsistencies included purchase financing operations that were not adequately reflected in the financial statements. As a result, CEO Sergio Rial and Investor Relations Director André Covre left the company, being temporarily replaced by João Guerra (Americanas S.A, 2023a).

Six months later, Americanas S.A. detailed that the fraud mainly involved fictitious VPC (cooperative advertising funds) contracts, which were recorded as reductions in the cost of goods sold to artificially improve the operating result. Risk-drawn financial operations were contracted and improperly posted to the suppliers' account, neutralising the entries of fictitious VPCs. Various expenses, such as payroll and freight, were improperly capitalised, and very short-term working capital operations were carried out to present an unrealistic cash position at the end of the quarters (Americanas S.A, 2023b).

The accounting inconsistencies resulted in significant adjustments, including the reversal of fictitious VPCs, reclassification of risk-drawn and working capital operations, and the recognition of financial charges in income accounts. The company also reassessed its accounting practices, adjusting balance sheet accounts, reassessing receivables, and reviewing contingency risks. Additionally, Americanas re-evaluated impairment calculations, resulting in asset provisions against the income statement, reclassified loans and financings, and recalculated taxes due to the corrections made (Americanas S.A, 2023b).

After discovering a billion-dollar "tax inconsistency" at the end of 2022, Americanas reported a loss of R$ 4.6 billion between January and September 2023. The company's loss was driven by a 45.1% drop in net revenue in the first nine months of 2023 compared to the same period in 2022. Despite this, the major

shareholders plan to maintain their investments, but experts indicate that the company will need significant capitalisation to continue operating (Almeida, 2023).

The scandal raised suspicions about the company's management. The Union of Commerce Workers of Rio requested the blocking of R$ 1.53 billion in the personal accounts of major shareholders Jorge Paulo Lemann, Carlos Alberto Sicupira, and Marcel Telles, to protect the rights of the retailer’s workers. Meanwhile, the Federal Police (PF) launched Operation Disclosure on 27 June 2024, against accounting frauds at Lojas Americanas which, according to investigations, amounted to R$ 25 billion and were motivated by the maintenance of million-dollar bonuses for the top executives of the retail chain (Valor, 2023).

According to the PF, the frauds are proven by hundreds of emails. “Through them, it is verified that, month by month, everyone received the real results, became aware of the refining of the numbers (versions that modified lines of the balance sheet), chose a fictitious result, and became aware of the fraudulent result.” Whistleblowers pointed out that former CEO Miguel Gutierrez knew about the "green and yellow file," used as a sort of "yardstick" for the retailer to falsify results according to market expectations (Metrópoles, 2024).

In total, 14 people are being investigated for the largest fraud in the history of Brazil's financial market. According to the judicial decision that authorised the police operation, the PF attributes to the suspects fraudulent manoeuvres aimed at altering the company’s real results. According to the investigators, the manoeuvres “caused great damage to other shareholders, mainly the minority ones, who, due to the false financial health of the companies, carried out share transactions at inflated prices.” The crimes investigated are market manipulation and insider trading.

After investors became aware of the fraudulent practices involving Lojas Americanas, the shares plummeted to pennies. The lack of trust from shareholders, especially minority ones, towards the managers is reflected in the share price, eroding the market value of the retail giant (Forbes, 2024).

According to Niyama, Rodrigues, and Rodrigues (2015), when seeking individuals who can influence the improvement or deterioration of accounting reports, one often encounters an agency conflict, and the markets that govern the relationships between these various agents are not efficient because they do not ensure that information is made available equally. As a result, managers have incentives to use insider information or manipulate their reality to maximise their utility.

Illustratively, the case of Lojas Americanas leads us to reflect that fraud in large corporations is an old problem and that, when it comes to punishability, little progress has been made. The difficulties in punishing large companies involved in corporate fraud persist today and reflect a series of challenges inherent in the nature of large corporations and the legal and regulatory system itself. One of the main obstacles lies in the organisational structure of these companies, which often involves an intricate network of subsidiaries, branches, and international operations (Martin, 2002). This complexity makes it difficult to identify individual responsibilities, and fraudulent decisions and actions can be diluted among various hierarchical levels and legal entities.

Additionally, large companies have considerable economic and political power, which allows them to influence judicial and regulatory decisions, notably through lobbying practices (Siebeneichler, 2020). Furthermore, because they hold significant capital, they can employ robust teams of lawyers and specialised consultants who use complex legal strategies to prolong proceedings and exploit legal loopholes. This power of influence can result in lenient punishments or even impunity, perpetuating a cycle where the legal consequences do not correspond to the severity of the fraudulent acts committed.

Another important factor is the information asymmetry between the parties involved. Managers of large companies, by holding privileged knowledge about internal operations, are in a position to manipulate financial and operational information, making the detection and proof of fraud more difficult (Ghafoor, Zainudin, & Mahdzan, 2019). Corporate governance, although crucial, often proves insufficient to prevent or identify fraud, as evidenced in the case of Lojas Americanas, which was part of the Novo Mercado. The lack of transparency and intentional manipulation of information harm regulatory bodies and investors.

The slowness in the analysis of processes by the Brazilian Securities and Exchange Commission (CVM) highlighted in the General Audit Office (CGU) Audit Report of May 2024 is a critical aspect that directly impacts the efficiency of the capital market. The long period of 2,265 days (6.2 years) from the detection of the irregularity to the application of the penalty suggests an overloaded and inefficient regulatory system. This delay can discourage transparency and compliance, as those involved in fraud may feel they have a long margin of manoeuvre before facing real consequences. Moreover, the lack of promptness in decisions can undermine investor confidence in the regulatory system, making it difficult to attract capital and compromising the development of the capital market.

Corporate governance emerges as a solution to mitigate agency conflicts. However, agency theory emphasises that these control mechanisms, while essential, are not always sufficient to prevent opportunistic behaviour by agents (Jensen & Meckling, 1976). The issue of punishment and power enters this scenario as a crucial element. As highlighted in the essay, the effective punishment of agents who commit fraud or make

harmful decisions is often hampered by the complexity of fraudulent schemes and the slowness of the regulatory and judicial system (Condé, 2013). The perception of impunity can thus fuel fraudulent behaviour, exacerbating the agency problem.

Sandel (2015) questions the morality of decisions based solely on utilitarian outcomes, proposing that justice cannot be reduced to a cost-benefit calculation. In the corporate environment, this translates into the need to balance the interests of shareholders with those of employees, customers, and society at large, going beyond the pursuit of profit. Corporate ethics, as discussed by the author, involves making decisions that respect the dignity and rights of individuals, promoting an environment of transparency and social responsibility. Companies should adopt practices that not only maximise financial returns but also contribute to the common good, reflecting values such as justice, equity, and respect. This ethical focus promotes trust and sustainability of corporations in the long term, aligning with the idea that doing the right thing, even when difficult, is fundamental to robust and fair corporate governance.

In summary, the pursuit of effective and fair corporate governance requires the integration of robust control mechanisms, a solid ethical stance, and an efficient regulatory system. Fraud in large corporations, as exemplified by the case of Lojas Americanas, highlights the limitations of existing structures. The power of large corporations to influence judicial and regulatory decisions underscores the importance of a more agile and relentless system in the application of punishments.

VI. Conclusion

The analysis of the difficulties in punishing large companies reveals the complexity of the contemporary corporate landscape. Corporate governance faces significant challenges in implementing control mechanisms that can effectively mitigate fraud and harmful practices. Iconic cases like that of Lojas Americanas highlight the limitations of existing structures. The ability of these companies to influence judicial and regulatory decisions necessitates a more agile and stringent system in the application of punishments. The integration of a robust ethical stance and an efficient regulatory system is essential for building a more reliable and sustainable capital market.

Therefore, the effectiveness in punishing large corporations depends on a multifaceted approach that combines transparency, ethics, regulatory efficiency, and international collaboration. Promoting a corporate culture based on ethical values, along with governance practices that encourage social responsibility and compliance, is crucial for preventing fraud at its root. Additionally, cooperation among international regulators can enhance the ability to tackle cross-border fraud. Thus, the balance between control, ethics, and regulatory efficiency is indispensable for addressing agency conflicts and promoting corporate governance that not only seeks to maximise financial returns but also contributes to the common good, reflecting a commitment to justice and the dignity of individuals.

References

[1]. Almeida, M. (2023, 12 De Janeiro). Americanas Tem Se Mantido Relevante No Varejo Nos Últimos 94 Anos. Isto É Dinheiro. Recuperado De Https://Istoedinheiro.Com.Br/Americanas-Tem-Se-Mantido-Relevante-No-Varejo-Ao-Longo-De-94-Anos/

[2]. Americanas S.A. (2023a). Fato Relevante. Recuperado De Https://Api.Mziq.Com/Mzfilemanager/V2/D/347dba24-05d2-479e-A775-2ea8677c50f2/C8e8ad73-9ae8-3c20-8019-897e07e8f503?Origin=1

[3]. Americanas S.A. (2023b). Divulgação De Resultados 2022. Recuperado De Https://Api.Mziq.Com/Mzfilemanager/V2/D/347dba24-05d2-479e-A775-2ea8677c50f2/C8e8ad73-9ae8-3c20-8019-897e07e8f503?Origin=1

[4]. Association Of Certified Fraud Examiners. (2014). Report To The Nations: 2014 Global Study On Occupational Fraud And Abuse. Austin, Tx: Acfe. Recuperado De Https://Www.Acfe.Com/-/Media/Files/Acfe/Pdfs/Rttn/2014/2014-Report-To-Nations.Pdf.

[5]. Assaf, A. (2022). Finanças Corporativas E Valor. (8. Ed.). Atlas.

[6]. Ayres, R. M., Sauerbronn, F. F. & Fonseca A. C. P. D. (2022). Profissional De Contabilidade E Denúncia: Uma Tipologia De Influência De Lógicas Institucionais. Revista Contabilidade & Finanças, 33(89), 248–264. Https//Doi.Org/10.1590/1808-057x202112830.

[7]. Baker, D. (2010). Taking Economics Seriously. Mit Press.

[8]. Bergamini, S., Jr. (2005). Controles Internos Como Um Instrumento De Governança Corporativa.

[9]. Bolzani, I. (2023). De Lojinha De Rua A Império Varejista: Veja Histórico Da Americanas No País. G1. Recuperado De Https://G1.Globo.Com/Economia/Noticia/2023/01/13/De-Lojinha-De-Rua-A-Imperio-Varejista-Veja-Historico-Da-Americanas-No-Pais.Ghtml

[10]. Castro, M. F. C. M. (2016). O Efeito Da Percepção De Fraude Sobre Os Agentes Na Decisão De Investimento: Estudo De Caso Envolvendo Uma Empresa Petrolífera Brasileira. [Dissertação De Mestrado]. Universidade Do Estado Do Rio De Janeiro.

[11]. Castro, P. R., Amaral, J. V., & Guerreiro, R. (2019). Aderência Ao Programa De Integridade Da Lei Anticorrupção Brasileira E Implantação De Controles Internos. Revista Contabilidade & Finanças, 30(80), 186–201. Https://Dx.Doi.Org/10.1590/1808-057x201806780.G1

[12]. Condé, R. A. D. (2013). Fraudes Corporativas: Um Estudo De Casos Múltiplos À Luz Da Teoria Dos Escândalos Corporativos.

[13]. Costa, A. P. P. D., & Wood, T., Jr. (2012). Fraudes Corporativas. Revista De Administração De Empresas, 52, 464-472.

[14]. Crepaldi, S. A., Crepaldi, G. S. (2023). Auditoria Contábil: Teoria E Prática. (1. Ed.). Gen.

[15]. Cressey, D. R. (1953). Other People's Money: A Study In The Social Psychology Of Embezzlement. Glencoe, Il: The Free Press.

[16]. Forbes (2024). Um Ano Do Caso Americanas: Como O Setor De Varejo Foi Afetado No Período? Recuperado De Https://Forbes.Com.Br/Forbes-Money/2024/01/Um-Ano-Do-Caso-Americanas-Como-O-Setor-De-Varejo-Foi-Afetado-No-Periodo/ Https://Forbes.Com.Br/Forbes-Money/2024/01/Um-Ano-Do-Caso-Americanas-Como-O-Setor-De-Varejo-Foi-Afetado-No-Periodo/

[17]. Ghafoor, A., Zainudin, R., & Mahdzan, N. S. (2019). Corporate Fraud And Information Asymmetry In Emerging Markets: Case Of Firms Subject To Enforcement Actions In Malaysia. Journal Of Financial Crime, 26(1), 95-112.

[18]. Girão, M., Barreto, L. (2023). Americanas: Nem Tudo O Que Reluz É Ouro. Cadernos Ebape.Br, 21(6). Https://Doi.Org/10.1590/1679-395120230040.

[19]. Hermalin, B., & Weisbach, M. S. (2003). Boards Of Directors As An Endogenously Determined Institution: A Survey Of The Economic Literature. Economic Policy Review Of The Federal Reserve Bank Of New York, 9(1), 7-36.

[20]. Hoque, Z. (2018). Methodological Issues In Accounting Research: Theories And Methods. (2. Ed.) Spiramus Press.

[21]. Instituto Brasileiro De Governança Corporativa. (16 De Março De 2023). Lojas Americanas. Recuperado De Https://Www.Ibgc.Org.Br/Blog/Evento-Escandalos-Corporativos-Ibgc

[22]. Instituto Brasileiro De Governança Corporativa. (2023). Conhecimento. Recuperado De Https://Www.Ibgc.Org.Br/Conhecimento/Governanca-Corporativa

[23]. Instituto De Auditoria Independente Do Brasil. (2023). Mind The Gap. Recuperado De Mind The Gap: A Série Do Ibracon Que Aborda O Papel Da Auditoria Independente E Os Gaps De Expectativa Existentes Envolvendo A Sua Atuação - Ibracon

[24]. Instituto Dos Auditores Internos Do Brasil. (2009). Guia Prático De Auditoria Interna E Fraude.

[25]. Jensen, M. C., & Meckling, W. H. (1976). Theory Of The Firm: Managerial Behavior, Agency Costs And Ownership Structure. Journal Of Financial Economics, 3(4), 305-360.

[26]. Lambert, R. A. (2001). Contracting Theory And Accounting. Journal Of Accounting And Economics, 32(1-3), 3-87.

[27]. Lei N. 6.404, De 15 De Dezembro De 1976. (1976). Dispõe Sobre As Sociedades Por Ações. Recuperado De Lei 6.404compilada (Planalto.Gov.Br)

[28]. Lei N. 11.101, De 9 De Fevereiro De 2005. (2005). Regula A Recuperação Judicial, A Extrajudicial E A Falência Do Empresário E Da Sociedade Empresária. Recuperado De Lei Nº 11.101 (Planalto.Gov.Br)

[29]. Lei N. 12.846, De 1 De Agosto De 2013. (2013). Dispõe Sobre A Responsabilização Administrativa E Civil De Pessoas Jurídicas Pela Prática De Atos Contra A Administração Pública, Nacional Ou Estrangeira, E Dá Outras Providências. Recuperado De Https://Www.Planalto.Gov.Br/Ccivil_03/_Ato2011-2014/2013/Lei/L12846.Htm

[30]. Machado, M. R. R., & Gartner, I. R. (2017). Triângulo De Fraudes De Cressey (1953) E Teoria Da Agência: Estudo Aplicado A Instituições Bancárias Brasileiras. Revista Contemporânea De Contabilidade, 14(32), 108–140. Https://Doi.Org/10.5007/2175-8069.2017v14n32p108.

[31]. Martin, N. C. (2002). Da Contabilidade À Controladoria: A Evolução Necessária. Revista Contabilidade & Finanças, 13(28), 7–28. Https://Doi.Org/10.1590/S1519-70772002000100001.

[32]. Metrópoles, (2024, 28 De Junho). Cúpula Da Americanas "Não Media Esforços Para Enganar Mercado", Diz Pf. Recuperado De Cúpula Da Americanas "Não Media Esforços Para Enganar Mercado", Diz Pf | Metrópoles (Metropoles.Com)

[33]. Mishkin, F. S. (2010). The Economics Of Money, Banking, And Financial Markets. Addison-Wesley.

[34]. Morgenson, G., & Rosner, J. (2011). Reckless Endangerment: How Outsized Ambition, Greed, And Corruption Led To Economic Armageddon. Times Books.

[35]. Nassiff, E., & De Souza, C. L. (2013). Conflitos De Agência E Governança Corporativa. Caderno De Administração, 7(1).

[36]. Niyama, J., Rodrigues, A., & Rodrigues, J. (2015). Algumas Reflexões Sobre Contabilidade Criativa E As Normas Internacionais De Contabilidade. Revista Universo Contábil, 11(1), 69-87.

[37]. Perera, L. C. J., Freitas, E. C. & Imoniana, J. O. (2014). Avaliação Do Sistema De Combate Às Fraudes Corporativas No Brasil. Revista Contemporânea De Contabilidade, 11(23), 03-30.

[38]. Relatório Técnico Cgu. (2024). Processo Administrativo Sancionador (Pas) De Pessoas Físicas E Jurídicas Pela Cvm. Recuperado De Https://Eaud.Cgu.Gov.Br/Relatorios?Apenasabertas=False&Exibircolunapendencias=False&Apenasmodificadasnosultimos30dias=False&Colunaordenacao=Datapublicacao&Direcaoordenacao=Desc&Tamanhopagina=15&Offset=0&Datapublicacaoinicio=2024-05-01&Datapublicacaofim=2024-05-31&Palavrachave=Cvm&Fixos=#Lista

[39]. Rezaee, Z. (2002). Financial Statement Fraud: Prevention And Detection. John Wiley & Sons.

[40]. Rodrigues, R. L. (2015). Teoria De Agência, Governança Corporativa E Política De Dividendos: Evidências Nas Empresas Brasileiras De Capital Aberto. [Master's Dissertation, University Of São Paulo]. Htpps://Doi.Org/10.11606/D.96.2015.Tde-23102015-112041.

[41]. Sá, A. L. (2019). Perícia Contábil. (1. Ed.) Gen.

[42]. Sandel, M. J. (2015). Justiça: O Que É Fazer A Coisa Certa? (35. Ed.). Civilização Brasileira.

[43]. Siebeneichler, A. J. (2021). O Agrolobby Em Múltiplas Escalas: Uma Análise Da Influência Do Agronegócio Na Política Externa Brasileira. Revista De Relações Internacionais Da Ufgd, 10(19), 436-479.

[44]. Sikka, P. (2009). Financial Crisis And The Silence Of The Auditors. Accounting, Organizations And Society, 34(6-7), 868-873.

[45]. Silva, M. I. N. (2020). Mecanismos Internos De Controlo De Fraude Nas Instituições De Crédito: Estudo De Caso [Dissertação De Mestrado Não Publicada]. Instituto Politécnico De Lisboa, Instituto Superior De Contabilidade E Administração De Lisboa. Http://Hdl.Handle.Net/10400.21/12911.

[46]. Stigler, G. J. (1971). The Theory Of Economic Regulation. The Bell Journal Of Economics And Management Science, 2(1), 3-21.

[47]. Stiglitz, J. E. (2010). Freefall: America, Free Markets, And The Sinking Of The World Economy. W. W. Norton & Company.

[48]. Tirole, J. (2010). The Theory Of Corporate Finance. Princeton University Press.

[49]. Valor Investe (2023, 26 De Janeiro). Sindicatos Acionam Americanas Na Justiça E Pedem Bloqueio De R$ 1,5 Bilhão. Recuperado De Sindicatos Acionam Americanas Na Justiça E Pedem Bloqueio De R$ 1,5 Bilhão | Empresas | Valor Investe (Globo.Com)

[50]. Wheelan, C. (2014). Economia Nua E Crua. (1. Ed.). Zahar Editora.