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A CRITICAL ANALYSIS OF ACCOUNTING FRAUDS IN INDIA

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ABSTRACT
Business ethics are critical in nature, as a slew of scandals and frauds continue to plague many of the world's most prestigious organizations. The advancement of technology and scientific development is assisting in the establishment of a mass society with a vast working class and a tiny ruling elite, fostering the growth of monopolies, the rise of a managerial class and complex institutional procedures. For the new social, political, and economic processes to run smoothly and transparently, strict commitment to high ethical standards is required. The incapacity of all the segments of society to fully comprehend this need results in the formation and growth of corporate frauds, thus making it increasingly difficult to implement laws that are insufficiently deterrent. Corporate frauds which are frighteningly common in a variety of countries and sectors of the economy result in the loss of an organization's market capitalization and brand image. Since 1991, when the Indian economy had been liberalized, the banking sector had witnessed significant expansion and transformation. Even though the Indian banking industry is adequately regulated and monitored, it cannot overlook the deadly banking frauds that have stunned the industry and exposed the loopholes, thus having a widespread detrimental impact on the country. This conceptual paper examines the major corporate frauds in India since independence, as well as their impact on the country's social and economic fabric. It attempts to examine how the government and different regulatory bodies have reacted to the major corporate frauds and aimed to protect the country. Utilizing sustainability as a fulcrum, the paper attempts to focus on providing measures that a corporation should adhere to in order to conduct their operations in an ethical manner, thereby diminishing, if not eliminating the corporate fraud.

Keywords-: *Accounting Frauds, Accountability, Corporate Governance, Ethical behavior, Transparency.*

INTRODUCTION

A corporation, being a conglomeration of multiple stakeholders at the micro and the macro levels must treat of all of its stakeholders in a fair and transparent manner. In a globalized era, the corporations must acquire the essential resources and compete in a global economy, which implies that they must embrace and display ethical behavior in order to develop and succeed in the long run. In the recent decades, individual and organizational greed has evolved dramatically and has become

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an unavoidable presence in our lives and society. As the competition has become increasingly fierce over during the years, the organizational structures have become more fragmented, thus culminating in a lack of internal control within the organizations. As a result, the number of large and small corporate frauds have risen exponentially. A corporate fraud arises when a firm or an entity knowingly alters and suppresses crucial information in order to appear wealthier. In order to commit such corporate frauds, companies employ a variety of methods such as misinformation in prospectus, accounting record manipulation and debt concealment. Fraudulent accounting entries, false trades for profit inflation, revelation of price sensitive information that falls under the ambit of insider trading, and false transactions that attract additional investors and lenders for funding can be classified as instances of financial information falsification. India, like other emerging and developed countries is plagued by fraud, thus necessitating the establishment of a transparent, ethical, and accountable corporate governance system. While the corporate governance system in India is reasonably stable, there are certain flaws that have their roots in the culture of particular business organizations, as demonstrated by the recent global financial crisis and several significant corporation failures and frauds. Following each fraud, the government and the regulatory machinery have been intensified in order to reduce the number of frauds, essentially imposing a check on the nexus between the company and professionals, as well as between banks and bureaucrats which can be accomplished through more disclosures, along with assigning and fixing responsibilities to each party engaged in the fraud. Though India has outperformed on the global stage and has been a forerunner in the growth story due to its competent and conservative banking laws, it cannot overlook the deadly banking frauds that have stunned the industry and exposed the loopholes, thus having a widespread detrimental impact on the country.

CHAPTER I: MAJOR ACCOUNTING FRAUDS IN INDIA

Accounting frauds are often classified as the 'tip of the iceberg.' They symbolize the catastrophic failures that are noticeable. Even though India has a strong financial system, it cannot overlook the deadly accounting frauds that have shaken the industry. These accounting frauds have had a widespread detrimental impact on the general public and have raised serious concerns about the corporate governance structure of India.

- **SATYAM FRAUD -:**

From being India's fourth largest company with eminent customers and India's IT Crown Jewel, Satyam Computers has become engrossed in the country's biggest corporate fraud in the recent history. The company had announced on 7th January 2009 that its founder and CEO, B. Ramalinga

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Raju had not only been misrepresenting its accounts for years but had also been overstating revenues[1] and inflating profits by a whopping amount of $1 billion. Satyam ironically signifies "truth" in Sanskrit, but the confession of B. Ramalinga Raju which came along with his resignation indicates that the company had been feeding investors, employees, and its shareholders a constant diet of asatyam[2], with respect to the company's financial performance. A variety of methods such as the creation of many bank statements had been employed by B. Ramalinga Raju and the company's worldwide head of internal audit to carry out the country's biggest accounting fraud. Furthermore, Mr. Raju had fabricated the bank accounts in order to inflate the balance sheet with fictious balances. By claiming interest income from fictious bank accounts, he had inflated his income statement. Not only this, to inflate revenue, the global head of the internal audit had also created fictious customers and generated fictious invoices in their names, as well as falsified board resolutions and illegally obtained the loans.

In the wake of committing this fraud, Satyam had breached each and every rule of the corporate governance practices. The Satyam fraud has served as a paradigm of poor corporate governance standards. The company had not only failed to establish a positive relationship with its shareholders and employees but had also failed to fulfill its obligations towards the shareholders.

It was nearly 6 years after the Satyam fraud had shocked the nation, B. Ramalinga Raju and his brother Rama Raju had been convicted to imprisonment for a term of seven years along with a fine of Rs 5 crore each. Along with them eight other people comprising of the former CFO of the company and the partners of Price Waterhouse had been charged with criminal breach of trust, cheating, forgery, impersonation, cheating and evidence destruction. Furthermore, B. Ramalinga Raju's family had been fined by the capital market regulator Securities and Exchange Board of India for making illegal gains, and they had also been forbidden from entering the financial market for 14 years.

- **PUNJAB NATIONAL BANK FRAUD -:**

In Independent India, the greatest bank fraud in 70 years had occurred in one of the leading Public Sector Banks which had shivered the whole banking sector.[3] It was on 14th February 2018, that India's second largest public sector bank, Punjab National Bank had revealed a Rs. 11,400 crore fraud, which had been orchestrated by Nirav Modi, one of the country's richest diamond

[1] Reminiscences of Corporate Governance from Satyam Fraud (taxguru.in).

[2] Corporate Accounting Fraud: A Case Study of Satyam Computers Limited, ACCOUNTING FRAUD.pdf (nja.nic.in).

[3] Dr. Meda Srinivasa Rao and Dr. B. Kishore Babu, "*A Case Study on Punjab National Bank*", Journal of Xi an Shiyou University, Natural Science Edition,V16-9-18.pdf (xisdxjxsu.asia).

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businessmen. Nirav Modi directed and carried out the scheme with the help of his uncle. Mehul Choksi along with Gokulnath Shetty, the Deputy Manager of the PNB Mumbai branch and clerk Manoj Kharat. They had facilitated the improper issuing of LOU (Letter of Undertaking) to Modi and his company without following proper procedures. The LOU is a financial instrument which is used by a bank to address a customer's short-term credit requirements. The LOU were signed in favor of Indian bank branches for the import of pearls for a term of one year, with the RBI allowing a total time period of 90 days from the date of shipping.[4] This rule had been disregarded by the Indian banks' abroad office as they had failed to share any document or information with PNB that had been provided to them by the firms when they applied for loans. On 10th March 2011, Nirav Modi had received his first fraudulent guarantee from PNB, and received 1212 more in the next 74 months. The Enforcement Directorate had discovered bank token devices used by the Nirav Modi to transfer the illegal cash to international sham companies. PNB had supported the fraud which led to a depletion of the market capitalization worth of PNB.

This fraud emerged big issues about the overall integrity of the public sector banks, as well as whether regulators like the RBI and SEBI were performing to the requisite standard. In order to prevent any further exploitation, the Reserve Bank of India had immediately prohibited banks from issuing guarantees in the form of LOU. It was also announced that the commercial banks in India will cease issuing LOU for trade-related credits for imports with immediate effect. The government had passed the Fugitive Economic Offenders Act, 2018 in retaliation to the massive accounting fraud.[5]The Act had been passed with the objective to deter economic criminals like Nirav Modi from fleeing the nation.

The PNB scam has inflicted a significant dent in India's banking system. While the enactment of the Fugitive Economic Offenders Act is a good start, it cannot be the only piece of legislation passed in this arena. Therefore, it is critical to push for reforms in the banking industry so that old and well-established banks such as PNB do not have their reputations tarnished in the future.

- **KINGFISHER FRAUD -:**

When one fails, he rises up back and works harder; nevertheless, when one succumbs to greed, failure becomes the conclusion. The same scenario happened in the case of Vijay Mallya, the

[4] S. Gayathri and T. Mangaiyarkarasi, " *A Critical Analysis of the Punjab National Bank Scam and Its Implications*," International Journal of Pure and Applied Mathematics, Volume 119, No.12, 2018, 1387.pdf (acadpubl.eu).

[5] Lovejit Kaur, *PNB Scam: Shining Diamond Trader took away PNB's Shine*, Issue 1,Volume 8, Year 2020, PNB SCAM: Shining Diamond Trader Took Away PNB's Shine (ijedr.org).

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mastermind behind the renowned Kingfisher fraud because of his poor decisions that caused him a lot of money, and he had to take out substantial loans from several banks that he was never able to repay.

The factual situation revolves around the establishment of Kingfisher Airlines on 9th May 2005. Having a business in the aviation industry was a novel experience for him and he wanted to take the Kingfisher Airlines worldwide. Gradually, it became India's most luxurious and second-largest domestic flight, accounting for one-fourth of all the domestic travelers that leads him to attain the same success in international airline services as he had in domestic airlines, but according to the Indian Ministry of Civil Aviation's guideline at that time, establishing a business of international flights required a minimum of five years of domestic service and around 20 airplanes for the international flights[6], because of which he had to wait for a period of three years for authorization to expand his airline business on a global scale. Therefore, to qualify to operate internationally, he decided to purchase Air Deccan, a completely different airline from KFA. The vision of his company was "Only Expansion, No Profitability"[7] which placed him under pressure to handle the services on a tight budget. Soon, KFA's stock began to fall in value, and the operative cost began to transform into debts as a result he raised the price of Kingfisher Red tickets. Eventually, people began to desert that airline in favor of other less expensive options, which eventually led to the decline of his aviation business.

The situation became complex, so he decided to contact international corporations for investment in his business, but until 2012 Foreign Direct Investment was not permitted in the Airline industry. Eventually, he had been left with no other choice but to take loans from the banks. But when the debt amount increased to Rs. 9000 crores, he was willing to pay only Rs. 6000 crores, which was the principal payment. He demanded that the entire amount of interest should be waived, whereas banks on the other hand desired complete debt repayment. Meanwhile, he fled India and settled in the United Kingdom. Currently, he is on India's Wanted List for willful default, but he cannot be summoned before the court as he is residing in a foreign nation.

[6] Kingfisher Scam: Fall of the king of good times - The Company Ninja.
[7] Ibid.

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IMPACT OF ACCOUNTING FRAUDS

The Satyam, PNB & Kingfisher Scam raised many questions on the Corporate Governance policies of India. The government reacted to the Satyam fraud by introducing the Companies Act 2013, which fixed the liabilities of the directors and the auditors. SEBI also tried to improve corporate governance by amending the Clause 49 of listing guidelines. The Satyam Scan violated the principles of corporate governance[8] as they failed to showcase the good relationship between shareholders and employees by not complying with their obligations towards the stakeholders.

It is the right of the shareholder to get the information of the organization they are investing in; they expect a transparent dealing. In case of Satyam these obligations were not fulfilled. Due to collapse of Satyam many employees lost their job, thus having a detrimental impact on the entire management. The organization did not pay the taxes for the year 2009 and never fulfilled its duty to pay taxes according to the laws.

The head of Satyam, Mr. Raju confessed these frauds, but these confessions diverted the attention from 2 events that are associated with the company, which highlight the unprofessional behavior of the company. Satyam was blacklisted by the World Bank for 8 years due to their unethical behavior. The other cases were that a suit filed by a company in United States for leaking out the confidential data to competitors. Due to the unethical behavior of Satyam, it not only damaged the name of the company but also raised questions on professionalism of Indian companies and corporate governance policies in India. Even though the Indian IT industry tried to distance itself from the Satyam fraud but, it did affect the Indian economy as WIPRO was held to be ineligible till 2011 by the world bank due to the unethical practices in the IT industry in India. [9]

Whenever any fraud like Satyam is disclosed in public, it affects the investors, who are worried about each development regarding the company. In recent years these financial markets have started to become dependent on financial institutional investors for money, it is likely that they will become more cautious in future. When Satyam scam got exposed, investors started to become more cautious and started to demand transparency in the system. Secondly the company management started to become more diligent, and companies started to demand more of auditors.

[8] K V Kurmanath, How Satyam scam raised the bar of corporate governance @businessline (2018), https://www.thehindubusinessline.com/companies/how-satyam-scam-raised-the-bar-of-corporate-governance/article7085855.ece#.

[9] S Narayana, The Satyam Fiasco – Impact on Corporate India, Institute of South Asian Studies, https://www.files.ethz.ch/isn/95615/94_.pdf, 15th January 2009.

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Corporate Governance: Questions were raised with respect to Governance, it was very clear that the management and Board of Directors were negligent, and the auditing was poor. Though the valuation and auditing of the company was done by another international companies. This incident shook the confidence of companies in auditors and severely affected the auditing companies. Despite having board of directors no one saw the management problems, and the directors were either misled or acted unprofessionally. Several agencies like CII, SEBI committee on accounting standards started to plan for policy changes with respect to audit committee, the rights of shareholder and the whistle blower policy.[10]

Damaged Reputation: At one point of time Kingfisher was the second largest domestic airlines but after all the fraudulent acts of the owner it declined massively. Kingfisher had not paid the landing charges and some of the airports in Bangalore and Hyderabad changed their policies with respect to Kingfisher and they were required to pay first and only then their flights could be landed on the airport. The two prominent fuel companies in Bharat Petroleum and Hindustan Petroleum refused to sell fuel to Kingfisher as the previous dues were not cleared and both the fuel companies stated that fuel will only be provided when the payment has been made in advance which affected the business of the company, as it became difficult to sanctions loans from the financial institutions.[11] Mr. Mallya then tried to convince Etihad to invest in Kingfisher however in 2012 FDI was not allowed in Airline industry.[12] Non-transparency and the irregular reporting to the government and various market regulators has been a big cause for corporate failures.

Change in Structure: The scam by Nirav Modi had a great impact on not only companies that were owned by Nirav Modi but also the banking sector. The PNB tried to overcome this type of behavior by reinforcing underwriting of credit. The CEO of NITI Aayog Mr. Amitabh Kant recommended PNB to recognize the gaps, recapitalize and reform. PNB then established a vigil mechanism, whistleblower policy, since the scam no person has been denied the access to audit committee. PNB also created 'Mission Parivartan' which will result in greater transparency and accountability. The Fugitive Economic Offenders Act has been implemented with the aim to curb these fraudulent activities and punish the offenders. The person will be declared an offender under this Act when the

[10] Ibid.

[11] Amy Kazmin, The fall of Vijay Mallya, Financial Times, https://www.ft.com/content/85252402-1249-11e6-839f-2922947098f0, May 2016.

[12] Ibid.

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offense amount is more than 100 crores and arrest warrant has been issued or the offender has fled the country and refuses trial.[13]

INDICATORS OF POTENTIAL FRAUD AND COMMON MECHANISM USED TO COMMIT FRAUDS

Corporate Governance comprises of rules and regulations through which any company is governed. Corporate Governance is important in cases where the ownership is separate or not involved with the management and control of the company. The corporate governance mechanisms are important as they provide security to the investors and shareholders and also to other parties who deal with the company as it not only protects the rights and responsibilities but also ensure accountability, fairness and transparency is maintained in the dealings of the company[14]

- SATYAM FRAUD-:

The Satyam scandal in 2009 highlighted the issues in Corporate Governance in India, the scandal occurred due to the intentions of the leaders in the corporate world. In this case, the major factor which led to the occurrence of the scam were problems in the auditing of the company. Despite the fact that that firm complied with the requirement that there must be an audit committee, but it did not provide any results. One of the major auditing firms was hired by Satyam for accounting services but they were not able to detect any fraudulent accounting practice, they also signed all the accounting statements of Satyam and were also responsible for the fraud.[15] The Chief Financial Officer was also held responsible for signing the final financial statements. The CEO and CFO neglected the fiduciary their fiduciary responsibilities and they worked against the interest of the company.

1. **Check on Accounts of the Company:** Most of the frauds initially start as small fraud schemes, the perpetrator of these fraud schemes makes small changes initially in the hope that it will go unnoticed and won't make a big difference. Even the fraud schemes at Satyam had started as very small schemes and eventually it grew into a big accounting fraud. Therefore, creating a specific team for audit and dividing responsibilities amongst different people makes it easier to detect irregularities.

[13] Dr. Meda Srinivasa Rao Dr. B. Kishore Babu, A Case Study on Punjab National Bank Scam (Is it only a scam or failure of the combined banking system?), Journal of Xi' an Shiyou University, Natural Science Edition ISSN : 1673-064X, https://www.xisdxjxsu.asia/V16-9-18.pdf.

[14] Lisa Mary Thomson, What is corporate governance? The Economic Times (2009), https://economictimes.indiatimes.com/money-you/what-is-corporate-governance/articleshow/3995278.cms (Jun 5, 2020).

[15] Charu Singhal, Satyam Scandal: The Biggest Issue Revolting Around Corporate Governance, Lexforti Legal News Network, https://lexforti.com/legal-news/satyam-scandal-the-biggest-issue-revolving-around-corporate-governance/, (April 2020).

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2. **Need to strengthen Corporate Governance**: The Satyam case is a prime example that Corporate Governance needs to be strengthen, the leadership of these public companies should be chosen wisely, the selection of the managers or executives should be done very carefully. These people who are part of the executive are the ones who set the image and tone of the company, if they are corrupt at the top then the company is bound to collapse.[16]

- **PUNJAB NATIONAL BANK FRAUD-:**

Recently the Punjab National Bank stated that the Letters of Understanding (LOU) issued by the banks were used by fraudsters to conduct their business. PNB was caught in a vicious cycle where the fraudsters run their business at the expense of bank funds without being detected by the auditors. The auditors detected these scams, but no action was taken. Due to the recent scams the government started the plan for new credit appraisal system to improve the quality of governance.[17]

1. **Government Policies & Improvement in Management:** The government also proposed to reduce its holdings in PSB to 52% which will allow PSB to create a stronger institution on global level. This will help in bringing efficiencies in operation and a professional management. By improving the management system, the internal operations of the bank would also improve whether it is the credit facility or money transfer. Use of new technology can be considered as it will reduce human involvement with in-built security system. In cases where the human involvement is necessary, there should be a procedure for checks and balances, with double checking procedures and multiple level of clearances being instituted. [18]

2. **Strengthening Corporate Governance:** The need of the hour is to strengthen Corporate Governance, integrity and ethics must be instituted in the DNA of the organization, while dealing with stakeholders, customers, or any other party. The accountability of third party should be made an integral part of the operations. A system must be built where anti-bribery mechanisms, cyber security, and risk management is encouraged. [19]

[16] Ibid.

[17] Ajay Kumar, PNB Scam: A Corporate Governance Failure, Delhi Post, https://delhipostnews.com/pnb-scam-corporate-governance-failure/, (2018).

[18] Chandrajit Banerjee, PNB Incident: New tech and strong corporate governance needed to check frauds, The Indian Express, https://indianexpress.com/article/business/banking-and-finance/pnb-fraud-case-nirav-modi-new-tech-and-strong-corporate-governance-needed-to-check-frauds-5079387/, (2018).

[19] Ibid.

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- **KINGFISHER FRAUD-:**

The Serious Fraud Investigation Office conducted a probe in which they found out that the merger that took place between Kingfisher Airlines and Deccan Aviation was against the ethics of corporate governance. In the report it was stated that there were new divisions created by the Kingfisher airlines and backdated entries were made to avoid taxes. A Rs 30 crore non-compete fee was also paid to the Deccan owner, this particular fact was not disclosed to the stakeholders or the high court, several circular transactions were also carried out between the entities owned by Gopinath.[20]

The report of SFIO also stated that the announcement of merger between Kingfisher and DAL was to avoid paying the capital gain taxes. 3 divisions of Kingfisher were made- (commercial airlines, ground handling and training), so that tax could be avoided. The SFIO stated that the documents that proved about existence of 3 business divisions were fabricated and backdated. They also recommended that these details should also be shared with the Income Tax Department for the necessary steps and possible recovery of taxes. It was also stated that 30 crore rupees were also paid to Gopinath as a non-compete fee without disclosing it to the shareholders and even the high court. This fee was paid to convince Gopinath about the deal. He used this money to buy the shares in Kingfisher through one of the companies owned by him, he bought 1 crore shares which were converted into 42 lakh shares and at the time of merger they valued at 87 crores.[21]

1. **Enactment of New Law:** New law must be made to confiscate the assets of those economic offenders who have fled the country and strong action must be taken against them so that the money they owe to the banks is recovered otherwise the money of the taxpayers will be used to bail out banks. Proper investigation needs to be done in these matters so that the liabilities can be fixed, and punishment can be given accordingly. A mechanism should be established where reliable data is available to the banks and financial institutions regarding the assets. [22]
2. **Defined Roles & Responsibilities:** The roles and responsibilities in the company should be clearly defined, whether it is board of directors, CEO or the executives, as clearly defined roles make a successful and sustainable business. The employees must be promoted based on their knowledge and skill in their respective field. Different committees and departments

[20] Khushboo Narayana, All corporate ethics compromised in Kingfisher Airlines-Deccan Aviation deal: Fraud investigation office, Indian Express, https://indianexpress.com/article/business/companies/all-corporate-ethics-compromised-in-kingfisher-airlines-deccan-aviation-deal-serious-fraud-investigation-office-4945586/, (2017).
[21] Ibid.
[22] J P Sharma & Ruchi Goyal, Corporate Governance Failure of Five-Star Accredited "Kingfisher Airlines", Journal of IMS Group, Vol. 14, No. 1, January-June 2017, pp. 10-25.

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must be setup to investigate the various works of the company, like the audit committee. Whistle blower mechanism must be introduced for the best interest of the employees. [23]

CONCLUSION

Accounting Frauds are bound to proliferate as India positions itself as the world's fastest expanding large economy and the country is becoming more technologically connected both within and outside the country. In reality, things are getting more complex as the human brain's devious ingenuity is increasingly utilizing technology to engage in more complex criminal activities that are capable of causing systemic inability. Technology has broken down the barriers of distance and has invaded practically every aspect of our modern networked lives. The major accounting frauds i.e., Satyam, Punjab National Bank, Kingfisher should serve as a wake-up call for India. Even if the systematic harm is temporary, India must cautiously examine the questions of transparency, accountability, and governance if it is to become the financial capital of Asia. Therefore, it is critical that our institutions should set aside funds and train their employees to make their systems secure. Our regulatory organizations such as SEBI should be informed of the global developments in this arena and shape the regulations accordingly. The organizations must become more proactive and implement stronger and monitoring oversight systems. The auditors and the Board of Directors must be held accountable and should be held liable to pay the full penalty. Corporate Governance framework must be strengthened first, followed by implementation in "letter as well as in right spirit." Even if the corporate governance procedures are unable to totally prohibit unethical behavior by the senior management, they can at least serve as a way of discovering such behavior before it is too late. There is no cure for a rotten apple, but it can be eliminated before the pathogen spreads and infects the entire bunch.

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[23] Ibid.

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