
AN INTEGRATED LEGAL FRAMEWORK FOR THE DETECTION AND DETERRENCE OF INSURANCE FRAUD IN INDIA: EVALUATING STATUTORY NORMS AND REGULATORY PRACTICES

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ABSTRACT

The insurance business, by its very nature, is susceptible to fraud. Insurance is a risk distribution system that requires the accumulation of liquid assets in the form of reserve funds that are, in turn, available to pay loss claims. This research paper begins with a prologue on Insurance fraud and its types. This paper goes on to examine the Legislative measures relating to Insurance fraud, such as the legislation to Combat Insurance Fraud, and its regulatory authorities in India. This paper further analyses the Legislative measures taken by the Indian Authority in combating Insurance Fraud. This paper also analyses the various Insurance Regulatory Authorities regulating and licensing the insurance and reinsurance industries in India. This paper aims to give a comprehensive analysis of the challenges, opportunities, and prospects of the Insurance sector in India. Finally, suggestions for further research and the limitations of the study are given.

Keywords: Insurance, Insurance fraud, Risk management, policyholders, Insurance Regulatory and Development Authority

INTRODUCTION:

The insurance business, by its very nature, is susceptible to fraud. Insurance is a risk distribution system that requires the accumulation of liquid assets in the form of reserve funds that are, in turn, available to pay loss claims. Insurance companies generate a large steady flow of cash through insurance premiums. Steady cash flow is an important economic resource that is very attractive and easily diverted. Large accumulations of liquid assets make insurance companies attractive for take over and loot schemes. Insurance fraud occurs when any act is committed with the intent to fraudulently obtain some benefit or advantage to which they are not otherwise entitled or someone knowingly denies some benefit that is due and to which someone is entitled¹.

False insurance claims are insurance claims filed with the intent to defraud an insurance provider. Insurance fraud has existed ever since the beginning of insurance as a commercial enterprise. Types of insurance fraud are very diverse, and occur in all areas of insurance. Insurance crimes also range in severity, from slightly exaggerating claims to deliberately causing accidents or damage. Fraudulent activities also affect the lives of innocent people, both directly through accidental or purposeful injury or damage, and indirectly as these crimes cause insurance premiums to be higher. Insurance fraud poses a very significant problem, and governments and other organizations are making efforts to deter such activities.

The surge of Insurance frauds can be attributed to declining ethical and moral standards in business and the desire to make quick money. Public attitude that relate frauds to victimless crime or terming them as white collar crime adds to the growing numbers. The growth in the number of frauds is also fueled by the fact that Indian laws are not strict towards fraudulent elements. Since the stricter legislations are not present it encourages these elements to keep trying to committed insurance fraud².

According to Insurance Information Institute, the common frauds include ‘padding’ or inflating actual claims, misrepresenting facts on an insurance application, submitting claims for injuries or damage that never occurred and ‘staging’ accidents.

¹ S.V. Joga Rao, *Medical and Insurance Laws* 412 (2d ed. LexisNexis 2019).

² Insurance Regulatory and Development Authority of India, *Annual Report 2022–23*, at 102, <https://www.irdai.gov.in> (last visited July 30, 2025)

PURPOSE AND SCOPE:

The study and the thesis herein presented in order to discuss that the insurance fraud as a serious crime, and insurers are striving to place effective measures to identify, penalize, and more importantly, avert this kind of practice. Insurance risk exposure is a major concern for industry players. The truth was that insurer fraud was more compound and involved more defiance of internal control mechanisms. Today, when India's Insurance companies are working toward controlling costs, one of its key focus areas to reduce costs is by proactively detecting fraud, which can be attained through an effective fraud risk framework i.e., due diligence process for vendor and policyholder, efficient claims validation, mystery doctor shopping, channel reviews, compliance reviews, effective fraud analysis and maintenance of efficient dashboards. Fraud risk poses a very big challenge for the insurance sector. The increasing number of frauds and the growing degree of risk necessitates that insurance companies regularly review their policies, build in checks and use new and advanced technology to avoid such issues. However, no system can be fool proof, but a proactive and dynamic approach can make a company ready to counter fraudsters and gain an edge over its competitors. This study limits itself in highlighting the fraud management strategy undertaken by the insurance companies and the various mechanism used by them to prevent insurance fraud and to expedite the grievance redressal mechanism of policy holders

II. CONCEPT OF INSURANCE FRAUD:

Insurance is a tool by which the fatalities of a small number are compensated out of funds collected from the insured. Insurance companies pay back for financial losses arising from the occurrence of insured events. Example: in a personal accident policy, the insured event is death due to accident; in a fire policy, the insured events are fire and other natural calamities. Hence, insurance is a safeguard against uncertainties. It provides financial compensation for losses suffered due to incidents of unanticipated events, insured within the policy of insurance. Insurance essentially is an arrangement where the losses experienced by a few are extended over several who are exposed to similar risks. Insurance is a protection against financial loss arising from the happening of a contingent event. An individual who wants to cover risk pays a small amount of money to an organization called an Insurance Company and gets insured³.

³ International Journal of Marketing, Financial Services & Management Research, ISSN 2277- 3622 Vol.2, No. 5, May (2013) Online available at www.indianresearchjournals.com

Insurance fraud happens when any act is committed with the expectation to falsely acquire some advantage or favourable position to which they are not generally entitled or somebody intentionally denies some advantage that is expected and to which somebody is entitled. False protection claims are protection claims documented with an intention to defraud an insurance provider. Insurance Fraud speaks to a basic issue, and governments and diverse affiliations are attempting tries to divert such activities⁴.

III. TYPES OF INSURANCE FRAUDS:

Many times, insurance frauds exist from scamming whether it is auto insurance, life, property⁵. All types of insurance frauds divided into:

- a) **Hard Fraud:** Hard fraud incorporates somebody arranging an auto crash, damage, fire related crime, misfortune, break-in or somebody composing false bills to Medicare to illicitly get cash from their insurance agency⁶. This kind of fakes frequently gets more
- Ditching:** Ditching, also known as owner's give up, is getting rid of a vehicle to cash in on an insurance policy or to settle an outstanding loan. The vehicle is normally expensive and purchased with a small down payment. The vehicle is reported stolen, although in some cases, the owner just abandons the vehicle, hoping that it will be stolen, stripped for parts, or taken to a pound and destroyed. The scheme sometimes involves homeowner's insurance for the property that was 'stolen' in the vehicle.
- b) **Past Posting:** Past posting is a scheme in which a person becomes involved in an automobile accident, but doesn't have insurance. The person gets insurance, waits a little bit of time, reports the vehicle as being in an accident, and then collects for the damages.
- c) **Vehicle Repair:** This scheme involves the billing of new parts on a vehicle when used parts were actually replaced in the vehicle. Sometimes this involves collusion between the adjuster and the body repair shop⁷.

⁴ Gupta, A & Venugopal, R, Tightening the grip on insurance frauds, IRDA, vol. 9, 2011, No.7, pp. 17-27

⁵ Holmes, S. A., Todd, J. D, Welch, S. T., Welch, O. J., Holmes, S. A. 1999, Insurer vs. Insurance Fraud: characteristics and detection, Journal of Insurance Issues, vol. 22, no.2, pp. 103-124.

⁶ Kahn, Sameera (1994) "Preventing Insurer Fraud," Business Insurance, 28(32), August 8, pp. 3, 6.

⁷ International Journal of Law Management and Humanities, Volume 6, Issue 3, Page 1551 – 1558
DOI: <https://doi.org/10.10000/IJLMH.114978>

- d) Vehicle Smuggling:** This is a scheme that involves the purchase of a new vehicle with maximum financing. A counterfeit certificate of the vehicle's title is made showing that it is free and clear. The vehicle is insured to the maximum, with minimum deductible theft coverage. It is then shipped to a foreign port and reported stolen. The car is sold at its new location and insurance is also collected for the 'theft'.
- a) Inflated Damages:** The business environment and competition for work in the automobile repair industry have caused the development of a scheme in which some establishments inflate estimated costs to cover deductibles. The insured is advised by the repair shop that the shop will accept whatever the company authorizes⁸.
- b) Rental Car Fraud:** A person does not need to own a vehicle to commit automobile fraud. There are several schemes that can be perpetrated using rental cars. The most prevalent involve property damage, bodily injury, and export fraud. Media consideration and it is less demanding to recognize. Hard fraud regularly includes criminal exercises of insurance agency. Yet, an individual can likewise be discovered liable of hard fraud. Hard fraud often involves criminal activity and the intention of squeezing millions of dollars out of insurance companies. But, the average person can also be found guilty of hard fraud.
- c) Soft Fraud:** It happens when a person pads their insurance claims by telling 'White lies', such as, they are feeling, too ill to come to work, so they can receive workers compensation benefits that they would not have otherwise. Worker's compensation claims is the most frequent and expensive type of soft fraud. It costs insurance companies millions of dollars a year. As a result, insurance premiums are rising. Yet, approximately up to one-third of consumers do not see anything wrong with employees receiving worker's compensation benefits even if they are healthy enough to go back to work⁹.

1. Agent/Broker Fraud

- a) Cash, Loan, and Dividend Checks:** An Insurance Company worker without the

⁸ Villegas-Ortega J, Bellido-Boza L, Mauricio D. Fourteen years of manifestations and factors of health insurance fraud, 2006–2020: a scoping review. Heal Justice. Published online 2021. doi:10.1186/s40352-021-00149-3

⁹ Christopher, Abhijith and Dubey, Aditi, The Exigency for An Insurance Frauds Control Act in India: Challenges to Be Addressed (2020). Volume-10, Issue-1, Nirma University Law Journal

learning of the insured or contract holder demands money, a credit, or a profit cheque, and deposits the same in his own bank account or any bogus account¹⁰. The worker, so as to limit his odds of being identified of committing a fraudulent act, may change the policyholder's address to either his location or an invented location. When the cheque is issued, the location is then changed back to the past location.

- b) **Settlement Checks:** An Insurance Company worker can mislead settlement cheques, for example, for a matured endowment settlement, to the branch office, their home, or an invented location. The representative can without much of a stretch make a cheque defalcation by changing the address before the settlement cheque issue date, in this manner misleading the cheque being referred to.
- c) **Premium Fraud:** The agent gathers the premium, however fails to transmit the cheque to the insurance agency. The insured has no inclusion or coverage.
- d) **Fictitious Payees:** An agent or an employee can change the beneficiary of record to an imaginary individual and in this way present the vital papers to approve the issuance of a cheque.
- e) **Fictitious Death Claims:** An agent or an employee gets a bogus death certificate and applies for issuance of cheque. The aforesaid person gets the cheque and gets the money for it¹¹.

2. Underwriting Irregularities

- a) **Equity Funding:** Equity funding is the way toward utilizing existing premium or arrangement esteems to fund new organizations. In so far as the insured knows about what is being finished by the agent and completely comprehends the long range technique for payment on the new contract, there are no clear underwriting irregularities.
- b) **Misrepresentation:** Misrepresentation may happen if a representative makes a bogus

¹⁰ Mukherjee, Arindam & Kutty, Shashidharan & Thomas, George & Vaze, Archana & Duggal, R & Rao, P & Sharma, Madhuri & Musinguzi, Isaac. (2020).

¹¹ Mr. N. Kannan & dr. N. Thangavel, Overview Of Indian Insurance Sector available at www.acadjournal.com/2008/v22/part7/p2/.

statement with the aim to bamboozle the forthcoming insured so as to purposely acquire an unlawful gain.

c) False Information: An organization employee may present some bogus data to get unlawful monetary profit:

- I. Improper medicinal data to get a superior insurable rate for the planned policy holder
- II. Improper date of birth to acquire a less expensive premium on the new policy
- III. Improper residential address to get a less expensive premium for home or accident insurance.
- IV. Improper driving history preceding buying accident or automobile insurance to decrease the yearly premium or get protection where typically the individual would need to apply through the risk pool.

d) Fictitious Policies: A sales representative, so as to keep his position, submits fictitious policies to improve his writing record. Or on the other hand, before an individual leaving the organization, he composes fake policies called Tombstone cases to improve his bonus pool with the goal that his remuneration will be more noteworthy. Tombstone implies an operator actually takes names from tombstones in a burial ground and composes new policies.

3. Property Insurance Fraud¹²: Property Insurance Fraud usually involves the filing of insurance claims for property that never existed or for inflated loss amounts.

a) Inflated Inventory: Property that is lost through fire is claimed on an insurance form. However, property that does not exist also finds its way onto an inventory of the property claimed. Property claimed might have been previously sold or never owned by the claimant.

¹² Gupta, A & Venugopal, R 2011, Tightening the grip- on insurance frauds, IRDA ,vol. 9, no.7, pp. 65

- b) **Phony or Inflated Thefts:** A home or car that has been burglarized is the basis for filing a claim for recoveries of monies lost. However as with items destroyed by fire above, the items never existed or were previously sold.
- c) **Paper Boats:** A claim is filed for a boat that sank, but the boat never actually existed. It is not difficult to register a boat based on a bill of sale. After a period of time, a loss is claimed for the sinking of the boat. It is difficult to prove that the boat did not exist or was sunk intentionally.

4. Life Insurance Fraud

- a) **Fraudulent Death Claims:** To obtain reimbursement for life insurance, a death certificate is required. However, phony death certificates are not that difficult to obtain. The person might be very much alive and missing or the person might be dead, and the death is past posted. With small settlements, death claims are not closely scrutinized and are paid relatively easily.
- b) **Murder for Profit:** This scheme involves the killing or arranging for the killing of a person to collect insurance. The death might be made to look like it was an accident or a random killing.

IV. LEGISLATIONS TO COMBAT INSURANCE FRAUD:

National and local governments, especially in the last half of the twentieth century have recognized insurance fraud as a serious crime, and have made efforts to punish and prevent this practice. Some major developments are listed below:

A. The Insurance Act, 1938

It is the first comprehensive piece of insurance legislation in India governing both life and non-life branches of insurance. The Act applies to all types of insurance business, life, fire, marine, etc., done by companies incorporated in India or elsewhere¹³.

According to Sec. 2(C) of the Act, there is a prohibition on the transaction of insurance

¹³ Swati Sonal, Insurance Fraud Prevention Laws, A Need of Time: A Critical Analysis, Volume IV Issue IV, Indian Journal of Law and Legal Research (IJLLR) 1967, 1986, October 2022.

business by certain persons. Save as hereinafter provided, no person shall, after the commencement of the Insurance Act, begin to carry on any class of insurance business in India, shall, after the expiry of one year from such commencement, continue to carry on any such business unless he is,

- a) A public company or
- b) A society registered under the Cooperative Societies Act, 1912 or under any other law for the time being in force in any state relating to cooperative societies or,
- c) A body corporate incorporated under the law of any country outside India not being of the nature of a private company.

According to Section 6, no insurer carrying on the business of life insurance, general insurance or insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act 1999¹⁴ should be registered unless he has:

- a) A paid-up equity capital or rupees one hundred crores, in case of a person carrying on the business of life insurance or general insurance; or
- b) A paid-up equity capital of rupees two hundred crores, in case of a person carrying on exclusively the business as a reinsurer:

Provided that in determining the paid-up equity capital specified under clause (i) or clause (ii) the deposit to be made under section 7 and any preliminary expenses incurred in the formation and registration of the company should be excluded: Provided further that an insurer carrying on business of life insurance, general insurance or Re-insurance in India before the commencement of the Insurance Regulatory and Development Authority Act, 1999 and who is required to be registered under the Act, should have a paid-up equity capital per clause (i) and (ii), as the case may be, within six months of the commencement of that Act¹⁵.

¹⁴ Deloitte's Insurance Fraud Survey 2023.

<https://www2.deloitte.com/content/dam/Deloitte/in/Documents/financial-services/in-insurance-fraud-survey-2023-noexp.pdf>.

¹⁵ Dr-Pooja. (2014). Life Insurance Frauds in India: Reasons, Impacts and Prevention Mechanisms- "The Management Accountant, The Institute of Cost Accountants of India". Vol. 49. 45-50.

B. Insurance Regulatory and Development Authority Act, 1999

The Insurance Regulatory and Development Authority Act, 1999, also known as the IRDA Act, was enacted to establish a statutory body to regulate, promote, and ensure orderly growth of insurance and reinsurance business, as also to protect the interest of policyholders. The IRDA Act provides for the composition of the Authority, terms and conditions of the Chairperson and members including their tenure and removal, duties, powers and functions of the Authority including regulation making power and delegation of powers; establishment of Insurance Advisory Committee, Insurance Regulatory and Development Authority Fund and powers of the Central Government to make rules, to issue directions to the Authority and to supersede the same, if it is necessary and other miscellaneous provisions. The First Schedule appended to the IRDA Act listed out several amendments to the Insurance Act, 1938¹⁶. The Second Schedule to the IRDA Act inserted Section 30A in the Life Insurance Corporation Act, 1956, whereby the exclusive privilege of LIC to carry on life insurance business in India was to cease. The Third Schedule to the IRDA Act inserted a similar provision, Section 24A, in the General Insurance Business (Nationalization) Act, 1972, whereby the exclusive privilege of the GIC and its subsidiaries concerning general insurance business ceased¹⁷.

The Law Commission of India in its 190th Report On Revision of Insurance Act, had suggested that there was no justification for continuing to have a separate legislation concerning the IRDA and that there was a need to merge the provisions of the IRDA Act, 1999 with the Insurance Act, 1938 in order to 'to bring about an integrated approach to the task of formulating a legislative regime that can encompass the key facets of the functioning of the Regulatory Authority even while strengthening the regulatory regime. The rationale behind the above suggestion was explained thus, 'With the IRDA exercising many of the key functions assigned to it under the Insurance Act, 1938, there is no justification for continuing to have a separate legislation concerning the constitution and functions of the IRDA¹⁸. Moreover, at the time the IRDA Act was being prepared, the task of a comprehensive revision of the Insurance Act, 1938 was felt necessary but was not

¹⁶ Deloitte's Insurance Fraud Survey 2023. <https://www2.deloitte.com/content/dam/Deloitte/in/Documents/financial-services/in-insurance-fraud-survey-2023-noexp.pdf>.

¹⁷ Growth of the Indian insurance industry with market Size and Trends: IBEF Indian Brand Equity Foundation. Available at: <https://www.ibef.org/industry/insurance-sector-india> (visited on June 13, 2025).

¹⁸ Cambridge Dictionary, available at: <https://dictionary.cambridge.org/dictionary/english/insurance>.

undertaken due to paucity of time. Now, with the experience of the functioning of the IRDA and several rounds of discussion with key insurance personnel, a comprehensive revision of the Insurance Act, 1938, appears possible¹⁹.

C. Indian Penal Code

Section 205²⁰- False personation for purpose of act or proceeding in suit or prosecution:

False personation for purpose of act or proceeding in suit or prosecution: Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for term which may extend to three years, or with fine, or with both²¹.

Section 420 - Cheating and dishonestly inducing delivery of property:

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine²².

Section 464 - Making a false document including signs and seals and forgery:

Making a false document²³: A person is said to make a false document or false electronic record first who dishonestly or fraudulently

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

¹⁹ Achintya Mandal, *Overview of Indian Insurance market in Post-liberalization era- Growing Challenges & Opportunities and the fight for FDI*, <https://www.insuranceinstituteofindia.com/Indiainsurance/insurance/insurancemain/earlierIssues>

²⁰ Section 205 of Indian Penal Code, 1876

²¹ K.D.Gaur, *Textbook on Indian Penal Code*, 1992, 6th Edition, Universal Law Publications, Pg.No.69

²² Section 420 of Indian Penal Code, 1876

²³ Section 464 of Indian Penal Code, 1876

(c) affixes any electronic signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the electronic signature,

to cause it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly: Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly: Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.

Section 405 - Criminal breach of trust All these legal provisions are not adequate to prosecute a fraudster legally under the current scenario of organised insurance frauds:

Criminal breach of trust: Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits 'criminal breach of trust'²⁴.

D. The Indian Contract Act, 1872:

Misrepresentation within the meaning of Section 18 of the ICA: 'Misrepresentation'

²⁴ Section 405 of Indian Penal Code, 1860.

means and includes 'Misrepresentation' means and includes

(1) the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

(2) any breach of duty which, without an intent to deceive, gains an advantage of the person committing it, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him;

(3) causing, however innocently, a party to an agreement, to make a mistake as to the substance of the thing which is the subject of the agreement²⁵.

The contract of insurance is also void in as with Section 10 read with Section 14(4) and Section 18 of the ICA, generally in cases of fraud.

Section 10: What agreements are contracts: All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void. All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void Nothing herein contained shall affect any law in force in India, and not hereby expressly repealed, by which any contract is required to be made in writing or in the presence of witnesses, or any law relating to the registration of documents²⁶.

Section 20 of the Indian Contract Act, 1872: Where both parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void. Explanation: An erroneous opinion as to the value of the thing which forms the subject-matter of the agreement is not to be deemed a mistake as to a matter of fact. Some factors are essential for insurance cover²⁷.

Section 17 in The Indian Contract Act, 1872: Fraud means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract. Fraud

²⁵ Section 18 of the Indian Contract Act, 1872

²⁶ Section 10 in The Indian Contract Act, 1872

²⁷ Section 20 of the Indian Contract Act, 1872

means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract

- (1) The suggestion as a fact of that which is not true by one who does not believe it to be true;
- (2) The active concealment of a fact by one having knowledge or belief of the fact,
- (3) A promise made without any intention of performing it,
- (4) Any other act fitted to deceive,
- (5) Any such act or omission as the law specially declares to be fraudulent²⁸.

V. REGULATORY AUTHORITIES

Insurance Regulatory Development Authority (IRDA)

On the recommendations of the Malhotra Committee, the Government of India constituted an interim Insurance Regulatory Authority and later enacted the Insurance Regulatory and Development Authority Act, 1999 to establish a statutory body to regulate promote and ensure orderly growth of insurance and reinsurance business as also to protect the interest of policy holders²⁹. The constitution of the Insurance Regulatory and Development Authority (hereinafter referred to as the Authority/IRDA) is being considered as one of the most redeeming features of insurance reforms in India. The Insurance Regulatory Development Act also carried out a series of amendments to the Insurance Act of 1938 and conferred the powers of the Controller of Insurance on the IRDA³⁰. The members of the IRDA are appointed by the Central Government from amongst persons of ability, integrity and standing who have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration etc. The Authority consists of a chairperson, not more than five whole-time members and not more than four part-time members³¹. The Authority has been entrusted with the duty to regulate, promote and ensure the orderly growth

²⁸ Section 17 in The Indian Contract Act, 1872

²⁹ Avneet Kaur, What are the Different Types of Insurance in India, Available at: <https://www.etmoney.com/learn/insurance/different-insurance-types-inindia/>.

³⁰ IRDAI Guidelines (2016) <https://irdai.gov.in/hi/document-detail?documentId=382140>

³¹ Umang Dudeja, Insurance Fraud Control Act: the need of the hour, Ipleaders Blog (Sep 10, 2020), <https://blog.ipleaders.in/insurance-fraud-control-act-need-hour>

of the insurance and re-insurance business in India³². In furtherance of this responsibility, it has been conferred with numerous powers and functions which include prescribing regulations on the investments of funds by insurance companies, regulating maintenance of the margin of solvency, adjudication of disputes between insurers and intermediaries, supervising the functioning of the Tariff Advisory Committee, specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organizations and specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector³³. The powers and functions of the IRDA include:

- a) registration/modification/cancellation of registration of insurers;
- b) to cause compliance of the requirement of capital structure of the companies as also solvency margin, insurance business in rural and social sector, submission of their returns/reports, approval and preparation of the scheme of amalgamation and transfer of insurance business³⁴;
- c) issue of license to insurance intermediaries or agents;
- d) control over management of insurers;
- e) search and seizure,
- f) protection of interest of policy holders,
- g) promotion and regulation of professional organizations conducting insurance business,
- h) regulation of investment of funds by insurance companies,
- i) investigation and inspection of the affairs of the insurers,

³² Types of Marine insurance, Available at: <https://www.tataaig.com/knowledge-center/marine-insurance/types-ofmarine-insurance>.

³³ www.acadjournal.com/2008/v22/part7/p2, Mr. N. Kannan and N. Thangavel, Overview Of Indian Insurance Sector.

³⁴ Manvir Singh, Haryana fake insurance scam: SIT gets 208 complaints from 11 firms, Available at: Haryana fake insurance scam: SIT gets 208 complaints from 11 firms | Gurgaon News - Times of India, (visited on Jan 24, 2025).

- j) adjudication of disputes between insurers and insurance intermediaries,
- k) supervising functions of Tariff Advisory Committee,
- l) and to frame regulations to carry out the purposes of the Insurance Act, 1938³⁵.

Tariff Advisory Committee

The Tariff Advisory Committee (Advisory Committee) is a body corporate, which controls and regulates the rates, advantages, terms and conditions offered by insurers in the general insurance business³⁶. The Advisory Committee has the authority to require any insurer to supply such information or statements necessary for discharge of its functions. Any insurer failing to comply with such provisions shall be deemed to have contravened the provisions of the Insurance Act. Every insurer is required to make an annual payment of fees to the Advisory Committee of an amount not exceeding in case of reinsurance business in India, one percent of the total premiums in respect of facultative insurance accepted by him in India; and in case of any other insurance business, one percent of the total gross premium written direct by him in India³⁷.

Insurance Association of India, Councils and Committees

All insurers and provident societies incorporated or domiciled in India are members of the Insurance Association of India (Insurance Association) and all insurers and provident societies incorporated or domiciled elsewhere than in India are associate members of the Insurance Association³⁸. There are two councils of the Insurance Association, namely the Life Insurance Council and the General Insurance Council³⁹. The Life Insurance Council, through its Executive Committee, conducts examinations for individuals wishing to qualify themselves as insurance agents. It also fixes the limits for actual expenses by which the insurer carrying on life insurance business or any group of insurers can exceed from the prescribed limits under the Insurance Act. Likewise, the General Insurance Council, through its Executive Committee,

³⁵ Section 14 of Insurance Regulatory and Development Authority Act, 1999

³⁶ Swati Sonal, Insurance Fraud Prevention Laws, A Need Of Time: A Critical Analysis, Volume IV Issue IV,

³⁷ Avneet Kaur, What are the Different Types of Insurance in India, Available at: <https://www.etmoney.com/learn/insurance/different-insurance-types-inindia/>, (visited on Jan, 14, 2025).

³⁸ Battle Against Insurance Frauds in India, Available at: <https://www.idfy.com/blog/battle-against-insurance-frauds-in-india/>, (visited on Jan, 14, 2025).

³⁹ Common types of insurance life insurance frauds in India, Available at: Common Types of Life Insurance Frauds in India, (visited on Feb. 14, 2025).

may fix the limits by which the actual expenses of management incurred by an insurer carrying on general insurance business may exceed the limits as prescribed in the Insurance Act⁴⁰.

Ombudsmen

The Insurance Ombudsman scheme was created by Government of India for individual policyholders to have their complaints settled out of the court system in a cost effective, efficient and impartial way. It is an expert in the area of insurance business⁴¹. This institution is of great importance and relevance for the protection of interests of policyholders⁴². This institution has helped in generating and sustaining the faith and confidence of the consumers and insurers in the system⁴³. Ombudsman traces its history to Sweden was back in 19th century and it literally means an authority who is empowered to-investigate individual complaints against public authorities, departments etc. later it has been adopted in many countries including UK, Australia etc. In India the idea of insurance ombudsman was first mooted in the year 1998. Central government by the powers conferred on it by sub section (1) section 114 of insurance act 1938, has set up an ombudsman specifically for insurance sector⁴⁴

Directorate Of Public Grievances

The Grievances of Public are received at various points in the Government of India, but, primarily there are two designated nodal agencies in the central Government who handle these grievances.

- (i) Department of Administrative Reforms and Public Grievances⁴⁵.
- (ii) Directorate of Public Grievances. The Directorate of Public Grievances was set up in the Cabinet Secretariat with effect from 01.04.1988, on the basis of a review of

⁴⁰ A. Vijayakumar, Globalization of Indian Insurance sector- issues and challenges, (May 2009) Pg:13-16.

⁴¹ Common types of insurance life insurance frauds in India, Available at: Common Types of Life Insurance Frauds in India,

⁴² Ritika Khatua, Insurance Fraud: "The Pandora's Box" ?, Lexology (Feb 24, 2020), <https://www.lexology.com/library/detail.aspx?g=bcd71546-06cc-4a02-b1b4-663bbf76f9ad>

⁴³ The institution of Ombudsman was created by Government of India; vide a notification dated November 11, 1998 with the purpose of quick disposal of the grievances of the insured customers and to mitigate the problems involved in redressal of those grievances.

⁴⁴ Gunturi S. S, Kulkarni R, IRDA Journal 9(11) (2011) 20-25

⁴⁵ Ahemd Ali, 30-year-old-man, 2 others held in Rs. 2 Crore insurance fraud case in Maharashtra, Available at: <https://timesofindia.indiatimes.com/city/mumbai/30-year-old-man-2-others-held-in-rs-2-crore-insurance-fraud-case/articleshow/98504105.cms>.

the public grievance redress machinery of Government of India carried out in 1987.⁴⁶

Initially, it was set up to look into individual complaints pertaining to four Central Government Departments which were more prone to public complaints. But subsequently more departments having larger public interface were added to its purview and presently the Directorate is handling grievances pertaining to Central Government Organizations.⁴⁷ It helps to obtain responses to unresolved grievances on matters relating to some Central Government Departments and Organizations. DPG can help you obtain a response and resolution on these grievances from department or organization⁴⁸.

Consumer Forums

The Consumer Protection Act, 1986, was enacted with an objective to provide simple, speedy and inexpensive redressal to the grievances of consumers. It covers both the public and private sectors, and caters to grievances relating to all types of goods and services, unless specifically exempted by the Central Government.⁴⁹ The Act establishes quasi-judicial authorities at the district, state and national levels to deal with consumer grievances. Insurance is one of the services enumerated in the Consumer Protection Act, 1986 and falls within the purview of the definition of 'services' under Sec. 2(1) (o). Insurance being a prime component of financial services, any beneficiary under such contract is considered to be an 'insurance consumer'.⁵⁰ The consumer law provides protection to all affected consumer whose insurance services suffer from the deficiencies and defects. The act however restricts the ambit and scope of the power of the consumer court to award compensation to the aggrieved policyholder⁵¹. And, it is only when there is deficiency in the service rendered to him and he has suffered any loss or injury due to the negligence of the insurer that relief by way of compensation can be granted to him. In other words, the consumer is entitled to relief under the act if and only if he establishes that he hired the service complaint of and that the service provided to him has a deficiency⁵².

⁴⁶ An officer of the rank of joint secretary to Government of India should be designated as Directorate of Public Grievances.

⁴⁷ www.pgportal.gov.in/grm.aspx.

⁴⁸ Christopher, Abhijith and Dubey, Aditi, The Exigency for An Insurance Frauds Control Act in India: Challenges to Be Addressed (2020). Nirma University Law Journal: Volume-10, Issue-1, December 2020, Available at SSRN: <https://ssrn.com/abstract=3870318>

⁴⁹ www.ncdrc.nic.in/1_1.htm.

⁵⁰ Section 2(d) Consumer Protection Act, 1986.

⁵¹ Life Insurance – Benefits & Types, Available at: <https://cleartax.in/s/lifeinsurance>.

⁵² Gurjeet Singh (1993), *Business Self- Regulation and Consumer Protection Act in India: A Critique*. Journal of Consumer Policy, Vol. 16, pp 1-33. Kluwer Academic Publisher, presented in Netherlands.

VI. PREVENTION AND DETECTION OF INSURANCE FRAUDS

1. **Advanced Technology:** Insurance companies are increasingly using artificial intelligence (AI) and machine learning algorithms to detect patterns and anomalies that may indicate fraudulent activities.
2. **Regulatory Framework:** The Insurance Regulatory and Development Authority of India (IRDAI) has issued comprehensive guidelines to establish a robust fraud monitoring framework. This includes setting clear standards for fraud detection and prevention, ensuring robust internal controls, and promoting transparency in reporting and investigations.
3. **Ethical Culture:** Promoting an ethical culture within insurance companies and among policyholders is crucial. This involves educating employees and customers about the consequences of fraud and encouraging ethical behaviour.
4. **Incentives for Reporting:** Offering incentives for reporting fraudulent activities can help in early detection and prevention.
5. **Public Awareness Campaigns:** Insurance companies and regulators conduct public awareness campaigns to educate policyholders about the risks of fraud and how to avoid being scammed. These campaigns often include information on identifying fake agents, understanding policy terms, and the importance of reporting suspicious activities.
6. **Verification Processes:** Implementing stringent verification processes during policy issuance and claim settlement. This includes verifying customer identities, medical histories, and financial backgrounds to prevent fraudulent applications and claims.
7. **Data Analytics:** Leveraging big data analytics to monitor transactions and identify unusual patterns that could indicate fraudulent activity. By analyzing large volumes of data, insurers can detect potential fraud early and take preventive actions.
8. **Industry Collaboration:** Insurance companies collaborate through industry associations and regulatory bodies to share information about known fraudsters and emerging fraud trends. This collective effort helps in building a stronger defense against fraud.

CONCLUSION:

Insurance fraud continues to pose a significant challenge in India, carrying wide-ranging consequences for both the economy and society at large. This paper has examined the complexity of insurance fraud by exploring its various forms, identifying recurring schemes, and evaluating its negative impact. Real-life instances have demonstrated the ingenuity and boldness of fraudsters, highlighting the pressing need for stronger prevention and detection mechanisms. Tackling insurance fraud effectively requires a comprehensive strategy. Key components include reinforcing regulatory systems, improving the use of data analytics, raising public awareness, and encouraging coordinated efforts among insurers, regulatory authorities, and law enforcement. Implementing such measures can greatly reduce the threat posed by fraudulent activities and help protect genuine policyholders. As the Indian insurance sector continues to develop, its fraud management strategies must also advance. The adoption of modern technologies like artificial intelligence and machine learning can significantly boost fraud detection and prevention efforts. Additionally, promoting a culture grounded in transparency, responsibility, and ethical behaviour can further strengthen the industry's ability to combat fraud. By taking unified and proactive steps, stakeholders can help create a more secure, ethical, and sustainable insurance environment for the future.