



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of Law, Forensic Justice and Policy Studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

A COMPLETE ANALYSIS AND REPORT CARD OF SEBI SINCE ITS INCEPTION.

AUTHORED BY - CHAITANYA VIKRAM NAGDA
3rd YEAR BA LLB STUDENT AT PRAVING GANDHI COLLEGE OF LAW

ABSTRACT:

The securities market in India came to existence in 1875 so the general masses who had savings could invest their money in a reliable place which would not only give them more returns than bank fixed deposits but also help to fight the inflation. But the market is like an ocean where the small fishes which are the common middle class people are often eaten up by the big sharks who disguise themselves as investors but are manipulators, they influence the market to squeeze out the cash but emptying the savings of the general masses. Securities and Exchange Board of India known as SEBI was established in 1988 as an executive body but was given statutory powers on 30th January 1992 through the SEBI Act, 1992. It was formed to protect the interests of Indian investors in the securities market and to regulate the business operations of the securities market. The SEBI performs the triple functions as a quasi-legislative, quasi-judicial and quasi-executive body. There had been many unethical and unfair practices performed by the sharks of the market which resulted in breakdown of small and medium investors and defeating the cause of establishment of securities market, such practices included insider trading which gave unfair edge to certain investors over others, SEBI has the authority to prevent these malpractices and create an uniform level ground for the investors. But the question arises in all these years that has SEBI been successful in doing its task or has it failed despite having the required powers. The research includes data collected through surveys, historical data of markets, investor sentiments, insights from interviews and views of experts and findings by other research scholars. It is important that a report card is made to analyze whether a body made to regulate such a huge market and protects interests of investors whose important life decisions depend upon their life savings which they invest with trust, and how well it has taken its new job of educating investors. This research aims to find the degree till SEBI has succeeded in its tasks.

Introduction: To understand what SEBI is and its purposes it is important to understand for whom it is - the securities market. The securities market is “Securities are financial instruments issued to raise funds. The primary function of the securities markets is to enable to flow of capital from those that have it to those that need it.”¹ The stocks, bonds which even include of the bonds issued by the government, derivatives. The Securities market in India is divided into two parts that is the primary market which is known as the issue market a place where issuers raise capital by issuing securities to investors and the other part is secondary market also known as the stock exchange which facilitates trade in already issued securities, thereby enabling investors to exit from an investment. The Securities and Exchange Board of India (SEBI) is an important regulator of the Indian Securities market, it is “a statutory body appointed by an Act of Parliament (SEBI Act, 1992), is the chief regulator of securities markets in India. SEBI functions under the Ministry of Finance. The ¹main objective of SEBI is to facilitate growth and development of the capital markets and to ensure that the interests of investors are protected. The Securities Contracts Regulation Act, 1956 is administered by SEBI.

SEBI has codified and notified regulations that cover all activities and intermediaries in the securities markets.”¹ so basically it could be understood that the SEBI is the police of the Indian securities market. The purpose of this research is to understand how effective this body has been in doing its tasks and make a report card.

Main Body:

To dig deeper and analyse the actions and functions done by SEBI few other factors need to be understood before. Few steps to conclude whether SEBI has been successful in doing its functions or not we would take few steps to reach to our conclusion. The steps include i) Causes that led to foundation of SEBI, its functions and powers, ii) Important actions taken by SEBI and its consequences, iii) Securities market in India then vs now and finally we reach the conclusion.

- i) Causes that led to the foundation of SEBI: Prior to the establishment of SEBI, the regulation of the securities market was fragmented among various government institutions, leading to inconsistency and inefficiency. Bombay Stock exchange

2 - Mr.Eswar S Prasad, Mr. Steven V Dunaway, Mr. Jahangir Aziz, China and India learning from each other Reforms and Policies for Sustained Growth, chapter 4 Development of Securities Market in India. [/www.elibrary.imf.org/display/book/9781589065192/ch004.xml-2](http://www.elibrary.imf.org/display/book/9781589065192/ch004.xml-2)

3 – Santosh Nair, Scam 1992 Explained: How Harshad Mehta, Brokers And Banks Gamed The System, www.cnbctv18.com/market/scam-1992-harshad-mehta-scam-explained-7417101.htm-3

Asia's first stock exchange was established back in the year 1875, the volume of transactions in these markets remained limited until the late 1970s, but grew rapidly during the 1980s as the corporate sector turned increasingly to the equity market. Although the volume of transactions increased, the market remained primitive, insulated from foreign investment and continued to suffer from several problems. The concepts of stocks and bond created interests in the minds of the people and believing they found a place for safe investments and good returns for their long kept money, but little did they knew that the big giants or the big sharks would manipulate the markets to draw profits, this left the regular investors' s vulnerable. "The securities market in India was underdeveloped, opaque, dominated by a handful of players, and concentrated in a few cities. Manipulation and unfair practices were perceived to be rampant, prompting an overseas researcher to describe the market as a 'snake pit'."² Ensuring the integrity and transparency of the securities market was a significant concern, as market participants needed assurance of fair and equitable treatment. "*The irregularities in securities transactions of the banks and financial companies known as securities scam, which came to light in the second quarter of 1992 is unprecedented in many respects. Both the volume and the involvement of individuals and the institutions were various and stupendous. It embraces among others foreign banks, financial and other public/private sector corporations, the principal stock exchanges, select brokers, and persons occupying high offices.*"³ The popular Harshad Mehta scam of 1992 was a triggering factor and a wake up call for the Reserve Bank Of India other such scams were unveiled and became a reason for RBI to start a concentrated securities market regulator. India was also going through a tough economic phase, with unstable ²governments and decision to open up the economy, which led globalisation and attracted foreign investors, With India's increasing integration into the global economy, there was a growing need to align the country's securities market regulations with international best practices. These factors sum the causes for establishment of SEBI. After the establishment of SEBI it was given the power to investigate into cases which would fall under its ambit prior to its establishment⁴, SEBI also has powers to make an enquiry in case of suspicion to protect interests of the investors or orderly development of the

³ Supra

⁴ The History and Evolution of Indian Online Share Trading as a Technological Tool for Sustainable Wealth Creation for Individual Investors- Raju Rajendran and Syamsundar Palanisamy

securities market. It also has the power to invest certain intermediary to protect the above mentioned points. SEBI basically has three types of powers – Quasi – Judicial, Quasi – Executive and Quasi – Legislative and three types of functions – protective, regulatory and development functions. This is a brief idea about SEBI, further we will dive into the important moves taken by the SEBI after its formation.

- ii) Important actions taken by SEBI and its consequences:
 - a) SEBI banned the badla system in March 1994, which enabled transactions to be carried over from one trading session to the next. The intent behind this move was to replace the domestically developed badla system with internationally recognized options and index future trading systems, in order to facilitate speculative trading. It was recommended by Arthur Anderson in 1992 to ban badla system. All the ills afflicting the capital markets were linked to the elimination of badla. Till February 1995, SEBI continued to reject the stock exchanges attempts to introduce modified Badla system on the plea of uncontrolled speculation. The BSE Sensex reached a low less than 3250 by February 1995. The market was drifting lifelessly for a long time. Lack of liquidity due to absence of badla was perceived as the main cause. SEBI appointed Patel Committee to suggest measures for improving market liquidity. SEBI appointed Patel committee for improving market liquidity, even though SEBI brought back badla system with regulations it was not the same any more.
 - b) In the year 2000, the National Stock Exchange (NSE) introduced online share trading in India after receiving approval from the Securities and Exchange Board of India (SEBI). The aim of online share trading is to enhance transparency, speed, and convenience for investors. Advanced Information Technology enables investors to trade shares from anywhere. Since its introduction, online share trading in India has witnessed significant growth in retail participation, indicating a vast scope for research in this area. SEBI approved the report on Internet Trading presented by the SEBI Committee on Internet-Based Trading and Services in January 2000. E-trading has saved time, energy and money as it helps to access the market from anywhere at any time.
 - c) On December 26, 2019, SEBI introduced new regulations regarding whistleblowers' conduct and protection by adding Chapter IIIA to the SEBI (Prohibition of Insider Trading) Regulations, 2015. This amendment allows

³whistleblowers to report insider trading violations directly to SEBI instead of going through a company's internal mechanism. SEBI aims to streamline the reporting process, making it easier for whistleblowers to remain anonymous and ensuring their safety. This move aligns SEBI's regulations with those in the USA, where the Securities Exchange Commission has a Whistleblower Program that incentivizes eligible whistleblowers. "While there are lacunas, Sebi is moving towards incentivising whistle-blowers and making companies aware that violations cannot be hidden," said Sumit Agrawal, founder, Regstreet Law Advisors.⁵ "Sebi's whistle-blower policy has evolved over time. The policy now encompasses a wider range of violations, including corporate fraud, insider trading, and accounting irregularities. It provides mechanisms to protect the confidentiality and anonymity of whistle-blowers, empowering them to come forward without fear of retaliation," said Nikhil Varma, managing partner, MVAC Advocates & Consultants.⁵

d) The market regulator introduced the concept of dematerialized holding of shares and securities following the enactment of the Depositories Act in 1996. This move eliminated the need for physical share certificates, which were vulnerable to postal delays, theft, and forgery, and also streamlined the settlement process, which was previously slow and cumbersome. Furthermore, dematerialization helped prevent the circulation of fake share certificates in the market. "Pushing for market development is one of Sebi's biggest achievements. Demat, T+2 settlement and the development of electronic markets are major achievements and we were ahead of several markets in all these fronts. With T+2, we are still ahead of the Western markets," said Sandeep Parekh, founder, Finsec Law Advisors.⁶

iii) Changes in securities market after the inception of SEBI:

Over the past two decades, the securities market in India has experienced significant growth, marked by an increase in the number of companies, market capitalization, investor base, stock exchanges, trading turnover, and mutual funds. This growth has been supported by economic liberalization and various reforms in the country,

⁵ Ashley Coutinho, SEC reward puts spotlight on India's whistle-blower policy, www.financialexpress.com/market/sec-reward-puts-spotlight-on-indias-whistle-blower-policy-3093065/

⁶ Anirudh Laskar, Vyas Mohan, 'Sebi's 25 years journey', www.livemint.com/Industry/xer1j7wBRbQH1UTOBVrRaL/Sebis-25year-journey.html

which have played a key role in driving the development of the securities market. The government's liberalization efforts have also facilitated the integration of the Indian securities market into the global economy, leading to notable changes in the investment landscape of the country. The Securities Laws (Amendment) Act of 1995 expanded SEBI's authority to include oversight of corporations involved in issuing capital and transferring securities, as well as all intermediaries and individuals associated with the securities market. This legislation empowered SEBI to appoint adjudicating officers to handle a variety of violations and levy monetary penalties. It also established Securities Appellate Tribunals (SATs) to hear appeals against decisions made by the adjudicating officers. In the fiscal year 2004-05, the primary market raised Rs. 282.56 billion, an increase from Rs. 232.71 billion in 2003-04, surpassing the amount raised during the earlier ten-year primary market boom. The corporate sector, along with central and state governments, collectively raised Rs. 3.75 trillion from the securities market during 2004-05. Development and regulatory efforts in India have not only targeted the primary and secondary markets but also focused on improving the quality of intermediation and enforcement. The mutual fund industry, which has undergone significant reforms through regulatory interventions, now boasts several notable features, including benchmarking of mutual fund schemes, standardized valuation norms, a uniform cutoff time, and robust risk management practices. The Cadgon report, an independent study commissioned by the Asian Development Bank, confirms these advancements. The Economic Survey 2003–04 by the government of India had the following to say: “The securities markets have made enormous progress in recent years. India’s equity market is now being increasingly recognized as a success story on the world scale.” These reforms have boosted the confidence of investors (domestic and international) in the Indian securities market.

CONCLUSION:

SEBI has shown amazing work in fulfilling its task, especially in a country like India where the systems are too complex, education about finance and markets is too less, SEBI has surely done noteworthy job. However, I would not like to give the impression that in the Indian securities market everything is fine and needs no improvement, polishing, or refurbishing. In fact, the dynamics of the global environment dictate that those charged with the responsibility

of bringing about changes must always seek out learning by experience, criticism, and judgments. The market depth needs to be supplemented with further product diversification—mortgage- and asset-backed securities, warrants, and disinvestment in the public sector. The debt market of India, though large and next in size only to Japan in Asia, lacks vibrancy and does not provide adequate options for meeting medium- to long-term funds required for greenfield projects, in particular. Infrastructure funding (essential for continued high economic growth) has become an issue in the absence of a vibrant debt market. There is no market for below-investment-grade paper, or junk bonds. SEBI's agenda should include making the corporate debt market vibrant: cash and futures, operationalization of Indian deposit receipts, and corporatization and demutualization of stock exchanges (which has already begun with Stock Exchange, Mumbai) where the ownership, management, and trading rights reside with three different sets of entities in order to avoid conflict of interest. The Central Listing Authority and ombudsman should become fully functional. The settlement cycle should migrate to T+1. New products should be introduced to meet the needs of all kinds of market participants. MAPIN (unique identification) should be extended to cover all market participants. Regulations should be revised and amended on a continuing basis to keep them in tune with market developments. National training and skill delivery institutes should be organized to build a cadre of professionals to fulfill specialized functions in the securities market. There is a need to spread an equity culture and build institutions, such as pension funds, to enlarge the market and reduce volatility. The regulation of listed companies, a job performed in a fragmented manner by SEBI and the Ministry of Company Affairs, needs to be consolidated to eliminate regulatory arbitrage, by unscrupulous operators and blurring of regulatory accountability. Moreover, regulation is a continuous process that requires ongoing refinement. Therefore, SEBI must continue to evolve, adjusting ground rules (regulations), enhancing investigative capabilities, and improving investor protection measures. India is confident that securities markets enable individuals to leverage their savings, ideas, and skills more effectively than before. As securities markets develop, an increasing number of citizens will have the opportunity to participate and benefit from economic growth. In conclusion, Steve Vickers, President of International Risk, recently expressed an opinion on Finance Asia.com on September 29, 2005: "The stock market has evolved from a notorious den of thieves to one of the most transparent, automated, and well-regulated markets globally—with record foreign institutional investment inflows serving as testament to this transformation." SEBI has come a long way and it still has to go a long way which has no dead end.

REFERENCES:

- 1) indiacorplaw.in/2018/02/sebi-failing-regulating-insider-trading-india.html
- 2) <https://www.livemint.com/Industry/xer1j7wBRbQH1UTOBVrRaL/Sebis-25year-journey.html>
- 3) <https://www.sebi.gov.in/powers-and-functions.html>
- 4) [Linkedin.com/posts/sandeepjethwani_the-6-biggest-stock-market-scams-in-india-activity-7085221494464638976-CrrO/?trk=public_profile_like_view](https://www.linkedin.com/posts/sandeepjethwani_the-6-biggest-stock-market-scams-in-india-activity-7085221494464638976-CrrO/?trk=public_profile_like_view)
- 5) <https://www.elibrary.imf.org/>
- 6) aishmghrana.me
- 7) lawschoolpolicyreview.com
- 8) www.icsi.edu
- 9) papers.ssrn.com
- 10) www.researchgate.net

