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**ECONOMIC AND FINANCIAL FRAUDS AND CRIMES IN INDIA: A
CRITICAL APPRAISAL FROM A LEGAL PERSPECTIVE**

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ABSTRACT

Any person who wishes to gain an advantage or gains over another person through any dishonest act or behaviour is treated as fraud. It causes direct or indirect loss to the victim. Fabrication has not been discussed or described clearly in the Indian Penal Code. Still, various sections are examined, leading to fraud, such as forgery and Cheating: counterfeiting, concealment, and breach of trust etc.

Hawala scams, bank frauds, counterfeiting of currency, Tax evasion, insurance frauds, credit card crimes, and money laundering are some examples of financial crimes that may not look as dangerous as criminal offences committed under the Indian Penal Code, 1860. Still, they are equally hazardous to society.

In Economic Frauds, Banking Frauds occupy a significant proportion of the white-collar offences in India. While average thefts and robberies are generally small-scale in terms of monetary value, economic frauds deal with lakhs and crores of rupees being misappropriated and are referred to as white-collar crimes. These crimes revolved around loans taken without collateral security or forged documents, gold loans with dummy ornaments etc. The fraudsters or offenders use lapses in the system to commit economic crimes.

Analyzing the facts and background of these crimes enables us to understand the role of lower-level managers and employees who help higher authorities defraud the system. This paper deals with the various economic/financial crimes or frauds happening in India, their statistics, management roles, causes and control measures.

Keywords: Counterfeiting Currency, Insurance Fraud, Online Loan Apps, Hawala Scams, Banking Frauds, Money Laundering, Money Lenders, Quid Proco, Share Market Scam.

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INTRODUCTION

Although a social animal, man has become greedy, selfish and evil and, to earn easy money and enrich himself in a shorter duration, is resorting to various economic and financial frauds and offences.

In Economic Frauds, Banking Frauds occupy a significant proportion of the white-collar offences in India. In average thefts and robberies, the amount looted/robbed will be small, but in economic frauds, Lakhs and Crores of rupees are swindled and misappropriated. In India the number of bank frauds are increasing, which came to the limelight recently.

Loans taken without collateral security, loans by pledging forged documents, gold loans obtained with dummy ornaments etc., are some of the instances in which such frauds are committed, which has shaken the Indian Economy. In some cases, the authorities also colluded with such con artists. The fraudsters or offenders use lapses in the system to commit economic crimes.

ANALYSIS

Bribery and Corruption:

Transparency International said India's Corruption Perceptions Index (CPI-2019) ranking was 80 out of 180 countries in 2020. It is a general notion in India amongst the public that no work can be accomplished in a public office without bribing the public officials, especially in the Revenue matter.

Fake Currency:

The circulation of large-scale counterfeit currency can drastically influence and undermine a country's national security and Economy. Terrorists are using these counterfeiting currency notes to fund their operations. This crime is not a simple economic crime, but it poses a significant threat to the security of the Nation.

Fake Stamp Paper:

Abdul Karim Telgi³ earned money by printing counterfeit stamp papers by purchasing the machinery declared to be junk and obtained original dye by colluding with officials of the Nasik India Security Press.

³ Nimisha Dublish, Telgi Scam, Ipleaders, July (2022), <https://blog.ipleaders.in/telgi-scam/>. (last visited 07 Jul. 2023).

Accounting Fraud:

Major Corporate Frauds like World.com, ENRON, Satyam, MAYTAS etc., by siphoning the funds in the corporate sector amount to accounting frauds have also contributed to this arena.

SATYAM Scam was done majorly by false representation of revenues and margins. To reflect higher profitability, they have resorted to Window dressing, forging the account books, misrepresenting expenses as lower and higher revenue, etc.

This has culminated in an increase in the shareholders' confidence, and the value of the shares increased, ending up in the breach of trust and the misguiding of the shareholders. Tech Mahindra took over the company⁴.

Banking Frauds:

According to the Reserve Bank of India, "fraud" is defined as "A deliberate act of omission or commission by any person, carried out in the course of a banking transaction or in the books of accounts maintained manually or under computer system in banks, resulting into wrongful gain to any person for a temporary period of time or otherwise, with or without any financial loss to the bank."

Cheque, Account opening, Loan, Cheque-kiting, Embezzlement, Counterfeit Securities, Money laundering, Swindling, Computer fraud, Letters of Credit, Lottery fraud, Advanced Fees Fraud, etc. are some categories under which Banking Fraud⁵ can be categorized.

In its annual report for 2019–20, the Reserve Bank of India (RBI) disclosed that bank frauds totaling \$1.85 lakh crore were reported in the year 2019–20, an increase of more than 159% from the previous year.

Credit Card Frauds:

Credit Card Frauds⁵ are committed through ID Theft, Dumpster Diving, Shoulder Surfing, Vishing, Shimming, Phishing, Skimming etc. Avoid disclosing any credit card information and don't answer any calls, even if the caller claims to be from the bank, are

⁴ Nothern Academy, Top 10 Financial Scams in India, [Top 10 Financial Scams in India - NorthStar Academy](#), (last visited 07 Jul. 2023).

⁵ Anand, Credit Card Fraud in India, Vidhikarya, July (2022), <https://www.vidhikarya.com/legal-blog/credit-card-fraud-in-india>, (last visited 07 Jul. 2023).

precautionary measures against such frauds. Make a note of all the company's contact details and account numbers and store them safely. Never write down or reveal the PIN to anyone or anyplace. Never share your PIN with anyone. Call the concerned card company as soon as you discover a lost or stolen credit card, give them the necessary details, and have it blocked right away. Consistently report the incident to the authorities by filing a complaint whenever credit card fraud occurs.

Insurance Frauds:

In exchange for the payment of a premium, insurance is the equitable transfer of the risk associated with a loss from one organization to another. It is a type of risk management that is mostly employed to protect against the risk of unanticipated loss. Insurance frauds are carried out in the following areas⁶.

- Life Insurance - Insurance of Life /Person / (Medi-Claim, Personal Accident etc.)
- General Insurance- Insurance of Property (Building, Motor, Plant, Machinery etc.)
- Insurance of Liability (Workman Compensation, Motor Third Party etc.)

Shell Companies:

Shell Companies: A firm without major assets or ongoing/regular business activity that is created to generate money before activities begin, try a takeover, serve as a front for an unlawful enterprise, etc.

Shell businesses go by many names, including "Phantom Companies," "Anonymous Companies," and "Ghost Companies," although they are not always used for illicit activities. These empty shell businesses have phony directors and do nothing but handle the money they have. It is challenging to identify who these companies' true beneficiaries are. Particularly in Tax Havens, people are employed to use their names on registration papers.

The conditions for incorporation are often the only public proof of a shell company's existence, as the details of the phone number, physical address, company logo, contact person etc., are not provided anywhere.

Shell Companies are established for various purposes like money laundering, to act as a front / to disguise business ownership from the public or the business rivals or law enforcement, including round-tripping through tax havens, Black Money to White & vice

⁶ Insurance Fraud, 6 most common insurance frauds in India, Paybhima, <https://www.paybhima.com/blog/general-insurance/most-common-insurance-frauds-you-should-be-aware-of/>, (last visited 07 Jul. 2023).

versa, Tax Evasion/avoidance, Pre-operation financing / particular purpose vehicle to raise funds, for hostile takeover etc.

Detection of Shell Companies:

Accounts with unusual debits or credits, false credits with equivalent debits from or to fictitious accounts, etc. Comparisons with the past Sense and intuition of the investigator. According to the Global Financial Integrity Study, over \$1 trillion is yearly sent out of emerging economies using shell corporations. The Panama Papers leak involves more than 200,000 sham corporations.

Multilevel Marketing Frauds:

The practice of selling goods or services on behalf of a company in a system in which participants receive a commission on their sales and the sales by any of the participants recruited by them. The victims of multilevel marketing are the less educated, and even if educated, less aware laypeople in the field are the investors who fall prey to such frauds.

These investors have trust and confidence in the high-profile companies because they offer competitive interest rates and top-notch services. Membership can be obtained through both-

- i) Pyramidal Enrolment
- ii) Normal enrolment of Commission agents

The compensation schemes are created to encourage scheme members to sign up additional people to earn money quickly and easily. These schemes benefit the organization's top-of-the-pyramid participants (TOPPs) at the expense of most of the participants in the bottom two tiers.

State police would benefit from early fraud identification thanks to effective coordination between central and state agencies, while central agencies would benefit from improved regulation.

Hawala networks:

Hawala networks existed since time immemorial; lack of awareness of Banking facilities is the main reason for the existence of it as well as the services provided across geographical areas along with the ease of doing such transactions, without any interruption or

disruption. These networks are used to transfer black and illegal money over time. Bitcoin/Cryptocurrency has emerged as a medium of exchange in cyberspace⁷.

Big Bull Securities Scam:

Harshad Shantilal Mehta, the Indian stockbroker involved in the 1992 Indian securities scam as a market manipulator. Subsequently, many scams were unraveled and unearthed. Ketan Parekh, a trainee under Big Bull, Harshad Mehta, spearheaded the second biggest scam in the history of Indian stock market by using the pay orders to scam the Indian banks.

Scams like Bofors, fodder scams, 2G spectrum, Coalgate (mines) scams and many more are yet to be unearthed in India, which has plummeted the Indian Economy⁸.

Tax Evasion:

Among the economic offences, Tax evasion is one of the most prevalent illegitimate activities practiced by manipulation of records or by suppressing the facts by the taxpayers.

Foreign Contributions Manipulations: The Foreign Contribution Regulations Act, 1976 (FCRA) was enacted by Parliament to regulate foreign contributions (primarily monetary donations) contributed by individuals or associations to NGOs apart from others within India. Most of the provisions of the Act were modified in the year 2010. The Act was further amended to regulate the contributions and impose a cap on the amount the political organizations can spend in 2020.

2G Spectrum Scam:

2G Spectrum Scam—another scam that was unearthed in the year 2010 is the 2G Spectrum case amounting to 1.76 crores during the regime of UPA-led Manmohan Singh Government at the center in which the union Minister A. Raja and M. K. Kanimozhi were prominently involved. Fodder Scam- One of the biggest scams detected or unearthed in India is the fodder scam amounting to 950 crores, during the regime of former chief minister of Bihar, Lalu Prasad Yadav, in the year 1996⁹.

⁷ Ishitha Bahuguna, The Hawala Scam: An Overview, Lawgic Stratum, Aug (2021), <https://www.lawgicstratum.com/post/the-hawala-scam-overview>, (last visited 07 Jul. 2023).

⁸ Dipanwita Chaterjee, Harshad Mehta Scam-Big Bull of Indian Stock Market, Kanoon Gurus, May (2021), <https://kanoongurus.com/blog/harshad-mehta-scam-how-harshad-mehta-manipulated-stock-market/>, (last visited 07 Jul. 2023).

⁹ 2G Scam case: Glariy Ilegilities in judgemnet acqutting A raja and others CBI tells Delhi HC, (2023), <https://www.livemint.com/news/india/2g-scam-case-glarig-illegalities-in-judgment-acquitting-a-raja-and-others-cbi-tells-delhi-hc-11684849605630.html>, (last visited 07 Jul. 2023).

Coal Gate Scam:

Another major scam detected in the year 2012 during the UPA regime in India is the Coal gate scam which was assessed at 1.86 lakh crores in which the Indian government allocated the Nation's coal deposits to private companies and public sector enterprises (PSEs).

Benami Transactions:

Any property transaction done in one person's name and the payment done by another person is treated as Benami Transaction. The Benami Transaction Act 1988 was amended several times in 2016 and 2018 and sought to amend the definition of the Benami transaction. It has established authorities and procedures to inquire into such matters and specified the punishment.

Real Estate Regulation:

Real estate scams are at surge and take place due to following segments-

- 1) Deceptive title of the property is another burning issue wherein the ownership or the title in the property is not clear; the conman creates duplicate documents to sell the property, which happens only when the property is vacant or unoccupied for a long time. In some instances, there are multiple sale transactions for the same property.
- 2) Rental scams and frauds are also on the surge as innocent tenants are put to sop and trapped by the real estate intermediaries and, in some cases, by the owners themselves. In the name of collecting advance, maintenance charges and other miscellaneous expenses are collected from the tenant and duped through false advertisements.
- 3) Deviation from the approved plan.
- 4) Bait and switch scheme wherein the buyer is allured through an advertisement and later forced and encouraged to buy and invest in a property priced higher than what is delineated and advertised in the advertisement.
- 5) Forced cancellation of a development agreement entered by the parties at a lower price and compelling the party to a compromising settlement at a lower price by delaying the construction or by showing a petty reason of default by the buyer to pay the instalment, only to resell it at a higher price.

To provide relief to the aggrieved parties against such frauds, The Real Estate (Regulation and Development) Act, 2016 (RERA, short) was enacted; section 11(5) of this Act clearly states that though a promoter has the right to cancel the agreement, it should only be

done in accordance with the terms and clauses as stipulated in the contract for sale. It also relieves the aggrieved party by allowing the allottee to approach the authority for relief if they are unsatisfied with the cancellation.

Quid Pro Qua:

In India, authorities' resort to corrupt practice through Quid pro quo, which provides a favour or advantage in return to something, it can be in the form of gratification too.

Cheating:

Fraud is another crime that can be committed by cheating. The Indian Penal Code's provisions against cheating are covered in Sections 415 to 420, while its provisions against corrupt activities or offences committed by public employees are covered in Sections 161 to 165.

Prevention of Corruption by the Public Servants:

The Prevention of Corruption Act, 1988 was passed to stop the corrupt behaviour of public employees. With the passage of this Act, the pertinent provisions from Section 161-165-A of the Indian Penal Code were altered and repealed.

According to Statistics on Crime in India 2019 from the National Crime Records Bureau, Ministry of Home Affairs, Economic Offences have increased dramatically from 2017 to 2019. It was 148972 in 2017, 156268 in 2018, and 165782 in 2019. With 26920, Rajasthan had the most economic offences, followed by Uttar Pradesh (1996)8, Maharashtra (1996)8, and Maharashtra (15686).

The Prevention of Money Laundering Act, 2002, 2019 was created to combat money laundering and include provisions for the seizure of assets originating from, connected to, or incidental to that activity.

To regulate foreign exchange, the Foreign Exchange Regulation Act of 1973 (FERA) was replaced by the Foreign Exchange Management Act (FEMA), which was passed in 2000. The Foreign Exchange Regulation Act was enacted in 1973 with the goals of preserving foreign currency, regulating specific foreign exchange transactions, placing limitations on payment types, and keeping track of the activities affecting import and export.

Creating and promoting rules to stop money laundering and terrorist financing is one of the key components of maintaining market integrity. 29 nations make up the intergovernmental Financial Action Task Force (FATF), which is working on this issue.

Cyber Offences:

With the advancement of information technology, new offences have emerged. To name a few: - Phishing links, vishing calls, card cloning, SIM swap, juice jacking, scam through QR Code scan, lottery fraud, impersonating through social media, fake loan websites/app frauds, money circulation/Ponzi/ multilevel marketing (MLM) frauds, online job fraud, frauds using screen apps. The Parliament has enacted the Information Technology Act 2000 and the Information Technology Rules 2021 to curb all these offences.

Role of Management in Committing Crimes:

With all the evidence in the past, especially crimes related to bank frauds, it would not be an exaggeration to state that the commission of such crimes would not be possible without the active participation of specific high-level, middle-level, and lower-level employees. The scale and magnitude of crimes like the Vijay Mallya and Nirav Modi cases enable us to understand that they are not one-man crimes and require the cooperation of many people, with or without their knowledge.

The type of companies for this paper can be divided into two; owner-controlled and management controlled. Owner-controlled refers to a scenario where shareholders and stakeholders own the company and determine their goals while the command merely executes such purposes. The directors and executives could be held accountable to the shareholders. On the other hand, management-controlled companies are owned by a couple of people who have executive or top positions and collectively own all the shares of the company. This type of management acts according to a few people's wishes and is not accountable to the public. In other words, the two types can be called public and private companies.

Committing a crime in or through a public company can be more complex than in a private company, as there are more checks and balances. It can, however, appear as if more crimes occur in public companies, but that is because they are discovered sooner due to the same checks and balances. It is believed that financial frauds worth millions are left to be discovered and investigated in private companies.

The most common type of fraud that most Indians are familiar with is one that originates privately but is executed through nationalized banks. False guarantee documents and certificates are presented, and loans worth crores of rupees are issued by most often unaware managers and clerks whose bosses pressure. Therefore, for a financial or economic crime to be

successfully completed, the role of management and employees ranging from clerks to CEOs is necessary, which increases the importance of vigilance mechanisms within the company.

Other reasons for such crimes include a lack of physical security in the company, making it vulnerable, low employee morale, poor financial records, and unaccountable executive directors. (Leap, 2007).

Occupational Crimes:

The most common type of fraud done by employees in the company are occupational crimes such as stealing money (small companies), embezzlement, and money laundering during their employment. Occupational unethical practices are the breeding grounds for white-collar crimes. Getting away with minor offences or corrupt practices gives employees the confidence to commit severe crimes and can be understood using the "Fraud Triangle of White-Collar Crimes" (Eaton and Korach 2016). The Fraud Triangle explains that three main causes for white-collar crime are Opportunity, Motivation, and Rationalization. If the employees are confident about their chances, they will pounce at an opportunity with an attractive incentive to sabotage the company.

Role of Management in Preventing Crimes:

It might be claimed that the administration, if given the proper rules and committees, has the power to stop such crimes from happening in the first place in light of the management's role in committing white-collar crimes, which was described before. Crimes can be greatly reduced by creating vigilance committees, independent directors, and encouraging whistleblowing.

Whistleblowing may not work in several situations if a company's directors and management are working together. The Companies Act of 2013 requires a specific number of independent or part-time directors who can be objective and disclose any unethical practices to avoid such situations. Aside from that, the Act also requires annual audits by outside auditing companies and that the audit committee be made up of at least one-third independent directors to avoid any unclear behaviour in the audit department.

Management of Investigative Authorities:

The Organization for Economic Cooperation and Development was established to ensure corporate governance in companies. This was to prevent and discover systematic corporate crimes in the form of tax evasion, shell companies, syphoning money to offshore

accounts, etc. In 2011 the OECD initiated the Oslo Dialogue – a global dialogue on a whole of government approach to fighting tax evasion and other financial crimes.

Until then, there were several codes of conduct related to financial crimes related to paperwork or physical fraud, but the OECD committee systematically dealt with online embezzlement and manipulation. The OECD International Academy for Tax Crime Investigation was also established to enable governments and investigative authorities to update themselves with new forms of crime.

Labour Management:

Labour unions play a crucial role in unravelling corporate crimes. Without their knowledge, several laborer's facilitate crimes and, even after discovering the manipulation, fail to alert the authorities as their unions bind them. It is indispensable for these unions to cooperate with the investigative authorities and vigilance committees to ensure transparent financial practices. There, however, is no established legal framework dealing with the same.

Whistle Blower Policies:

When an employee alerts the public to fraud, corruption, and wrongdoing within a company, this is known as whistleblowing. A current or former employee who discloses information about what is thought to be fraud, corruption, or a departure from the firm's policies and corporate law is known as a whistleblower. Employees speak up about actions they perceive senior management to have taken that are unethical or illegal.

The goal of India's whistleblower policy is to protect the interests of the general public. Internal whistleblowers are employees who report fraud, corruption, or poor management to senior management. External whistleblowers are staff members who alert the public, the media, or law enforcement about fraud or corruption. The Whistleblower Protection Act of India provides protection for informants in India. In India, there are insufficient laws governing whistleblowing and protecting those who do it.

However, the Companies Act of 2013 establishes guidelines for corporate governance in India as well as provisions for preventing fraud by putting in place an effective surveillance structure. The legislation governing the incorporation of Inspection, Inquiry, and Investigation is laid out in Sections 206 to 229 of the Companies Act of 2013. To ensure prompt discovery of crimes and unethical practises, the organisation needs a strong internal whistleblower policy.

Precautions Are to Be Taken by an Ordinary Individual to Avoid Such Financial Frauds and Deceits by Fraudsters/Con Artists Using Information Technology:

1. Never share OTP (one-time passwords), PIN (Personal Identification Number) details, personal details, card details, CVV details with strangers or over electronic gadgets.
2. Never download unknown, doubtful, insecure apps.
3. Don't click suspicious links; immediately remove or delete the links to avoid further access.
4. Don't get allured by puffery advertisements and lucrative offers from fraudsters regarding low-interest loans without document and score verification.
5. Don't get attracted by deceptive, false claims for high returns or interest offered by the financial institutions for the investments.
6. Don't fall prey to the false lottery claims made by the con artists through SMS/emails/ Calls.
7. Don't pay through online transactions for any training/ internship/ employment offers without proper verification and authentication.
8. Don't scan QR codes sent by strangers/ suspicious persons.
9. Check for any additional devices while inserting the card in the ATM.

The Current Regulatory Framework in India:

The Securities and Exchange Board of India (SEBI), The Reserve Bank of India (RBI), and The Insurance Regulatory Development Authority (IRDA) are a few of the organisations in India tasked with regulating and overseeing various institutions and market participants in the financial sector.

Various Economic and Financial offences in India, relevant legislation and the enforcing authorities

S.No.	Economic and Financial Crimes	Law Enforcement Authorities	Acts of Legislation
1	Corruption and Bribery of Public Servants	State/Anti-Corruption Bureau/Vigilance Bureau/CBI	Prevention of Corruption Act, 1988
2	Tax Evasion	Central Board of Direct Taxes	Income Tax Act

3	Hawala/Foreign Contribution Manipulations	CBI / Police	(FCRA) Foreign Contribution (Regulation) Act, 1976
4	Cultural Object's Theft	CBI / Police	Antiquity and Art Treasures Act, 1972
5	Money Laundering	Directorate of Enforcement	Foreign Exchange Regulations Act, 1973
6	Evasion of Excise Duty	Collectors of Central Excise	Central Excise and Salt Act, 1944
7	Land Hijacking/Real Estate Fraud	CBI / Police	IPC
8	Illicit Trafficking in Contraband Goods (Smuggling)	Collectors of Customs	Customs Act 1962 COFEPOSA, 1974
9	Illicit Drug Trafficking	CBI / Police / NCB	Narcotics Drugs and Psychotropic Substances Act 1985 & NDPS Act, 1988
10	Fraudulent Bankruptcy	CBI	Banking Regulation Act, 1949
11	Racketeering in Employment	CBI / Police	IPC
12	Illegal Foreign Trade	Directorate General of Foreign Trade/CBI	Import & Export (Control) Act, 1947
13	Insurance Fraud	CBI / Police	IPC
14	Bank Fraud	CBI / Police	IPC
15	Credit Card Fraud	CBI / Police	IPC
16	Racketeering in False Travel Documents	CBI / Police	Passport Act, 1920/IPC
17	Theft of Intellectual Property	CBI / Police	Copyright Act, 1957 (Amendments 1984 & 1994)
18	Terrorists Activities	NIA/CBI / Police	POTA-2002
19	Illicit Trafficking in Arms	CBI / Police	Arms Act, 1959
20	Illicit Trafficking in Explosives	CBI / Police	Explosives Act, 1884 & Explosive Substance Act, 1908
21	Stock Market Manipulations	CBI / Police	IPC
22	Cyber Law / Computer Crime	CBI / Police	Copyright Act, 1957/I.T. Act 2000

23	Government benefits applied for/received		
24	Fake Currency Printing and Circulation		

Source: Deputy Secretary (Crime Monitoring), Ministry of Home Affairs, Government of India.
Central Bureau of Investigation.
Narcotics Control Bureau.

CONCLUSION

Due to few arrests and low conviction rates, economic offences continue to rise each year, encouraging unscrupulous individuals to engage in more of these activities. India's economic and financial frauds and crimes will be resolved or reduced with appropriate legislation and strict implementation. People must also be on the lookout for and take adequate safeguards against economic and financial scams and frauds to avoid being taken advantage of by these offences.