



# THE WORLD IN THE EYES OF LAW

VOLUME 4



# **“The World in the Eyes of Law”**

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## **Preface**

A thought that has been enduring in mind when becomes real is truly an interesting and exciting experience. This book is one such cherished work that has its roots in the persuasion of many authors, contributors and also mentors which has now embellished to become the snapshot of the innumerable efforts put in since months. This book serves to reinforce increased awareness, improved interaction and integration among all of us.

As the Editor of this book entitled “The World in the Eyes of Law”, I wish to thank all researchers, who have submitted their contributions. The main aim of this book is to enhance knowledge among researchers, students and the legal fraternity at large and to provide an opportunity for creative research and multi-level consideration of broader issues related to legal insight from both national and interdisciplinary perspective.

It has been indeed a pleasure going through the journey of compiling and editing this book. This maiden issue will surely inspire all of us for a new beginning and enlighten the minds of young scholars with hope, confidence and faith.

Happy reading!

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# **“BANKING FRAUDS IN BANKING SECTOR OF INDIA: A STUDY”**

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## **ABSTRACT**

Cases of fraud were most common in the banking and financial sector, the government and public administration, and the production industries. The massive growth in banking frauds has given authorities like the Reserve Bank of India major cause for concern. In the past, fraud was perpetrated through the use of counterfeit money, forged checks, and the provision of loans to individuals without first determining their ability to repay them. As technology has expanded into the financial industry, cybercrime has emerged as a new risk. The passage of time has forced bankers to learn new terminology. In India, bank fraud has been on the rise in recent years. Even though banks are subject to a lot of oversight and regulation, they nonetheless face problems with things like unethical behavior, financial difficulty, and poor corporate governance.

To discuss banking frauds in the Indian banking system in an illuminative manner is the primary focus of this paper. On the basis of secondary data from credible sources, it assesses the scope of fraud across various banking groups and its area of activity. The paper goes on to explain the many forms of bank fraud as well as its root causes. At the end of the paper, suggestions are made for how to curtail frauds in the Indian banking system in the future.

**Keywords:** - Banking, Government, Counterfeit, Technology, Frauds.

## **INTRODUCTION**

An initial enquiry into these incidents indicated that upper-level management was just as complicit in the fraud as lower-level personnel. This raises major worry over the efficiency of corporate governance at highest level of these banks. For socioeconomic development and growth of country proficient financial system is needed. With active economic factors operating at national and global level, role of banking sector has been through a meticulous transformation throughout the length of time. This enabled banking system to seek new chances and to extend their presence beyond the national frontier. These limitations did, however, present significant difficulties for India's banking system. The "backbone" of any country's economy is its financial system. Financial stability and a strong banking industry are crucial to a thriving trading community. With massive alteration of trade & commerce, banking sector too went through big revolutionary reforms. These changes comprise incorporation of new private sector banks, adoption of information technology (Usage of NEFT, Smart Card etc), modifications in Capital Adequacy Norms etc. The effectiveness and output of the banking industry have been greatly improved as a result of these changes. On

the other hand, it has developed into a number of pressing problems for the Indian banking sector's financial stability. One of them is rising amount of frauds in banking sector.<sup>1</sup>

## MEANING OF FRAUD

Bank frauds are the result of exchanges in which one party unfairly benefits at the expense of another through the use of fraudulent or dishonest techniques, but embezzlement or misappropriation does not come within the ambit of banking frauds. It was determined that banking frauds are a social wrong, rather than a personal wrong, in the case “*State of Maharashtra through CBI v. Vikram Anantra Doshi & others*”<sup>2</sup>. Although the term "fraud" is not defined strictly in the Indian Penal Code, 1860, certain elements of said Code are always employed when dealing with bank frauds. Agreements and Contracts in India are governed by the Indian Contract Act of 1872, which is where the term "influence in contracts" was first used. This type of fraud may be less serious than outright theft, but it certainly plays a role in the granting of large bank loans to powerful businessmen like Vijay Malya.

The notion of constructive fraud was examined in detail by the Court in *Oriental Bank Corporation v. John Fleming*<sup>3</sup>. A major flaw of the Banking Regulation Act, 1949 is that it does not specifically address banking fraud, reason of which the concerned act is being exploited by fraudsters. Digital forging, unauthorized access to computer networks, data tampering, skimming, and online identity theft and impersonation were all introduced by the Information Technology Act, 2000, which also altered certain provisions of the RBI Act, 1934 via Section 94. The Payment and Settlement Systems Act of 2007 was enacted with the same purpose of regulating and decreasing fraudulent internet purchases.<sup>4</sup>

## BANKING FRAUDS AND WHITE COLLAR CRIME

There have been numerous reports of financial fraud in India in recent years. All across the world, persons who handle money or other assets on behalf of their employers or clients fall victim to this form of fraud (agency problem). However, in several jurisdictions around the world, even accidental financial mismanagement constitutes fraud and carries the same legal consequences as any other form of fraud. When this occurs, the loss is often concealed in the accounting records used to keep track of activity related to the resource in question, allowing it to persist until a sizable quantity of the owner's funds or assets have been syphoned off and are no longer under their control. ....

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<sup>1</sup>Dr. Seema Thakur, “Banking Fraud in India: Effects and Controls” 18 International Journal of Science and Research 89-97 (2018).

<sup>2</sup>State of Maharashtra through CBI v. Vikram Anantra Doshi & others, (2014) 15 SCC 29.

<sup>3</sup>Oriental Bank Corporation v. John Fleming, (1879) 3 BoM 242.

<sup>4</sup>Dueep J. Singh, John Davidson, Introduction to Internet Scams and Fraud - Credit Card Theft, Work-At-Home Scams and Lottery Scams 46-57 (Mendon Cottage Books, 2015).

## Message from the Publisher's desk

We, at Pen Acclaims, take immense pleasure in welcoming you to our new venture, "The World in the Eyes of Law". We have created this publication with the intention of providing a space for the generation of knowledge, dialogue, critique, debate, and collaboration among an international community of child, youth, family and community practitioners and scholars. The immediacy of e-based publication makes it possible for us all to be fully connected to each other and to developments in our field and to be directly involved in ongoing knowledge construction. Our journal is independent of corporate demands and we can therefore invite you to be full participants in the creative process that we are undertaking together. Our vision is to create a high-quality publication that will be relevant, challenging, thought-provoking, and inclusive of a diverse range of voices and perspectives, including graduate students, academic researchers and scholars, policy-makers, and child, youth and family serving practitioners. We welcome original research, theoretical contributions, reviews of the literature, critical commentaries, case studies, book reviews, and works-in progress. It is our intention from time to time, to offer guest edited special issues as books as well as journal offerings. We do this in order to support access and diversity in the ever narrowing corporatized world of academic publication. We are delighted that you are joining us as readers and hope you will also join us as contributors.



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