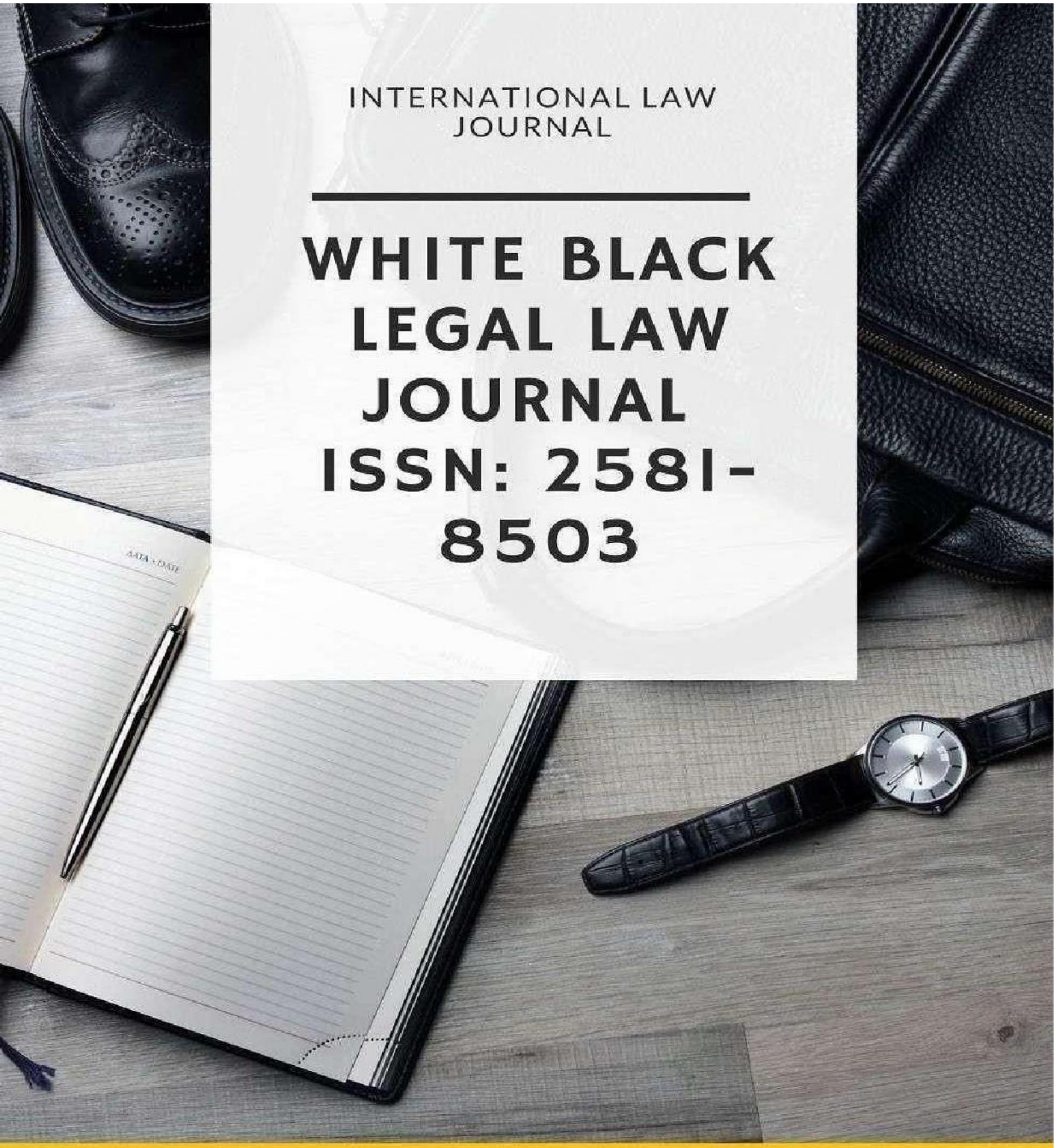


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BANKING FRAUDS IN INDIA: A CRITICAL STUDY OF THE LEGISLATIVE AND JUDICIAL FRAMEWORK

AUTHORED BY - PRINCE GUPTA & DR. CHEENA ABROL

Student and Assistant Professor respectively, School of Law, CT University, Ludhiana, Punjab, India

ABSTRACT

Banking fraud is no longer confined to conventional acts of misappropriation, forged instruments, or dishonest diversion of loan proceeds. The expansion of digital banking, complex corporate structures, cross-border transactions and technology-enabled payment systems has enlarged both the scale and the variety of risks faced by Indian banks. At the same time, the legal response to banking fraud is dispersed across banking regulation, criminal law, insolvency and debt-recovery mechanisms, securities and corporate regulation, anti-money-laundering law, information-technology law and regulatory directions issued by the Reserve Bank of India (RBI). This article critically examines whether this multi-layered framework is capable of preventing fraud, identifying it at an early stage, protecting depositors and borrowers, recovering diverted assets and securing effective adjudication.

The study adopts a doctrinal methodology and analyses legislation, delegated legislation, RBI directions, judicial decisions, academic literature and selected banking-fraud episodes discussed in the underlying dissertation. It places particular emphasis on the transition from a predominantly post-facto enforcement model to a risk-management model based on governance, internal controls, early detection, forensic investigation and coordinated reporting. The article also examines the significance of *State Bank of India v. Rajesh Agarwal*, which required observance of natural justice before classification of an account as fraudulent, and the subsequent RBI Fraud Risk Management Directions, 2024. The current regulatory position demonstrates a significant movement towards board-level accountability, time-bound natural-justice safeguards, specialised fraud-risk functions and technology-assisted detection.

The article argues that the central challenge is not the complete absence of legal remedies but fragmentation, delayed investigation and recovery, uneven institutional capacity, weak information sharing and the difficulty of distinguishing genuine business failure from fraudulent conduct. It proposes a coordinated framework built around interoperable financial

intelligence, specialist investigation and prosecution, faster asset-tracing and recovery, stronger governance and audit controls, specialised adjudicatory capacity, and proportionate safeguards for persons affected by fraud classification. The objective is to strengthen deterrence without converting ordinary commercial default into criminality.

Keywords: *banking fraud; financial crime; RBI; fraud risk management; bank fraud; natural justice; financial intelligence; corporate governance; digital banking; recovery.*

1. INTRODUCTION

A stable banking system is indispensable to the functioning of a modern economy. Banks intermediate between savers and borrowers, facilitate payments, extend credit, support investment and transmit monetary policy. The expansion of Indian banking from a relatively concentrated and branch-based system into a technology-intensive financial network has consequently increased both its economic importance and its exposure to operational, credit, cyber and fraud risks.

The development of Indian banking has also changed the nature of fraud. Earlier forms included theft, embezzlement, forged cheques, manipulation of deposit accounts and diversion of sanctioned loans. Contemporary fraud can involve fraudulent corporate structures, manipulation of financial statements, misuse of guarantees or letters of credit, diversion of working-capital facilities, related-party transactions, identity theft, mule accounts, phishing, unauthorised digital transactions and sophisticated cyber-enabled schemes. Fraud may also have a cross-border dimension, making investigation and recovery dependent on cooperation between several domestic and foreign institutions.

The legal response has correspondingly become multi-dimensional. The Banking Regulation Act, 1949 and the Reserve Bank of India Act, 1934 provide the principal regulatory architecture; criminal liability historically rested substantially on the Indian Penal Code, 1860 and related special statutes; recovery has been supported by the Recovery of Debts and Bankruptcy Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, 2016; and additional consequences may arise under the Prevention of Money-Laundering Act, 2002, the Companies Act, 2013 and the Information Technology Act, 2000. Since 1 July 2024, the criminal-law framework has been reorganised by the Bharatiya Nyaya Sanhita, 2023 (BNS), the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023.

The regulatory framework has also materially evolved. In July 2024, the RBI issued revised Master Directions on Fraud Risk Management for commercial banks and all-India financial institutions, cooperative banks and NBFCs. The revised directions are expressly principle-based and strengthen board oversight, internal audit and control systems, reporting and prevention mechanisms.[1] They also incorporate safeguards flowing from the Supreme Court's 2023 decision in *State Bank of India v. Rajesh Agarwal*.[2]

The persistence of fraud despite this extensive framework raises a fundamental research question: is the difficulty primarily a problem of insufficient law, or is it a problem of fragmented implementation, delayed detection, weak institutional coordination and inadequate recovery? This article approaches the question by examining the development of banking regulation, the principal forms and causes of fraud, the legislative framework, judicial responses and selected banking-fraud episodes. It then identifies the principal institutional gaps and proposes a coordinated model of prevention, investigation, recovery and adjudication.

2. CONCEPTUAL AND REGULATORY CONTEXT

2.1 MEANING AND SCOPE OF BANKING FRAUD

There is no single exhaustive statutory definition that captures every form of banking fraud. In regulatory practice, fraud encompasses a broad range of dishonest or deceptive conduct affecting a regulated entity, its customers or its assets. The RBI's earlier fraud directions classified frauds by reference to categories including criminal breach of trust and misappropriation, cheating and forgery, fraudulent encashment of instruments, manipulation of books and records, fraudulent transactions and other forms of criminal conduct. The 2024 framework moves towards a principle-based fraud-risk management structure rather than treating classification merely as a list of offences.

For analytical purposes, banking fraud may be understood as intentional or dishonest conduct, whether internal or external, that causes or is likely to cause wrongful gain, wrongful loss, unauthorised diversion or misuse of banking funds, assets, systems or services. This working definition is deliberately broader than the criminal offence of cheating. A regulatory classification of fraud does not itself establish criminal guilt; criminal liability must still be determined under the applicable substantive and procedural law.

This distinction is especially important in lending cases. A failed business, inability to

[1] Reserve Bank of India, *Press Release: RBI issues Revised Master Directions on Fraud Risk Management in the Regulated Entities* (July 15, 2024), https://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=58294.
[2] State Bank of India v. Rajesh Agarwal, (2023) 6 SCC 1.

repay a loan or an account becoming a non-performing asset does not automatically establish fraudulent intent. The criminal law requires proof of the ingredients of the particular offence. Under the BNS, for example, cheating is addressed in section 318, while criminal breach of trust is addressed in section 316.[3] The conceptual distinction between dishonest intention at inception and subsequent dishonest misappropriation remains important when separating genuine commercial failure from fraud.

2.2 FROM BANK REGULATION TO FRAUD-RISK MANAGEMENT

Indian banking regulation has progressively moved from structural regulation towards a broader system of prudential supervision, governance and risk management. Nationalisation expanded the social and developmental role of banks, while liberalisation and technological change introduced greater competition, new financial products and new channels of risk. The legal system therefore had to respond not only to fraudulent borrowers but also to internal governance failures, inadequate due diligence and technological vulnerabilities.

The contemporary regulatory approach recognises that prevention cannot be reduced to prosecution after loss has occurred. The RBI's 2024 Fraud Risk Management Directions require regulated entities to maintain board-approved fraud-risk policies, define responsibilities of boards, committees and senior management, and incorporate mechanisms for compliance with principles of natural justice before persons or entities are classified as fraudulent.[4] The emphasis is consequently on governance, early detection, investigation, reporting and institutional accountability.

3. REVIEW OF LITERATURE

The underlying dissertation surveyed a substantial body of literature on banking fraud, including studies dealing with causes, prevention, corporate governance, employee awareness, technology and electronic banking. The literature broadly identifies recurring causes such as inadequate internal controls, non-compliance with KYC requirements, weak employee awareness, insufficient training, excessive workload, poor monitoring, technological vulnerabilities and failures of corporate governance.

[3] Bharatiya Nyaya Sanhita, 2023, §§ 316, 318. Section 316 corresponds broadly to the former IPC provisions on criminal breach of trust, while section 318 addresses cheating.

[4] Reserve Bank of India, *Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and All India Financial Institutions* (July 15, 2024). The 2024 directions require a board-approved policy and mechanisms for compliance with principles of natural justice in a time-bound manner.

Khanna and Arora's work on bank frauds highlighted inadequate employee awareness and organisational weaknesses. Swain and Pani examined fraud trends and identified negligence, weak compliance and inadequate understanding of fraud risks among employees as important factors. Studies by Bhasin and others emphasised the growing complexity of fraud and the role of technology. Singh and Nayak similarly drew attention to corporate-governance issues and the need for effective checks and balances. Research concerning electronic banking has similarly identified the expansion of cyber-enabled fraud alongside the benefits of digital banking.567

The literature, however, often treats fraud as either a banking-management problem or a criminal-law problem. The more significant research gap lies at the intersection of the two. A bank fraud may simultaneously engage regulatory duties, internal governance, civil recovery, criminal investigation, insolvency proceedings, asset tracing and constitutional or administrative-law safeguards. The legal effectiveness of the framework therefore cannot be assessed by looking at any single statute.

This article builds upon the dissertation's literature review but adopts a more integrated approach. It treats prevention, classification, investigation, recovery and adjudication as interconnected stages of a single regulatory problem. It also updates the analysis to account for the RBI's 2024 Fraud Risk Management Directions, the new criminal-law framework and the Supreme Court's subsequent jurisprudence.

4. RESEARCH PROBLEM, QUESTIONS AND OBJECTIVES

4.1 STATEMENT OF THE RESEARCH PROBLEM

Indian law contains numerous mechanisms addressing banking fraud, yet major fraud episodes have demonstrated difficulties in early detection, attribution of responsibility, inter-agency coordination, recovery and timely adjudication. The existence of multiple regulators and enforcement bodies can create overlapping jurisdiction, while the documentary and technically

5T. S. Vigneshwaran & M. Yokesh, A Study on Causes and Prevention of Fraud in Banking Industry, 120(5) Int'l J. Pure & Applied Mathematics 311-321 (2018); Neha Sharma & Dhiraj Sharma, Rising Toll of Frauds in Banking: A Threat for the Indian Economy, 9(1) J. Tech. Mgmt. for Growing Economies 71-88 (2018), https://doi.org/10.15415/jtmge.2018.91003.

6Madan Lal Bhasin, An Empirical Study of Frauds in the Banks, 4(7) Eur. J. Bus. & Soc. Sci. 1-12 (2015); Tamanna Singh & Siddharth Nayak, Frauds in Banking: Corporate Governance Issues (CCS Project Report, Indian Institute of Management Bangalore 2015).

7Ashu Khanna & Bindu Arora, A Study to Investigate the Reasons for Bank Frauds and the Implementation of Preventive Security Controls in Indian Banking Industry, 4(3) Int'l J. Bus. Sci. & Applied Mgmt. 1-21 (2009), https://doi.org/10.69864/ijbsam.4-3.43; D. S. Swain & D. L. Pani, Frauds in Indian Banking: Aspects, Reasons, Trend-Analysis and Suggestive Measures, 5(7) Int'l J. Bus. & Mgmt. Invention 1-9 (2016).

complex nature of financial offences can prolong investigation. At the same time, regulatory measures must protect legitimate borrowers and directors from being treated as fraudulent merely because a commercial venture failed.

The problem is therefore one of institutional design as much as substantive law. The relevant question is whether the existing framework provides a sufficiently integrated chain from early warning and internal controls to fraud classification, investigation, asset tracing, recovery, prosecution and adjudication.

4.2 RESEARCH QUESTIONS

1. How has the Indian banking system evolved and how has that evolution affected the nature of banking fraud?
2. What are the principal forms and causes of banking fraud in India?
3. How do banking, criminal, corporate, insolvency, recovery and regulatory laws interact in addressing fraud?
4. How has Indian judicial and regulatory jurisprudence shaped the rights and obligations of banks and persons accused of fraud?
5. What institutional and legal reforms can improve prevention, investigation, recovery and adjudication without criminalising genuine business failure?

4.3 OBJECTIVES

The study has five objectives:

1. To examine the evolution of the Indian banking system and the development of fraud risks.
2. To identify major forms and causes of banking fraud, including technology-enabled fraud.
3. To analyse the principal legislative and regulatory mechanisms governing prevention, detection, investigation and recovery.
4. To examine judicial developments concerning banking fraud, fraud classification, borrower rights and institutional accountability.
5. To propose reforms for coordinated fraud-risk management, investigation, recovery and adjudication.

5. RESEARCH METHODOLOGY

The research is doctrinal and qualitative. It is based primarily on secondary material consisting of statutes, delegated legislation, RBI directions, judicial decisions, government and regulatory reports, books, journal articles, academic studies and publicly available material concerning selected banking-fraud episodes. The dissertation on which this article is based employed the doctrinal method and relied on secondary sources including research papers, articles, books, newspapers and other publications.

The analytical method consists of legal interpretation, case analysis, content analysis and comparative evaluation of institutional mechanisms. Selected fraud episodes—Nirav Modi/PNB, Videocon, PMC Bank, Vijay Mallya/Kingfisher, ABG Shipyard and Winsome Diamonds—are used as illustrative case studies rather than as a statistically representative sample. The article does not claim that the selected cases constitute the complete universe of banking fraud in India.

Where current regulatory developments are discussed, the article relies on RBI materials available through September 2026. The RBI's Annual Report 2024–25 records 23,953 fraud cases involving ₹36,014 crore across the reporting bank groups for that year. It also cautions that the amount involved does not equal the amount actually lost and that frauds reported in a year may have occurred in earlier periods.[8]

6. EVOLUTION OF THE INDIAN BANKING SYSTEM AND THE EMERGENCE OF FRAUD RISKS

Understanding banking fraud requires an understanding of the institutional environment in which it occurs. India's banking history includes informal moneylending, the Presidency Banks, the Imperial Bank of India, the establishment and nationalisation of the RBI, bank nationalisation in 1969 and 1980, post-1991 liberalisation and the subsequent digital transformation of banking.

The nationalisation of major banks significantly expanded branch networks and access to formal credit. The policy shift towards mass banking increased the geographic and social reach of financial intermediation. Liberalisation subsequently introduced stronger competition and new private-sector participation. Banks expanded into consumer credit, cards, electronic transfers, investment products, digital channels and other services. These developments increased efficiency and access but also multiplied operational and fraud risks.

[8] Reserve Bank of India, *Annual Report 2024–25*, ch. VI, Table VI.2. The RBI reports 23,953 frauds involving ₹36,014 crore for 2024–25 and cautions that amounts involved do not necessarily represent actual losses. See https://www.rbi.org.in/scripts/AnnualReportPublications.aspx?Id=1436.

The constitutional dimensions of bank nationalisation were examined in *R.C. Cooper v. Union of India*, where the Supreme Court considered the Bank Nationalisation Act and its impact upon property and fundamental rights.[9] The case is important not because it directly concerned modern fraud, but because it illustrates the constitutional and institutional significance of banking regulation in India.

The legal character of banks has also received judicial consideration. In *Federal Bank Ltd. v. Sagar Thomas*, the Supreme Court distinguished between regulation by public authorities and the performance of public functions by a private bank, holding that a private bank does not become an instrumentality of the State merely because banking is heavily regulated.[10] This distinction becomes relevant when determining the remedies available to customers and borrowers against different categories of banking institutions.

The growth of digital banking has introduced another transformation. Fraud is increasingly capable of occurring without physical access to a branch or traditional banking instrument. Identity theft, phishing, social engineering, malware, credential compromise, mule accounts and fraudulent digital transactions create risks that can operate at great speed. The regulatory response consequently requires technological capability as well as conventional legal enforcement.

7. NATURE, FORMS AND CAUSES OF BANKING FRAUD

7.1 LOAN AND ADVANCE-RELATED FRAUD

Loan-related fraud is especially significant because the amount involved can be substantially larger than the value of individual retail frauds. It may involve false financial statements, forged documents, diversion of sanctioned funds, fictitious transactions, manipulation of collateral, connected-party transactions, circular transactions, fraudulent guarantees or misrepresentation of the purpose and end use of funds.

RBI data for 2024–25 illustrates the difference between frequency and value. Of the frauds reported by the bank groups covered in the Annual Report, advances accounted for 7,950 cases involving ₹33,148 crore, representing 92.1% of the total amount involved, while card/internet frauds accounted for 13,516 cases involving ₹520 crore.[11] The figures demonstrate why an effective policy must simultaneously address high-value credit fraud and high-frequency

[9] *R.C. Cooper v. Union of India*, (1970) 2 SCC 298.
[10] *Federal Bank Ltd. v. Sagar Thomas*, (2003) 10 SCC 733.
[11] Reserve Bank of India, *Annual Report 2024–25*, Table VI.3. Advances accounted for 7,950 frauds involving ₹33,148 crore in 2024–25, while card/internet frauds accounted for 13,516 cases involving ₹520 crore.

digital fraud.

7.2 DEPOSIT, CHEQUE AND INSTRUMENT FRAUD

Deposit-related fraud can involve impersonation, forged instructions, unauthorised withdrawals and manipulation of account records. Cheque and demand-draft fraud traditionally depended on forged signatures or instruments, although digital verification and electronic clearing have altered the risk profile. The legal response involves a combination of criminal offences, negotiable-instruments law, banking regulation, internal controls and customer-protection rules.

7.3 INTERNAL FRAUD AND EMPLOYEE INVOLVEMENT

Bank employees occupy a position of trust and have access to information and systems that external fraudsters may not possess. Internal fraud may therefore involve collusion, manipulation of records, bypassing of KYC requirements, unauthorised transactions or concealment of irregularities. The problem cannot be addressed solely through criminal sanctions. Segregation of duties, access controls, audit trails, rotation of sensitive functions, whistle-blower mechanisms and accountability at managerial levels are equally important.

7.4 DIGITAL AND CYBER-ENABLED FRAUD

Digital banking creates an environment in which fraud can occur rapidly and across jurisdictional boundaries. The RBI's recent supervisory work reflects this shift. The RBI Annual Report 2024–25 states that digital-payment frauds, particularly card/internet frauds, predominated by number, whereas loan-portfolio frauds predominated by value.[12] The RBI has also developed technology-oriented initiatives, including a machine-learning model known as MuleHunter.ai for near-real-time identification of mule accounts, initially being tested and deployed in some large public-sector banks.[13]

7.5 CORPORATE AND GOVERNANCE FAILURES

Large banking frauds frequently expose weaknesses extending beyond the immediate conduct of an individual borrower. Inadequate board oversight, poor due diligence, ineffective audit,

[12] Id.
[13] Reserve Bank of India, *Annual Report 2024–25*, ¶ VI.54. The RBI states that RBIH developed MuleHunter.ai, a supervised machine-learning model for near-real-time identification of mule accounts, which was being tested and deployed in a few large public-sector banks.

related-party transactions, concentration of decision-making and failures in monitoring can permit fraud to continue undetected. Consequently, corporate governance should be treated as part of fraud prevention rather than as a separate compliance subject.

8. LEGISLATIVE AND REGULATORY FRAMEWORK

8.1 BANKING REGULATION ACT, 1949 AND RBI ACT, 1934

The Banking Regulation Act provides the central statutory framework for regulation of banking companies, while the RBI Act establishes the central bank's regulatory and supervisory powers. Together, they form the foundation upon which RBI directions concerning prudential regulation, governance, reporting, KYC, fraud and risk management operate.

8.2 CRIMINAL LAW

The criminal law traditionally relied heavily on the Indian Penal Code, including offences relating to cheating, criminal breach of trust, forgery, falsification and conspiracy. Since 1 July 2024, the BNS has replaced the IPC. Section 316 addresses criminal breach of trust, including the aggravated provision applicable to a banker, merchant or agent; section 318 addresses cheating, including cheating that dishonestly induces delivery of property.[14]

The transition is significant for a contemporary research paper because references to IPC provisions in older fraud literature must now be read alongside the corresponding BNS provisions. At the same time, the underlying distinction between criminal dishonesty and ordinary contractual default remains essential. Criminal prosecution should not be used as a substitute for recovery proceedings where the evidence establishes only inability to repay and not the ingredients of a criminal offence.

8.3 RECOVERY AND INSOLVENCY MECHANISMS

The Recovery of Debts and Bankruptcy Act, 1993 and the SARFAESI Act, 2002 provide important mechanisms for recovery of bank dues. The Insolvency and Bankruptcy Code, 2016 further provides a structured framework for resolution of insolvency and liquidation. These mechanisms are not substitutes for criminal prosecution where fraud is established, but they are crucial because recovery of diverted assets and resolution of stressed credit are distinct from criminal punishment.

[14] Bharatiya Nyaya Sanhita, 2023, §§ 316, 318.

8.4 PREVENTION OF MONEY-LAUNDERING ACT, 2002

Bank fraud may generate proceeds that are subsequently layered, concealed or integrated into apparently legitimate assets. The PMLA can therefore become relevant where the statutory requirements concerning proceeds of crime are satisfied. Asset tracing and confiscation under specialised economic legislation can complement ordinary criminal investigation, but coordination among agencies remains important to avoid duplication and delay.

8.5 COMPANIES ACT, 2013 AND CORPORATE ACCOUNTABILITY

Where fraud involves companies, directors, key managerial personnel, auditors or related parties, the Companies Act provides additional regulatory and investigative tools. The Serious Fraud Investigation Office (SFIO) is particularly relevant in serious cases involving corporate fraud. Corporate liability should, however, be tied to statutory duties and evidence rather than imposed merely because an individual held an office in a company.

8.6 INFORMATION TECHNOLOGY ACT AND DIGITAL EVIDENCE

Technology-enabled banking fraud requires both substantive cyber-offence provisions and reliable mechanisms for preserving and proving electronic evidence. The legal framework must be read with the current law of electronic evidence under the Bharatiya Sakshya Adhiniyam, 2023. The earlier jurisprudence under section 65B of the Indian Evidence Act, including *Anvar P.V. v. P.K. Basheer*, remains historically important but must now be understood within the new evidentiary framework.[15]

9. RBI FRAUD RISK MANAGEMENT DIRECTIONS, 2024

The RBI's 2024 directions represent a major development in the regulatory response to fraud. On 15 July 2024, the RBI issued revised directions separately applicable to commercial banks and all-India financial institutions, cooperative banks and NBFCs. The RBI stated that the revised directions followed a comprehensive review of earlier instructions and emerging issues and were designed to strengthen board oversight, internal audit and control frameworks.[16]

The directions shift the regulatory emphasis from merely reporting fraud after detection to maintaining an institutional fraud-risk management architecture. Board-approved policies, allocation of responsibility, monitoring and investigation functions, reporting mechanisms and internal controls are treated as interconnected components of governance.

[15] *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473.
[16] Reserve Bank of India, supra note 1.

A particularly important feature is the incorporation of natural-justice safeguards. The directions require regulated entities to provide a detailed show-cause notice setting out the transactions, actions or events forming the basis of contemplated fraud classification and to provide a reasonable response period of not less than 21 days.[17] This is an important balance: banks require timely mechanisms to protect their assets and the financial system, while borrowers and other affected persons must have a meaningful opportunity to contest a serious adverse classification.

The 2024 framework also recognises that fraud management is not confined to banks. Comparable directions apply to NBFCs and cooperative banks, reflecting the interconnected nature of the financial system. The RBI's 2024–25 Annual Report records that fraud incidents across the relevant bank groups rose in number and amount in 2024–25, but expressly notes that the amount involved is not equivalent to the loss incurred and that reporting-year figures can relate to frauds occurring earlier.[18]

10. JUDICIAL CREDENCE AND THE DEVELOPMENT OF FRAUD JURISPRUDENCE

10.1 STATE BANK OF INDIA V. RAJESH AGARWAL

The most significant judicial development directly concerning bank-fraud classification in recent years is *State Bank of India v. Rajesh Agarwal*.[19] The Supreme Court held that the principles of natural justice, particularly *audi alteram partem*, must be read into the RBI's Master Directions on Frauds. The Court's reasoning was linked to the serious civil consequences of classification, including restrictions affecting access to institutional finance.

The judgment is significant because it clarifies that regulatory classification and criminal guilt are conceptually distinct. A bank may need to classify and report an account for regulatory purposes, but the affected person must have an opportunity to address the material relied upon before such a determination is made. This protects procedural fairness without eliminating the regulatory function.

The RBI subsequently incorporated natural-justice requirements into its 2024 directions. This is an important example of judicial review producing a concrete modification in regulatory

[17] Reserve Bank of India, *Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and All India Financial Institutions* (July 15, 2024), provisions concerning governance structure and natural justice.
[18] Reserve Bank of India, *Annual Report 2024–25*, Table VI.2 and accompanying notes.
[19] State Bank of India v. Rajesh Agarwal, (2023) 6 SCC 1.

architecture rather than merely invalidating an administrative action.[20]

The jurisprudence has continued to develop. In 2026, the Supreme Court in *State Bank of India v. Amit Iron Private Limited* clarified the scope of the earlier decision, holding that *Rajesh Agarwal* did not create an inherent right to a personal/oral hearing in every fraud-classification proceeding. The Court treated natural justice as context-dependent while recognising the procedural requirements embedded in the 2024 framework.[21] This development illustrates that procedural fairness must be meaningful but proportionate to the administrative context.

10.2 JUDICIAL DISTINCTION BETWEEN REGULATORY DEFAULT AND CRIMINAL FRAUD

The courts have repeatedly emphasised the need to distinguish contractual or commercial disputes from criminal conduct. In the banking context, this is essential because an unpaid loan is not, by itself, proof of cheating. The prosecution must establish the ingredients of the offence and the requisite mental element. The distinction is particularly important under BNS section 318, where cheating depends upon deception and dishonest inducement, and section 316, where criminal breach of trust depends upon entrustment and dishonest misappropriation or conversion.[22]

10.3 ELECTRONIC EVIDENCE AND BANKING FRAUD

The increasing reliance on digital records has made evidentiary rules central to fraud prosecution. *Anvar P.V. v. P.K. Basheer* established the importance of compliance with the statutory requirements governing electronic records under the earlier Indian Evidence Act.[23] Under the present legal regime, investigators and prosecutors must similarly ensure authenticity, integrity, preservation and admissibility of electronic evidence under the Bharatiya Sakshya Adhiniyam.

11. SELECTED BANKING-FRAUD EPISODES: INSTITUTIONAL LESSONS

The major fraud episodes discussed in the dissertation reveal recurring institutional patterns even though their factual circumstances differ.

[20] Reserve Bank of India, *Annual Report 2024–25*, ¶ VI.83, noting that the revised directions expressly require compliance with principles of natural justice before classification of persons/entities as fraud.
[21] State Bank of India v. Amit Iron Pvt. Ltd., 2026 INSC 323 (Apr. 7, 2026).
[22] Bharatiya Nyaya Sanhita, 2023, §§ 316, 318.
[23] *Anvar P.V.*, (2014) 10 SCC 473.

11.1 NIRAV MODI AND PUNJAB NATIONAL BANK

The PNB-related fraud demonstrated the risks associated with the misuse of banking instruments and weaknesses in internal controls and reconciliation. The broader institutional lesson is that fraud prevention requires systems capable of detecting transactions that circumvent ordinary approval and reporting mechanisms. It also demonstrates the importance of cross-border cooperation where accused persons or assets move outside India.

11.2 VIDEOCON

The Videocon episode illustrates the interaction between corporate governance, credit decisions, connected transactions and regulatory scrutiny. It demonstrates that fraud-risk analysis must extend beyond the individual loan transaction to the corporate structure and relationships surrounding the borrower.

11.3 PMC BANK

The Punjab and Maharashtra Cooperative Bank crisis demonstrates the distinctive vulnerability of cooperative banking institutions to concentration of exposures, governance failures and inadequate disclosure. It also highlights the importance of depositor protection and early supervisory intervention.

11.4 VIJAY MALLYA AND KINGFISHER

The Kingfisher episode illustrates the difficulty of distinguishing business failure from allegations of fraudulent conduct while also demonstrating the importance of timely credit monitoring. The case shows that large-scale lending can become difficult to recover when warning signs are not acted upon at an early stage.

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11.5 ABG SHIPYARD

The ABG Shipyard matter demonstrates the complexity of investigating large corporate credit fraud involving multiple lenders and extensive documentary material. Such cases reinforce the need for specialised forensic and financial investigation capabilities.

11.6 WINSOME DIAMONDS

The Winsome Diamonds episode similarly illustrates the difficulty of recovering large-value banking exposures and the interaction between banking regulation, criminal investigation, corporate structures and recovery mechanisms.

Taken together, these cases suggest that the central failure is rarely the absence of a statutory offence. More commonly, the challenge arises earlier: inadequate due diligence, weak monitoring, delayed escalation, fragmented information, slow investigation and difficulty in tracing and recovering assets.

12. CRITICAL ANALYSIS: IS THE EXISTING FRAMEWORK ADEQUATE?

The Indian legal framework cannot fairly be described as lacking laws against banking fraud. There are numerous criminal offences, recovery statutes, regulatory directions, corporate-law provisions and specialised agencies. The RBI has also substantially strengthened fraud-risk management since the period examined in the original dissertation.

The more defensible conclusion is that effectiveness depends on coordination across the stages of the fraud lifecycle. Five institutional gaps remain particularly important.

First, information fragmentation. Banks, regulators, law-enforcement agencies, tax authorities, insolvency professionals and other institutions may hold different pieces of the same financial picture. A coordinated and legally governed information-sharing architecture can materially improve early detection.

Second, delay. Financial fraud is often document-heavy and technically complex. Delay reduces the probability of recovery because funds and assets can be transferred, layered or moved across jurisdictions. Prevention and early intervention are therefore more valuable than punishment alone.

Third, uneven investigative capacity. Ordinary policing structures may not always possess the accounting, forensic, technological and banking expertise required for large financial investigations. Specialist capability should therefore be strengthened rather than relying exclusively on general criminal-investigation structures.

Fourth, recovery and prosecution are treated as separate processes. Criminal prosecution may continue for years while recovery proceedings proceed independently. A stronger framework would ensure early asset tracing and lawful preservation of assets alongside the criminal investigation.

Fifth, procedural fairness. Fraud classification can produce significant civil consequences. The post-*Rajesh Agarwal* framework appropriately recognises that regulatory speed cannot eliminate the right to meaningful procedural safeguards. The 2024 directions provide a structured mechanism for balancing both interests.

13. RECOMMENDATIONS

13.1 INTEGRATED FINANCIAL-INTELLIGENCE ARCHITECTURE

India would benefit from a stronger interoperable architecture linking legally permissible information held by banks, credit-information companies, regulators, tax authorities, law-enforcement agencies and other relevant institutions. The purpose should not be unrestricted surveillance but targeted risk detection based on defined statutory purposes, access controls, audit trails and data-protection safeguards.

The proposed architecture should assign unique risk identifiers to entities and transactions, detect unusual patterns and facilitate rapid dissemination of alerts. Existing RBI initiatives concerning data analytics, digital supervision and mule-account detection provide a technological foundation upon which such coordination can be developed.[24]

13.2 SPECIALIST BANKING-FRAUD INVESTIGATION CAPACITY

A specialised investigation mechanism should be strengthened within the existing institutional structure or created through legislation if experience demonstrates that existing agencies cannot meet the need. Its personnel should include financial investigators, forensic accountants, banking professionals, cyber investigators, data analysts and lawyers.

The purpose should be expertise and coordination rather than the creation of another overlapping bureaucracy. Clear thresholds for referral, jurisdictional protocols and information-sharing rules would be essential.

13.3 RAPID ASSET TRACING AND RECOVERY

Fraud prevention must be linked to recovery. Once credible evidence indicates diversion of funds, investigators should be capable of initiating lawful tracing and preservation measures rapidly. Cross-border cooperation mechanisms should be activated early where assets are likely to have moved outside India.

13.4 SPECIALISED ADJUDICATORY CAPACITY

The creation of specialised courts or designated benches for complex financial fraud may be considered where case volumes and complexity justify it. The objective should be expertise,

[24] Reserve Bank of India, *Annual Report 2024–25*, ¶¶ VI.54, VI.60, describing MuleHunter.ai and supervisory analytics initiatives.

continuity and time-bound management of complex documentary and digital evidence rather than exceptional treatment of defendants.

13.5 STRONGER INTERNAL GOVERNANCE

Banks should continue to strengthen maker-checker controls, segregation of duties, access management, independent concurrent audit, forensic audit triggers, employee rotation in sensitive functions and board-level fraud-risk oversight. The RBI's 2024 directions already move significantly in this direction.[25]

13.6 DISTINGUISHING FRAUD FROM COMMERCIAL FAILURE

A credible anti-fraud regime must avoid treating every default as fraud. Classification should depend on evidence of fraudulent conduct, while genuine business failure should be addressed through recovery, restructuring or insolvency mechanisms as applicable. This distinction protects both the financial system and legitimate economic activity.

13.7 HARMONISED INSTITUTIONAL COORDINATION

The existence of multiple regulators and enforcement bodies is not inherently defective; specialised regulation can be beneficial. The problem arises when jurisdictional boundaries prevent timely action. Coordination protocols, common data standards, designated nodal officers and clear referral mechanisms can reduce institutional delay without necessarily requiring a single super-regulator.

13.8 CONSUMER PROTECTION AND DIGITAL FRAUD RESPONSE

The regulatory response to retail digital fraud should emphasise real-time alerts, transaction monitoring, rapid freezing mechanisms consistent with law, customer education, stronger authentication and accessible grievance redress. The high number of card/internet frauds relative to their aggregate value demonstrates the importance of consumer-facing controls.[26]

14. FINDINGS AND DISCUSSION

The study produces six principal findings.

First, banking fraud has evolved alongside the banking system itself. Expansion,

[25] Reserve Bank of India, *Press Release*, supra note 1.
[26] Reserve Bank of India, *Annual Report 2024–25*, Table VI.3.

liberalisation and digitisation have increased financial access while creating new opportunities for fraud.

Second, the problem is multidimensional. Fraud may arise from external deception, internal collusion, governance failure, technological weakness or combinations of these factors.

Third, the legal framework is extensive but fragmented. Banking regulation, criminal law, recovery law, insolvency law, corporate law and specialised economic legislation operate simultaneously.

Fourth, the regulatory framework has moved substantially towards prevention and risk management. The RBI's 2024 Fraud Risk Management Directions constitute an important development because they place governance, internal controls, investigation and natural justice within a common framework.

Fifth, judicial review has played an important role in balancing regulatory effectiveness and individual rights. *Rajesh Agarwal* demonstrates that serious adverse regulatory classification must be accompanied by procedural fairness, while *Amit Iron* illustrates that such fairness must remain proportionate to the administrative context.

Sixth, the principal policy challenge is implementation. Faster information sharing, specialist investigation, early asset tracing, strong internal governance and efficient adjudication may be more consequential than simply adding new offences.

15. CONCLUSION

Banking fraud in India presents a problem of law, regulation, governance, technology and institutional capacity. The history of Indian banking demonstrates that every major transformation in the sector has created new regulatory challenges. The present environment is no exception: digital payments, sophisticated corporate structures and cross-border financial activity have expanded the opportunities for fraud while simultaneously increasing the complexity of investigation.

The study does not support the proposition that India requires an entirely new body of banking-fraud offences. The existing framework contains extensive substantive and procedural tools. The more pressing requirement is to make the existing architecture operate as a coordinated system. Prevention must begin with robust governance and risk controls; detection must be supported by reliable data and technology; classification must comply with natural justice; investigation must be specialised and timely; recovery must begin at the earliest legally permissible stage; and adjudication must be capable of dealing with complex financial evidence

efficiently.

The RBI's 2024 Fraud Risk Management Directions represent a significant regulatory step in this direction. The framework's emphasis on board responsibility, internal controls, reporting, investigation and procedural fairness demonstrates a shift away from a purely reactive approach. The Supreme Court's decisions in *Rajesh Agarwal* and *Amit Iron* further demonstrate the continuing need to balance the public interest in financial integrity with procedural fairness to persons affected by fraud classification.

Ultimately, the effectiveness of the Indian framework will depend less upon the number of statutes and more upon the quality of implementation. Banking fraud should be treated as a financial-system risk requiring coordinated prevention, investigation and recovery. At the same time, the legal system must preserve the distinction between fraud and ordinary commercial failure. A mature framework is one that is sufficiently strong to protect public money and sufficiently disciplined to impose criminal and regulatory consequences only where the legal and evidentiary requirements are satisfied.

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