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**Website-** www.aarf.asia, **Email** : editoraarf@gmail.com

# STUDYING MEANING AND THEORIES OF FINANCIAL CRIMINAL CRIME IN INDIA

**ASHISH KUMAR MUKHOPADHYAY**
RESEARCH SCHOLAR SUNRISE UNIVERSITY ALWAR

**DR. RAJESH KUMAR VERMA**
PROFESSOR SUNRISE UNIVERSITY ALWAR

## ABSTRACT

*Every economy has seen a rise in the flow of revenue due to population growth and company expansion. The demand and greed of people has grown along with the growth in income and money circulation. The ever-increasing needs of people have pushed them down the crooked and dishonest road. However, corruption has existed throughout the history of the human race since its inception. But as time and technology progressed, this took on a new shape, giving rise to the concept of financial crimes. Bribery, corruption, money laundering, white-collar crimes, tax avoidance, and evasion are not just one partner; rather, they walk with a broad range of other partners. In the aforementioned study, the researcher attempted to comprehend the progression of financial crimes from the initial stage of bribery to financial crimes. To this end, a thorough and in-depth review of the literature was conducted to discover the existence of corruption in the Vedic period, after which the progression of these crimes was traced until the present.*

**Keywords: -**Crimes, Financial, Money, Company, Financial Crimes.

## I. INTRODUCTION

These offenses go by a variety of titles, including financial crimes, white-collar crimes, and economic crimes. Due to the rising use of technology and computers in their commission, they are sometimes also researched under the heading of cybercrimes. The press has included more stories regarding different financial crimes in recent years. In order to develop effective strategies and mechanisms to reduce these crimes, it is necessary to investigate and understand the nature and causes of such crimes.

We don't find a lot of research on the impact of such crimes when we look into it. Rape, extortion, drug trafficking, robbery, corruption, and even murders to the very end can have a significant impact (Gittleson et al., 1978; Norris & Feldman-Summers, 1981; Maguire, M., 1982; Janoff-

Bulman, R., & Frieze, I. H., 1983; Miller, D. T., & Porter, C. A., 1983; Perloff, L The difficulty for the researcher in obtaining first-hand information is the reason why there are so few studies on financial crimes. Even if the researcher is successful in securing an interview with the offender, there is no guarantee that the information shared by the person is accurate. As stated in the financial crimes investigation procedure, it takes a team of professionals to put together a crime of this kind, thus finding the evidence in such situations is quite difficult. Furthermore, it is even harder to find evidence when looking at the victims of such crimes because all that is available is circumstantial evidence or the hostile eyewitness testimony of some of the offenders. Therefore, the researcher must cross his or her fingers in hopes of discovering some reliable information and circumstantial evidence that he or she can use to support his research. Many of these crimes are incredibly difficult to establish since the facts aren't even with the investigating agency. Investigative organizations throughout the globe are working round-the-clock to contain the issue and identify a long-term fix.

## II. FINANCIAL CRIMES

A common definition of financial crime is that it involves the illegal conversion of another person's property for the individual's own use and advantage. Financial crime is defined as "any non-violent crime that generally results in violent crime that generally results in a financial loss" by the International Monetary Fund (2001). Financial crime in the UK is defined as "any offence involving fraud or dishonesty; misconduct in, or misuse of information relating to, a financial market; or handling the proceeds of crime" under the Financial Services and Markets Act 2000 (FSMA). Using the terms financial crime, white-collar crime, and fraud interchangeably, Pickett, K. S., & Pickett, J. M. (2002) define financial crime as "the use of deception for illegal gain, normally involving breach of trust, and some concealment of the true nature of the activities."

## III. CORPORATE CRIMINAL LIABILITY

Criminal culpability for an organization may be broken down into categories of various activities that the organization does. To begin with, we can talk about insider trading by various organizations, which refers to the way that corporations operate so that if they have any positive information that will become public in the next two days, they will buy the company's shares ahead of time to make a sizeable profit after disclosing the information as the share prices will increase. Similar to how they would sell their shares at greater prices if there was bad news to come out, members and management would do the same to prevent losses in the days ahead. Even when this is not the case, fraudulent or shell corporations may sometimes artificially inflate market buzz for a product or company in order to increase the share price. Early on, members of the management team make such large initial investments that the share values soar, which then triggers a wave of additional small investor participation in the firm. It enables the management and members to pocket huge earnings, and sometimes even to close the business and flee. This is a straightforward example of financial crime falling under corporate criminal liability with significant consequences. There are numerous cases registered in India, and numerous companies are still listed with the Security Exchange Bureau of India (SEBI) and other stock exchanges throughout the country. The second is the window dressing of an organization's financial accounts, which likewise creates a false impression for investors who are exploring significant investment prospects in the company but end up losing money. Misappropriation of assets, non-performing assets (NPA), phony loans, cybercrimes, and numerous other things are examples of another. We'll go through these things in more detail.

The economy and the general public are impacted by a variety of business and financial crimes. With the development of businesses and big corporate houses that have led to various changes in the nation's legal system, anything from counterfeit goods to food adulteration is seen as a corporate crime. This evolved throughout time, and the 20th century saw several advancements. The most well-known instance of a business entity's strict responsibility is the Bhopal Gas Tragedy from 1984, which rocked the country. The most recent example is the Vishakapatnam gas leak from 2020, which caused a few fatalities and rendered a number of people unfit.

## IV. CRIMINAL JUSTICE SYSTEM IN INDIA.

Since we followed a similar system prior to independence, the Indian legal system was modeled after the British system because it was deemed preferable to do so. Ironically, it hasn't altered and developed as much as it ought to have. This system outlines the rules and regulations of the organizations and identifies any differences. Regarding the aforementioned, the judiciary and legislative branches are independent of the executive branch. As it is said to hate the crime, not the criminal, and if he changes, accept him in society, the Indian penal system places a strong emphasis on the rehabilitation of offenders.

The four components of the Indian criminal justice system are as follows:

1. Constitution of India
2. The Indian Penal Code
3. The code of criminal procedure of India
4. The Indian Evidence Act.

The Union and the State both have a portion of the legislative authority. The divide is such that distinct lists include various elements, with the state and union mentioned on the concurrent list provided by the Indian Constitution. The Indian Penal Code of 1860 and the Criminal Procedure Code of 1973, which address every kind of crime that occurs on Indian Territory and provide various perspectives and working methods for the same, may be studied separately on two distinct levels. They also provided a number of recommendations for the different organizations collaborating with the system. Every person in India must abide by these laws, which are applicable across the country.

## V. THEORIES TO STUDY FINANCIAL CRIMES

(A social learning theory) Differential Association Theory It talks about a person who associates with others who engage in illegal acts like theft, fraud, or corruption, which teaches him criminal behavior. When closely examined, we may see that a person's associations might result in him picking up illegal actions from his acquaintances and engaging in them himself. The person working might learn in a group or on an individual basis.

- **Self-control hypothesis:** According to this view, a person who commits a crime does so because they have poor self-esteem. If the fundamental cause of all crimes is examined closely, it can be concluded that poor self-esteem is what drives them, from little offenses to severe ones. As a consequence, when the zenith peers encounter their counterparts face-to-face, they are similarly met with low regard. Their poor self-esteem drives them to strive for the intended outcome.

- **Social Bonding theory:** The four components of this idea are participation, belief, attachment, and commitment. The only factors that might motivate someone to strive toward committing fraud are these. The top managerial class is the culprit in the aforementioned research.

- **Exchange theory:** This theory looks at how new entrants might choose the incorrect path and commit a serious crime. The reasons presented include resistance, distinction, attraction, integration, and competitiveness.

- **Control balance theory:** This hypothesis estimates an offender's likelihood of committing a financial crime. This hypothesis looks for and establishes several people's participation in committing a financial crime using the fundamental ratios.

Hansen (2009) researched these in relation to financial crimes and the impact of the same on company losses in terms of money, business, and economics. According to him, financial crimes are committed by predators against any person. Another view examines the role played by politics in financial crimes and claims that political pressure was the main driver of the fraud and crimes. These are referred to as Politically Exposed Persons (PEP'S). They are the ones who cooperate with political parties and provide the majority of their funding (Gilligan, G., 2009). Another hypothesis, referred to as the Utility theory, discusses the role of the criminal and prospective criminal in committing crimes. These individuals' primary motivations are to commit crimes and acquire as much money as they can. (Cain, M., 2009)

## VI. ORGANIZATIONAL THEORIES OF FINANCIAL CRIMES.

Financial crimes may be committed by one person since they are organized in nature, while others need a group of criminals. In line with previous research, Chang, J.J. et al. (2005) discovered that understanding criminal behavior from a viewpoint alone is insufficient; other elements must also be considered. They support the person by maintaining the person's will to succeed and the vulnerable laws. In his research, he also created a model for the criminal judgment framework with a number of choices. The model places a strong emphasis on the scale of the organization, the dynamic between management and staff, the company's mission, and the legal framework.

## VII. CONCLUSION

A thorough analysis of the legal system was conducted, looking at the many acts and laws that control financial crimes in order to comprehend India's present financial crime situation. Data from NCRB was used to study the current situation of financial crimes in India and how these can be improved. In addition to the acts and provisions, the investigating agencies that are working round-the-clock to combat the problem of financial crimes were also learned about. Getting more specific, the data also sheds light on the open positions in the police force, which causes a holdup in the investigation. It also raises the issue of whether the police force is an exception if corruption permeates the whole system. However, we must make every effort, and action must be taken; for the government, it is also crucial to fill the open positions in the police department. According to the most recent news reports, there are around 37% of high court judge posts unfilled in 25 of the country's high courts. If this is the case, it is clear that vacant positions will put additional burden on the remaining judges, delaying the completion of the case.

## REFERENCES

1. Rohilla, Anju. (2018). State-wise Assessment of Banking Frauds in India: A Study of Trends in 21st Century. MUDRA : Journal of Finance and Accounting. 4. 10.17492/mudra.v4i02.11450.

2. Rafay, Abdul. (2021). Handbook of Research on Theory and Practice of Financial Crimes. 10.4018/978-1-7998-5567-5.

3. Patil, Jatin. (2022). Cyber Laws in India: An Overview. 04. 1391-1411

4. Sarıgül, Haşmet. (2012). Money Laundering and Abuse of the Financial System.

5. Nair, Vipin& Sahni, Sanjeev. (2020). The need for Financial Criminology in India over changing Global Financial Scenario.

6. Rathinaraj, Daniel. (2010). Financial Fraud, Cyber Scams and India - A Small Survey of Popular Recent Cases. SSRN Electronic Journal. 10.2139/ssrn.1605165.

7. Van Driel, H. (2018). Financial fraud, scandals, and regulation: A conceptual framework and literature review. Business History, 61(8), 1259–1299.

8. Toner, G.A. (2009), "New ways of thinking about old crimes: prosecuting corruption and organized criminal groups engaged in labour-management racketeering", Journal of Financial Crime, Vol. 16 No. 1, pp. 41-59.

9. Teichmann, F. M. J. (2019). Insider trading – unsolved issues. Journal of Financial Crime, 26(3), 786–792. https://doi.org/10.1108/jfc-08-2018-0079

**10.** Stack, G. (2015). Shell companies, Latvian-type correspondent banking, money laundering and illicit financial flows from Russia and the former Soviet Union. Journal of Money Laundering Control, 18(4), 496–512. jmlc-06-2014-0020.