

ETHICS BY BANKERS IN BUSINESS LAW

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ABSTRACT

A branch of the law known as "business law" is concerned with protecting freedoms and rights, upholding the law, settling disputes, and creating guidelines for business concerns in their interactions with both the government and citizens. Business law includes contract laws, partnership laws, agency laws, bankruptcy laws, etc. Every state establishes a unique set of rules and laws for corporate entities. Similar to this, it is the duty of business concerns to be aware of the laws and rules that apply to them. When it comes to protecting the rights of a company's shareholders, business law is essential. Conflicts involving minority shareholders, constitutional provisions, arbitration settlements, and other matters can all be properly handled by a business law expert. Any business must adhere to ethical standards to maintain customer confidence. A successful financial community is built on the pillars of transparency, fairness, and competent decision-making, and the public's trust in banking is no exception. The global financial crisis showed how corrosive unethical behaviour is to the banking sector. The persistence of unethical behaviour in the financial industry, including as fraud and index manipulation, points to the necessity of establishing a banking culture that complies with the highest norms of ethical and professional conduct. Cater Mcnamara said, "Business Ethics is generally coming to know what is right or wrong in the workplace and doing what is right. This is in regard to effects of products/ services and in relationship with the stakeholders". Banking is not an ordinary business rather; it is a special kind of business that runs on a fiduciary relationship with the citizens of a country. Ethical principles followed by banks are much higher in order compared to other businesses. With the passing of time, the industry has reached new and greater heights. In spite of this, trust, confidence, and integrity continue to be the foundation of business. However, numerous significant fraud cases in the reputable public and private sectors have recently surfaced in Indian banking sector banks like Punjab National Bank and ICICI Bank, there are particular problems and ethical issues that credit rating manipulation, client deception, and information and security mis-spelling are characteristics. The paper tries to understand the history of ethical principles in banking and how they have evolved and what are the principles in the present time.

KEYWORDS: *ethical banking, ethics by bankers, business law, banking law*

RESEARCH OBJECTIVES

1. To study different principles in banking ethics that are to be followed by bankers.
2. To study the history and need for ethical principles in the present era.

ETHICAL BANKING

Ethical banking is a broad phrase that refers to banks that operate under a set of values and ideals that govern how they engage with their customers, their communities, and the world in general. The moral principles that direct a person's actions or the way they carry out their daily activities are known as their ethics. Setting guidelines for ethically good action is referred to as ethics in the business world¹. Since "morally" and "legally" are not always synonymous, corporate ethics strengthen the law. While each bank must choose the concepts that will form the basis of its operation, the majority share a few characteristics, such as involvement in the community, customer screening, and uniformity in internal and external ethics. Ethical banking may help communities

grow into resilient, prosperous entities. The truth is that following a strict set of standards may be challenging to implement from a purely practical sense. Banks perform investment and saving functions by acting as a unifier and mediator in society between parties offering and demanding funds. As a component of the market, banks naturally and primarily target profitability and productivity principles, which necessitates that they operate in strict compliance with specific professional and organizational ethics principles².

PRINCIPLES OF BANKING ETHICS³

1. Integrity- It simply means deciding to think and act in a way that is consistent with your principles rather than seeking out another person's personal advantage. When conducting business, it upholds the integrity concept with all of its counterparts.
2. Neutrality- It is deviating from the fundamental tenet that "Respect towards human underpins the achievement," and it refrains from

¹ Bihari, S.C. (2010). Financial Literacy - The Key to Financial Deepening. Bank Quest – The Journal of Indian Institute of Banking and Finance, 81(4), 28-35.

² KA Goyal, V Joshi (2012). A study of social and ethical issues in banking industry. International Journal of Economics and Research 2 (5), 49-57

³ KA Goyal, V Joshi (2012). A study of social and ethical issues in banking industry. International Journal of Economics and Research 2 (5), 49-57

biased behaviours. It also does not discriminate on the basis of ethnicity, religion, wealth and social standing, or gender when providing its services.

3. Reliability- In order to serve their clients to the best of their abilities as timely and fully rendered services from themselves, the bank must present their customers with information that is clear, understandable, and accurate within the framework of mutual trust.
4. Transparency- The bank must provide information to consumers in a way that is clear, understandable, and honest regarding the advantages, risks, and rights they have in relation to the goods and services offered to them; and that effectively evaluates its customers before providing any product, service, or advise offering their goods and services in accordance with their client's needs, prestige, and financial standing.
5. Information Abuse- The bank must take all the required precautions and activities to guard against the misuse of insider

information on both themselves and their clients.

SCAMS IN INDIA

Indian history has seen many frauds and scams relating to the banking system. Some infamous one was:

(a) Harshad Mehta -Scam 1992

With his connections to bank officials, Harshad persuaded the banks to move the money directly into his personal bank account in exchange for a higher rate of interest. The banks also created false financial records in his name. He obtained large sums of money by defrauding banks and utilising it to buy a few particular shares, which led to an increase in the price of those shares. This would entice additional investors to purchase those particular shares, driving up the price of those shares quickly. Then, to reap the substantial profit, he would covertly sell his shares. He scammed the State Bank of India for Rs.5 billion by creating SGL receipts.

(b) Nirav Modi- Scam 2018

Corrupt PNB officers have granted unauthorized Letters of Undertaking (LoUs) to Nirav Modi and his business. These LoUs have been granted without any sanctioned credit score restriction and

without any security in the form of property. Even worse, the PNB's Core Banking System (CBS), which is utilized for report-preserving functions, was not expanded to accept these types of transactions. The SWIFT system, a troubling messaging network utilized by banks and financial institutions internationally to accurately, quickly, and correctly send and acquire economic records, was exploited by corrupt officials to carry out all these illegal LoU-related activities. Since Nirav Modi and his businesses are in far-off places, Indian financial institution branches concur with their Indian counterparts, and they directly granted loans (purchaser's credit) to them without carefully examining their credit score. Furthermore, despite the fact that these letters of understanding (LoUs) were granted for payments relating to imports, Nirav Modi and his associates utilized them to pay off past loans and for other purposes. For over seven years, these were allowed to flourish uncontrolled in the shadows thanks to Mehul Choksi, Nirav Modi, and their cronies working along with dishonest PNB officers.

(c) Satyam Computers- Scam 2009

Inflating the percentage price for a few years, Satyam obligations affirmed earnings that never happened. Then Raju and his friends bought stocks. The debt also included \$3 million in "salary payments" to people who never existed. These actually went to the board of directors. The forged documents were used to obtain low-cost loans in the USA, which Raju took and never put into the accounts. A large portion of the money was wasted on Hyderabad real estate deals. Whistle-blowers began to gain attention after the asset market crashed in 2008 and the money disappeared. A failed attempt through Raju to use Satyam to buy a property organization brought about the scandal being exposed.

BANKS' RELATIONSHIP WITH THEIR CUSTOMERS⁴

Customer's Information: Bank should give correct, regular, complete, and timely data in compliance with the boundaries stipulated by way of laws at each degree and in all elements in their provider members of the family, with regard to all forms of services and products offered to their customers. Every person should be

⁴ Desai P.s. (2015). Ethical Issues in Indian Financial Service Industry. International Journal

of Marketing & Financial Management. Vol 3, Issue 01, pp 30-39

treated the same and each one should be provided with relevant information,

Customer Secrets: Banks are under an obligation to keep the information provided by the customers confidential. No person other than the authorized person or customer itself should get any kind of information or document.

Service Quality- Customer needs must be satisfied by improving the quality of services provided to them and meeting the demands and expectations of customers by ensuring technological infrastructure and qualified human resources. An effective and efficient server must be set up for the customer's grievances and the system must be capable of responding to all kinds of questions.

ANALYSIS

Ethics can be defined as a criterion to measure norms, rules, and cultural values on the grounds of being good or bad; being right or wrong. A successful financial community is built on the pillars of transparency, fairness, and competent decision-making, and the public's trust in banking is no exception. Ethical banking should be practiced in every bank. The very relationship between the bank and its customers is based on trust and for that ethics play a very vital role. Customers

would never trust banks that are involved in unethical practices like fraud, index manipulation, providing insider information, and leaking confidential information of customers for their personal benefits. The economy would see a downfall if customers stop investing their money due to unethical practices of banks and bankers. Above the paper mentions different scams which took place in India and the fact should be taken into consideration, that in all the scams there were some unethical bankers who helped the culprit in getting away with the money. Like, in the Harshad Mehta scam, insider information was given to him by the stock marketers whenever he wants to deal with shares, he made the fake BRs which were not checked properly because they trusted the man and he bribed some of the officers. Similarly, in the Nirav Modi scam, a corrupt PNB officer was the one who issued unauthorised LoUs and helped him to get away with the cash in a foreign land. And the list goes on. In all the major scams, the ethics of bankers come into the picture. They are the ones who are well versed in the transactions and knowledge of the system, they could easily find out if any malpractices happen in the system, only if they wanted to. One cause of such scams was the Indian banking system and banks that were targeted most

frequently due to the lack of adhering to processes/rules, poor corporate governance, and weak supervision. Though it was not completely banker's fault, there were loopholes in the law too, which people misused for their personal gains. Being ethical doesn't mean putting yourself down or putting yourself last, it simply means being fair with others and to the people who are trusting you with the money that they have earned by putting sweat and tears. Bankers should be transparent with every word and document they present to their customers. They should aware the customers about their duties and rights. Now, the laws have evolved, after the Satyam scam, the previous Companies Act was repealed completely and a new Companies act was enforced. Similarly, after the scam of 1992, the powers of RBI were strengthened and a separate audio system and a new committee to overlook SEBI were formed.

CONCLUSION

Fraudsters have the possibility to perpetrate crimes because of legal loopholes. Even while changing and updating legislation to reflect societal changes is not the sole solution, such frauds show how frequently agencies fail to take their obligations seriously and arbitrarily abuse their authority. Although it can be difficult, these activities can always be corrected provided there is strict oversight that complies with all legal requirements. There is accountability where there is responsibility, and that would guarantee that all precautions are being taken to prevent any such abnormalities. Ethical banking and principles must be followed by the bankers and committees must be set up to check on their activities on a weekly or monthly basis, in order to avoid big scams