Centre for Economic Policy Research

Working Paper on

Black money

“Black money” term doesn’t define color of any currency instead; it defines the status of the currency. The term accommodates all the currency which is subject to taxation and accountability but still untaxed and unaccounted. It could be generated through legitimate as well illegitimate activities. The money or assets generated in this black economy, are neither reported at the time of their generation nor disclosed at the time of their possession. These funds are either retained within the country or are stashed abroad by securing them most probably in tax havens.

Certain measures have been taken against this shadow economy both at national level and international level. In order to combat this issue in our country, various committees were formed to estimate the level of black money retained in our economy and black money stashed abroad. Although, it was difficult to estimate the exact level of black economy prevailing side by side, some of the estimates tried to picture exact version. These were:

- **K. N. Wanchoo committee:** Mr. Kailash Nath Wanchoo headed a committee constituted by the Central Government (1971), which estimated the income for which tax was evaded in the period 1961-62 to 1968-69. The committee adopted Kaldor’s approach after some modifications and estimated black income at Rs. 700 crores and Rs. 1000 crores for the year 1961-62 and 1965-66. By projecting these estimates further to the year 1968-69, on the basis of percentage increase in national income from 1961-62 to 1968-69, the tax evaded income accrued to Rs. 1800 crores.
- **Dr. D. K. Ragnekar’s estimate:** Dr. D. K. Ragnekar, who was a member of wanchoo committee was not satisfihoes with the figures laid by wanchoo committee for black money. According to him, the tax evaded income for the period 1961-62 and 1965-66 accrued to the figures Rs. 1150 crores and Rs. 2350 crores. The projections for further years i.e., 1968-69 & 1969-70 were estimated at Rs. 2833 crores & Rs. 3080 crores respectively.
- **O. P. Chopra estimate:** Renowned economist O.P. Chopra prepared a series of estimates of unaccounted income for the period 1960-61 to 1976-77. His study estimated the untaxed income to have increased from Rs. 916 crores in 1960-61 (6.5% of GNP at factor cost), to Rs. 8098 crores in 1976-77 (11.4% of GNP). Wide divergence has been noted in the estimates of Wanchoo committee’s estimates and Chopra’s estimates after the year 1973-74. This could be attributed to the reason that in Chopra’s estimates an increasing trend has been seen in the ratio of unaccounted income to assessable non-salary income, whereas the

Wanchoo Committee assumed this ratio to have remained constant.

- **NIPFP Study on Black Economy in India:** NIPFP which stands for "The National Institute of Public Finance and Policy" conducted a study in 1985 under the guidance of Dr. S. Acharya based on the minimum estimate approach. The study accounted Rs. 9,958 to Rs. 11,870 crores of black money i.e., 15-18% of GDP in the year 1975-76; Rs. 20,362 to Rs. 23,678 crores i.e., 18-21% of GDP in the year 1980-81 & Rs. 31,584 to Rs. 36,784 crores i.e., 19-21% of GDP in the year 1983-84.
- The World Bank Development Research Group on Poverty and Inequality and Europe and Central Asia Region Human Development Economics Unit estimated the "shadow economies" of 162 countries in July 2010 for the period 1999 to 2007. According to its report, the weighted average size of the shadow economies in these 162 countries accrued to 31% of official GDP in 2007 compared to 34% in 1999. India alone stood at 20.7% and 23.2% in 2007 & 1999 respectively, when compared with the world average size.
- According to economist Arun Kumar, the relative size of black economy in India, showed a rise from 21% of GDP in 1980 to 62% of GDP in 2012. In order to estimate this size, he used the fiscal approach under which the size of the black economy in each of the sector is estimated and then summed up for the entire economy.
- Apart from these estimates, various other estimates were provided by different other committees to picture the issue of black money in figures and suggest recommendations accordingly, namely; M C Joshi committee formed in June 2011, drafted its report on Black Money in January 2012; A task force was formed by BJP in 2011 to study the phenomenon of black money stashed abroad in tax havens; Special Investigation Team (SIT), was appointed by the Supreme Court of India in 2014. It is headed by retired Supreme Court Judge Justice M B Shah and Justice Arijit Pasayat.

ESTIMATES ON BLACK MONEY STASHED ABROAD:

Several estimates have also been provided by different organizations for the black money that has been stashed abroad in order to escape the taxation regime that prevails in India. Some of these were:

- According to a spokesperson of Swiss National Bank, the total liabilities of Swiss Banks towards Indians were 1.945 Billion Swiss Francs i.e., about Rs. 9,295 crores by the end of year 2010. Although this is a huge amount, but the positive side to this lies to the fact that the share of Indians in the total bank deposits of citizens of all countries in Swiss banks has reduced from 0.29 per cent in 2006 to 0.13 per cent in 2010.
- According to the information provided by the Department of Industrial Policy and Promotion (DIPP), the two topmost sources of the cumulative inflows from April 2000 to March 2011 were Mauritius with 41.80% & Singapore with 9.17%. The ray of doubt among these economies stem from the fact that these two economies being so small in size, cannot support this amount of FDIs.
- According to the estimates of "The Drivers and Dynamic of Illicit Financial Flows from India" published in November 2010, a total amount of US$ 213.2 billion has been shifted out of India through illicit outflows in the period 1948 to 2008. Later on, when adjusted for the rate of return on external assets (which was previously not included) the gross transfer of illicit assets by residents of India accrued to an amount of US$ 462 billion as of by the end of December 2008. It has been further stated by the report, that if the size of India's underground economy is estimated at 50 per cent of the GDP (US$ 640 billion based on a GDP of US$ 1.28 trillion in 2008), roughly 72.2 per cent of the illicit assets comprising the underground economy is held abroad.

- Based on the reports of Swiss Banks, the following table shows the funds held with them in the stated periods:

YEARS	FUNDS HELD (in millions)
1995	CHF 723
2006	CHF 6500
2014	CHF 1,776

2015	CHF 1,206.71
2016	CHF 675.75

- Since 2006, this has accorded a downward trend except for the year 2011 & 2013 where it rose by 12% & 42% respectively.
- By the end of 2016, it decreased to one-tenth of what it was a decade before.
- In just one year period i.e., 2015 to 2016, it accorded a decrease in the amount by 45%.

VARIOUS ORGANISATIONS & ACTS ENFORCED IN INDIA TO CURB BLACK MONEY:

Since independence, various organizations and acts has been enforced in India to curb the situation of black money in the country. Both UPA & NDA governments has either enforced new policies in their era of governance or amended the previous ones for their efficient implementation. Some of the major ones are as follows:

- 1956: Enforcement Directorate- it administers both PMLA & FEMA.
- 1963: Central Board of Direct taxes- a statutory body formed under the Central Board of Revenue Act, 1963.
- 1973: Foreign Exchange Regulation Act- later, it was amended in 1999 and named as Foreign Exchange Management Act (FEMA).
- 1985: Central Economic Intelligence Bureau
- 1985: Central Bureau of Narcotics
- Central Board of Excise & Customs
- 1988: The Benami Transactions Act- later it was amended in 2016 and renamed as the Benami Transactions Amended Act.
- 2002: The Prevention of Money Laundering Act (PMLA) - later, it was amended in 2009 once and then again through the finance act 2015.
- 2004: Financial Intelligence Unit- India (FIU-IND).
- 2009: The National Investigation Agency.
- 2015: The Black Money and Imposition of Tax Act.

STRATEGIES EVOLVED UNDER UPA GOVERNANCE:

In last 10 years of UPA governance i.e., prior to NDA's reign starting from 2014, several initiatives were taken both at national & international level. These initiatives included several international conventions, new laws or policies & amendment of some previous laws. As per the paper published by Ministry of Finance "White Paper on Black Money" following are some of the major initiatives taken by UPA government in its era:

Steps initiated at international level:

- In November 2010, at the Seoul Summit of G20, India initiated under UPA governance to conclude "Tax Information Exchange Agreement" (TIEA). Although, both DTAA & TIEA are effective tax information exchange mechanisms, but since negotiation of a DTAA takes time, India took the plea that a country cannot refuse signing a TIEA if it has been requested by other countries. This position was further accepted, making it a global consensus to conclude TIEA if requested by other countries instead of insisting on a DTAA.
- India being the vice chair of the Peer Review Group of the Global Forum resulted in changing of laws & administrative procedures of many jurisdictions in order to conform them to international standards.
- It was in March 2009, when Switzerland announced that it is willing to adopt the international standards on administrative assistance in tax matters and will withdrew its reservations about sharing banking information and sharing of information in the absence of domestic interest. Soon after that i.e., on 30th August, 2010, India signed a protocol for amending the DTAA, which came into force on 7th November, 2011. According to tht updated DTAA, Switzerland is obliged to provide banking and other information in specific cases that relate to the period starting from 1st April, 2011, with limited retrospective application.
- India completed negotiation of 62 DTAAs/TIEAs and have signed 33 DTAAs/TIEAs. By the end of 2012, India was having a large DTAA (82) & TIEA (6) treaty network.
- India signed the "Multilateral Convention on Mutual Administrative Assistance in Tax Matters" on 26th January, 2012 & ratified it on 2nd February, 2012. This convention was

initially developed by the Council of Europe and the OECD countries, but later on it amended its protocol and opened it for other countries as well. By signing it in 2012, India became the first country outside the OECD & European countries to join it.

- India meeting the strict evaluation norms of Financial Action Task Force (FATF), was granted full-fledged membership in June 2010, and later on was appointed as co-chair of Asia Pacific Group in July 2010.
- Apart from these, India also signed the following conventions:
  - United Nations Convention Against Corruption: India became the 152nd country to ratify it on 9th May, 2011, although signed it on 9th December, 2005.
  - United Nations Convention against Transnational Organized Crime: India ratified it on 5th May, 2011, although it was signed on 12th December, 2002.
  - International Convention for the Suppression of the Financing of Terrorism: India signed it on 8th September, 2000 and ratifies it on 22nd April, 2003.

Steps initiated at national level:

- Various significant changes were proposed in the Income Tax Act via Finance Bill 2012, but the major one was:
  - General Anti Avoidance Rules (GAAR) was introduced with effect from 1st april, 2014, in order to check aggressive tax planning with the use of sophisticated structures.
  - It facilitated the launch of prosecution against tax evasion cases & steps were taken to conduct speedy trials and on time conclusions. It also facilitated provisions for constitution of special courts, summons trials & appointment of public prosecutors.
- Although PMLA was introduced in 2002, but to strengthen the provisions of PMLA, amendments were carried out by UPA government in 2009. Its base was widened to include more offences pertaining to insider trading & market manipulation as well as smuggling of antiques, terrorism funding, human trafficking other than prostitution etc. It was further proposed for amendment in 2011 in order to introduce the concept of corresponding law to link provisions of Indian law with the laws of foreign countries and to provide for transfer of the proceeds of the foreign predicate offence in any manner in India.

- Following are some of the bills that were proposed under UPA governance reign:
    - The Lokpal and the Lokayukta Bill, 2011
    - The Public Procurement Bill, 2012
    - Citizens' Grievances Redressal Bill, 2011
    - The Prevention of Bribery of Foreign Public Officials of Public International Organizations Bill, 2011
    - Judicial Standards and Accountability Bill, 2010
    - The Whistle Blowers Protection Bill, 2010
    - The Narcotic Drugs & Psychotropic Substance (Amendment) Bill, 2011
    - The Benami Transaction (Prohibition) Bill, 2011
- Apart from these bills, a committee headed by the chairman of CBDT was constituted on 27th May, 2011 for examining ways to strengthen laws to curb the generation of black money in the country.

STRATEGIES EVOLVED UNDER MODI GOVERNMENT (NDA) REIGN:

Since 2014 when NDA government came into power, their major motive has remained to curb black money prevailing in our economy. They have criticized UPA government for not performing the needed steps for curbing the black evil. They have undertaken various initiatives since the starting of Modi's era to bring down the level of black money both flowing in our country and the one stashed abroad. Some of the major ones are:

- Special Investigation Team (SIT)- In its first meeting of Union Cabinet on May 2014, our honorable Prime Minister Narender Modi announced the introduction of Special Investigating team to implement the decision of the Supreme Court to curb the issue of black money. Since then various recommendations has been provided by SIT, namely:
    - It recommended that obtaining information on "beneficial ownership" of Participatory notes is of crucial importance as they enter into the circle of huge doubt, as it is the easy way for illegal money to find its way back into India. According to SIT, the value of P-Note investments as of end February 2015 was at Rs. 2.72 lakh crores, among which Cayman Islands alone accounts for Rs. 85,000 crore.

- Apart from this it has also advocated generation of black money in education sector, through donations to religious institutions & charities and through cricket betting.
- In July, 2016 it also recommended ban on cash transactions above limit of Rs. 3 lakhs and restricting cash holdings with individuals and companies at Rs. 15 lakhs.

- The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015: It has been introduced in the parliament on 20th March, 2015 to provide separate taxation on any undisclosed income in relation to foreign income and assets. It entails a flat tax rate of 30% on foreign income or assets. It also includes penalty equal to three times the amount of tax payable thereon i.e., 90% on undisclosed income or assets in addition to the 30% tax payable. The punishment for willful attempt to evade this tax will be imprisonment for 3-10 years. Despite this, some relaxations are given under specific conditions.

  Apart from this, the bill also proposes to amend Prevention of Money Laundering Act (PMLA), 2002 to include offense of tax evasion under the proposed legislation as a scheduled offense under PMLA.
- Multi Agency Group: A Multi Agency Group has been set up to undertake probe against Indians whose name have been figured out in the Panama Paper leaks who had banks accounts in foreign nations. This group is comprised of officials of CBDT, RBI, FIU-IND & ED. Based on a report, it had already submitted six reports to SIT regarding the case of Panama Papers.
- NDA government has taken steps to enhance global efforts of combating tax evasion further by joining Multilateral Competent Authority Agreement in respect of Automatic Exchange of Information (AEOI) & tried having information sharing arrangement with USA under its Foreign Account Tax Compliance Act (FATCA). Switzerland which ratified automatic exchange of financial account information with India, will be implementing it from 2018 & the first set of data will be exchanged in 2019.
- Steps have been taken proactively by Modi government to further enhance the exchange of tax related information with foreign governments under DTAAs/TIEAs/Multilateral Conventions. It has also worked in renegotiating DTAAs with other countries, in order to meet it to international standards. It has also signed DTAAs & TIEAs with new other

countries in order to expand India's treaty network. For example, India reworked DTAA with Mauritius and got the right to tax capital gains arising in Mauritius from sale of shares in Indian companies on or after 1st April, 2017.

- Enacted "the Benami Transactions (Prohibition) Amendment Act, 2016 to enable confiscation of Benami property and prosecution of Benamidar and the beneficial owner by amending the previous "the Benami Transactions Act", 1988, which suffered from these loopholes. This act came into effect from 1st November, 2016 and according to a report of Ministry of Finance, since its effect it has already issued notices to 140 cases involving properties of value of about Rs. 200 crores. Out of these, provisional attachment has already been effected in 124 cases.
- Income Tax Department initiated the information technology based "Project Insight" for strengthening the non-intrusive, information driven approach for improving tax compliance in order to achieve effective utilization of information available to them.
- The Income Declaration Scheme, 2016: This scheme was like a onetime amnesty like compliance window under which persons can declare their undisclosed income and pay tax amounting to its 45%. Based on an announcement done by the finance minister on 1st October, 2016, the CBDT has received total disclosures of Rs. 65,250 crores under IDS (in form of cash & other assets). This led to a total tax revenue of Rs. 29,000 crores.
- Apart from IDS disclosures, finance ministry has also initiated 1,466 prosecutions between June 2014 and August 2016, after unearthing Rs. 50,000 crores of unpaid indirect taxes & Rs. 21,000 crores of undisclosed income.
- Goods and Services Tax: GST which has been implemented from 1st July, 2017, has made an attempt to plug the loopholes in Indirect taxes. In order to avail credit on the taxes already paid, customers have started demanding bills for every transaction. India has already exceeded the stated target of Rs. 91,000 crores for the first month. According to finance minister Arun Jaitley, taxes worth Rs. 92,283 crores were collected in the month of July from just 64.42% of the total taxpayer base.

HOW STRATEGIES EVOLVED POST 2014 BETTER THEN POLICIES ADOPTED PRIOR TO IT:

"Curbing black money" has always been the major focus of NDA government since it came into power in 2014, which puts it at a better place than the UPA government in regards to issue of black money. Following points lay down failure of some UPA policies when compared to policies of NDA initiated to minimize the black economy:

- UPA governance era is marked by a lot of scams and each scam points towards the unaccounted and untaxed money or assets. The prevalence of this large number of scams under its reign, itself marks UPA governments failure in curbing black economy. Some of the major scams that prevailed in UPA-1 & UPA-2 were 2G Spectrum Scam, Satyam Scam, Commonwealth Games Scam, Coal Scam, Chopper Scam, Telgi Scam, Insurance Scam, Adarsh Scam etc. These scams prevailed in wide range of Indian sectors, which implies that roots of black money are not limited to some specific sectors.
- It was on 4th July, 2011, when Supreme Court ordered the appointment of a Special Investigation Team (SIT) i.e., when UPA government was in power. Despite the orders of Supreme Court, UPA government delayed the formation of SIT. It was in May 2014, when Prime Minister Narender Modi announced the formation of SIT in its very first meeting of Union Cabinet. These delayed actions of UPA government put them again in the circles of doubt. NDA government not only formed SIT, instead delivered efficient results by the end of October 2014, when it revealed 627 names of people to Supreme Court who were having bank accounts in foreign countries.
- According to the information provided by the Department of Industrial Policy and Promotion (DIPP), Mauritius alone accrues to 41.80% in the cumulative inflows from April 2000 to March 2011. Although this measure accrues to the period of UPA governance, but no effective measures were taken during that period in negotiating with Mauritius. It was only under NDA government, when India renegotiated the DTAA with Mauritius to impose Capital Gains Tax if that capital is situated in India.
- Various laws were introduced in the parliament by the UPA government after 2010, when the issue of black money gained pace in our Indian economy. In order to gain trust of Indian citizens', although UPA government issued so many bills in this regard, but most of them

kept hanging for approval in either of the houses. This itself shows lack of relevant efforts on the part of UPA government to actually curb black money in the economy. Whereas, on the other hand, Modi government not only introduced initiatives and relevant bills, but also took efforts to fulfill the required demands of these bills within its 3 years of reign.

CRITICISM GAINED:

Despite a win over the policies initiated in UPA reign, Modi's initiative attracted a lot of criticism. Various reasons have justified these criticisms that has been raised against NDA government measures and the major ones that attracted most of the attention were:

- Demonetization which was the biggest move of NDA government, alone attracted a lot criticism from Indian citizens'. Following the announcement of ban on Rs. 500 & Rs. 1000 notes on 8th Nov, 2016 by PM Narender Modi, estimates landed on Rs. 3 trillion that will not return to the banking system. Furthermore, then attorney general Mukul Rohatgi while defending this move is Supreme Court, put that figure around Rs. 4-5 trillion.

  In contrast to what have been imagined, approximately 98.96% of invalidated notes of denomination Rs. 500 & Rs. 1000, returned back to banking system by the end of June, 2017 according to the annual report published by RBI. The estimated value of banned notes it received was Rs. 15.28 trillion compared to Rs. 15.44 trillion of invalidated notes that were in circulation as of 8th Nov, 2016. If it was a planned move of NDA government, then how come almost all black money find its way back to the banking system? This raise a huge doubt on the effectiveness of policies implemented by the present government.
- In mid-2015, NDA government came out with a scheme of voluntary disclosure of foreign assets. This scheme only attracted 638 declarations, amounting to Rs. 3,770 crores which was much less than the prescribed target of this amnesty scheme. In 2016, NDA government again introduced an amnesty scheme (IDS), which although performed far better than the previous scheme by attracting 64,275 declarations amounting to Rs. 65,250 crores but beside that gained criticism also. C. Rammanohar Reddy in his well-known book "Demonetisation & Black Money" has criticized the effectiveness of IDS policy by comparing it with the VDIS policy initiated in 1997. The disclosures under 1997 VDIS was Rs. 33,289 crores, which will at current prices amount to Rs. 82,550 crores. This

amount far exceeded the amount collected under IDS amnesty scheme. Moreover, the disclosure in 1997-98 under VDIS was equivalent to 1.56% of the year's GDP at current prices, whereas the total disclosure under both the schemes launched by Modi government (the Black Money & Imposition of Tax act 2015 & IDS 2016) were equivalent to 0.51% of GDP at current prices.

Beside these ongoing criticisms, NDA government is still doing a great job in curbing black money. All that is needed to learn from the past policy experiences and fill the current loopholes which is debarring these policies to reach their said targets.

SOME FAMOUS EXAMPLES OF COUNTRIES THAT EMERGED WORLWIDE IN CURBING BLACK MONEY:

The above stated points although proved some ray's success of policies adopted by NDA government over UPA government, but when a comparison is done among other countries fighting against this menace, there is a lot India needs to learn from them. The famous examples of countries that emerged worldwide in minimizing this evil situation of black economy are given below:

- **USA:** Under geo political pressures & coercive national measures undertaken by USA government, following steps were undertaken by USB the largest banking institution of Switzerland;
    - USB shut down 19,000 bank accounts of US citizens' that were undeclared to US internal Revenue service.
    - Apart from this, it also committed to provide name of 250 top persons among these account holders.
    - USB also committed to pay a fine of USD 780 million to US Authorities in order to compensate for the loss occurred due to defraud done against US Internal Revenue Service.
    - Furthermore, USB declared that it will stop offering private banking services to Americans who have not declared to the I.R.S.
- **PHILIPPINES:** Being a less powerful country, it was difficult on the part of Philippines to extract black money stashed in tax havens. But with its efforts, it repatriated bribe money

of its former president Ferdinand Marcos that accounted for $624 million, held in Swiss bank accounts.

- **PERU:** Peru is also a small and less powerful country. Despite this, it fought for its money stashed abroad and during the period 2001 to 2004 recovered $180 million stashed in tax havens by Vladimiro Montesinos.
- **NIGERIA:** In the same way, Nigeria also recovered USD 505 million during the period 2005 to 2006 of the Sani Abacha money frozen and forfeited by Swiss authorities.
- **FRANCE:** France, instead of adopting the measures adopted by USA, Peru, Nigeria etc. allowed people to make voluntary disclosures for the first time in its history, so that those who have stashed untaxed money in secret foreign accounts can quietly come clean. The special unit that was enforced by the authority to handle this issue was getting at least 25 phone calls per day. Although, the move initiated was small but it was a significant step in the campaign initiated to end banking secrecy and prevailing tax havens.

  GERMANY: In order to reveal names of persons involved in stashing black money abroad, German authorities officially bribed the Lichtenstein Bank Officials to get the secret names of Germans and others who had stashed away their black wealth in LGT bank of Lichtenstein. As a result, a lot of names appeared to the desk to German authorities & same can be accrued from the below stated statement. Following provided statement has been acquired from an article "India's Illegal Wealth Abroad is not just a Tax Issue" written by R. Vaidyanathan.

  - A report by Reuters published on 8th april, 2009 says, "a crackdown on tax havens that prompted Switzerland to loosen its banking secrecy is encouraging more and more Germans to come clean about foreign accounts they use to evade taxes. Berlin has waged a very public campaign to stamp out tax evasion since Klaus Zumwinkel, the then chief executive of Deutsche Post and one of Germany's top businessmen, was arrested in a major tax probe last February. Afterwards, the number of people coming clean with us ... rose by about 400 to 500 per cent."

Doesn't matter which methods were adopted by these above stated countries. What matters most is the fact, that all these countries were successful in competing with the tax havens and recovered most of the funds accrued to them but stashed away.

STILL A LONG WAY TO GO:

Looking at the figures of black money, one can easily say that it has shown a downward trend in past few years, but what matters most is what that figure says about the current situation. The figure of funds held in Swiss Bank accounts accrue to CHF 675.75 million for the year 2016, which itself shows a great need of relevant measures to curb down this figure. Effective policies either in the form of efficient DTAAs/TIEAs/Multilateral Conventions or efficient laws needs to be formulated at international level to address the huge amount of black money stashed in low tax jurisdictions. In order to eliminate this menace, our system needs not only efficient policies but a government who effectively implement these undertaken measures.

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