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Corruption And Black Money In India: Administrative Dilemma and Judicial Responses

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"Power tends to corrupt, and absolute power corrupts absolutely." According to him, corruptions is deficiency of reliability, favour assured benefits and remain unreliable with official duty and other's rights.

Introduction

The earlier Indian religious texts and codes of conduct, viz.,Shastras and Smiriti texts are full of references to the dynamics of bribery and corruption and suggesting various methods to the kings and rulers todeal with this phenomenon.Kautilya, Katyayana, Manu, Narada, Brahaspati and other sages, seers and Hindu law givers have mentioned about the phenomenon ofbribery and suggested techniques to have the king and people from corrupt officials and bribe seekers.

Kautilya argued in Arthashastra, "as it is impossible not to taste thehoney or the poison that is placed at the tip of one's tongue, so is itimpossible for government servants not to eat up at least a bit of the king's revenue"commenting on the modus operand of this class of people.

The later historical developments show that corruption did exist inthe Indian social and political system. However, under such systems,where all political and administrative powers bestowed in the kings and rulers,corruption was not all pervasive in the modern sense of the term. Thebuilding of the state offered to a small category of Officers theopportunities of corruption. These officers were the revenue collectors,administrators of justice and prosecutors etc.

Thus during Sultanate period 'Kotwals' exercised vastunrestricted power which they favored to misuse for their private benefits.They arrested people on the complaints of collectors in link with thecollection of revenue(Gamba, Immordino, & Piccolo, 2016).

The instances of corruption among the functionaries of the kingduring the Mughal period are contained in various historical documents. It is again, that among the

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functionaries, called as Mohatasabs, who werein charge of prosecutions under common law, and Kotwals, who wouldkeep people under confinement, that corruption thrived. According to R.F.Bilgrami, Mohatasabs would extort money from the shopkeepers (on false pretexts). It was during Shah Jahan's reign that one famous Kotwal was executed for corruption.

The phenomenon of corruption during British period may bediscussed in a little detail because British Raj was preceded byIndependence. The corruption during British may be divided into two phases. One phase is the corruption during the period when East IndiaCompany was at the helm of affairs. Another phase is when patterned CivilServices were organized under the Crown in India.

The year 1772 onwards, Warren Hastings and Lord Cornwallis tried to organise Civil Services in the modern sense. However, patternedCivil Services were organized under Crown from 1858 onwards whereCivil servants, who were professionally trained administrators,administered India. It is after 1858 that civil servants were distinguishedfrom other servants or employees of the Crown.

With the distinction of civil servants and other servants of theCrown, another phase of phenomenon of corruption starts. The civilservants were very well paid and they enjoyed special privileges, whichofficials at the other rungs of administration did not enjoy. Thus, those whoworked at other levels, particularly at lower levels, made good the loss bycorrupt means and methods. Corruption became rampant at the lower levelsof administration.

The brief appraisal of corruption in historical context provides an insight into the prevalence of corruption historically. In the next section,the problem of corruption and its extent in post-independence India wouldbe estimated.

Criminal entrepreneurship: A Political economy of corruption and organized

Crime in India:

India is the world's largest democracy. Unlike so many countries that gained their independence from colonial rule after the Second World War, India did not become a one-party state. Despite its continuing problems of widespread poverty, worsening ethnic divisions and administrativeinefficiency, India has valued democratic ideals

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and has maintained competitive elections. Indeed, scholars such as Amartya Sen, a recent winner of the Nobel Prize for Economics, have argued that democratic institutions have been essential for protecting the country's poor and for leading to improvements in educational opportunities.

But there is a dark side to the story. This is told by the Indian political scientist, R. B. Jain (1995) and in a detailed, pessimistic account by B. V. Kumar (1996). India is an example of a country where a high proportion of economic transactions are conducted with cash and do not flow through the banking system(R. B. Jain, 1995).

According to Kumar, "underground banking (havala) developed during the partition of India 1947 into two independent countries: a mainly Muslim state (Pakistan) and a mainly Hindu one (India). The underground networks established then have reportedly survived and become more sophisticated(Mas & Kumar, 2008)".

Underground banking.

"Underground banking is part of a series of problems of illegal behavior facing India. These include: the 'black' economy (transactions unreported for income tax purposes), evasions of regulations concerned the export of capital, organized crime, political corruption, rigging of stock markets, political contributions and other forms of manipulation by multinational corporations (Hindu et al., 2016)"

Kumar writes that movements of secret funds are needed in India to meet a number of objectives:

- Smuggling and related activities (evasion of exchange control regulations).
- Capital flight triggered by anticipated political, economic or cultural Uncertainties.
- Maintenance of slush funds generated by corrupt politicians and public Officials in major.
- To undertake securities transactions, insider trading, etc.
- Fraud/theft of real or financial assets kept hidden and out of reach of the Investigating authorities.
- Money laundering associated with illegal activities, like drug trafficking, Organized crime, gunrunning, etc.

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- Undercover activities of intelligence agencies, clandestine operations Including supporting terrorist outfits.
- Financial resources received covertly by various ethnic, resistance or Terrorist groups fighting internecine wars with governments of the day.
- Contributions toindividual politicians or political parties.

The underground banking system reportedly developed in the 1940s from networks connected with specific villages from which much of the population emigrated to Hong Kong, Britain, Canada and the United States. When India was partitioned millions of people were displaced. Hindus living in Pakistan often fled to India, while Muslims in India fled to Pakistan. Both groups found 'underground' ways to salvage their assets(Passas, 1999).

The groups, which facilitated this process of capital flight, were often émigrés from villages in Tamilnadu, Gujarat, the Punjab and Sind. Using the system of extended families, gang members were trained first as couriers and then for higher posts. From these beginnings, permanent organizations developed. Family loyalties, careful training, and recruitment of new members on the lines of the Italian Mafia have all served to ensure that couriers rarely reveal information to investigating authorities if they are arrested. Typically, a fee of 15-30 percent is demanded for the illegal transfer of money across international borders.

Apart from money, smuggling of gold and other valuables is common, especially because of Indian traditions of keeping wealth in the form of gold ornaments; a popular smuggling route is from Dubai, on the Persian Gulf, to India's west coast.

he lack of solutions to the problem of underground banking and smuggling

Kumar draws some depressing conclusions from his study of 'secret money' and underground banking in India. His pessimism is significant because India is one of a large number of countries where a high proportion of economic transactions are in gold and in other assets, which do not pass through a conventional, banking system. He writes:

> "Parallel banking was born because there was a need to be filled. Havala (underground banking) will cease to exist when smuggling, drug trafficking,

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tax evasion and black money cease to exist. This will never happen so long as the demand for secret money exists (A. Kumar, n.d.)

Legal and illegal methods used by multinational corporations to evade exchangecontrols and other regulations.

From the 1940s, the underground banking (i.e. smuggling) system described above reportedly helped British companies in capital flight operations following Indian independence. By the 1960s and 1970s, Kumar writes, multinational corporations used not only the established smuggling agencies but also a variety of other methods to exert political influence thereby to affect or to evade exchange control regulations. They were:

- Donations to political parties, including donations at the time of elections to individuals.
- Maintaining lobbies inside and outside of the legislature.
- Influencing domestic policies through the media.
- Bribing outright, illegal payments, fees, commission, pay-offs to local
- Politicians and government officials.
- Hospitality to bureaucrats and politicians.
- Evasion of local taxes.
- Under-invoicing and over-invoicing of import and export bills.

During an Indian parliamentary debate held in 1975, it was alleged that forty American companies employed 'liaison officers' to deal with Indian officials, to lobby, and to make political donations.

According to an assessment cited by Jain, “corrupt practices and illegal practices by corporations grew in the 1970s as a result of the ban on company donations to political parties introduced by the government of Indira Gandhi(R. B. Jain, 1995)”. This played hell with the system and also with business ethics and morality. Since the Right Wing opposition could no longer receive business donations on a legal basis,other methods of raising money were discovered. Licenses and permits were

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unabashedly hawked. Dubious foundations and organizations were created with a view to raising and soliciting funds. “Leading industrial houses, known for their impeccable business morality eventually buckled under in the race for survival. Although the ban on company donations was removed by Prime Minister Rajiv Gandhi, the damage done to political life ... with repeated allegations and counter-allegations of bribery and kickbacks (as in the Bofors affair) has been irreparable (Jain, 1995,162-3)”.

The Bofors Affair, which rocked Indian politics in, was a scandal involving alleged political donations made in exchange for a weapons contract involving the Bofors Company of Sweden.

Organized Crime

The rise of criminal organizations in India to the prohibition against the sale of liquor introduced after Independence in several Indian cities. This led as in the United States when there was a ban on alcohol after the First World War to the development of organized criminal groups in cities such as Mumbai, Madras and Delhi(Gamba et al., 2016)”. “The criminals not only manufactured and distributed the illegal alcohol; they also made illegal payments to politicians and members of law enforcement agencies to buy protection from arrest and prosecution(Lal, 1996)”.

A further cause of “organized crime was the prohibition after the Second World War on the import and export of gold, silver, diamonds and other commodities. This led not only to the smuggling operations which have been described but also to the growth of criminal groups to ensure the safe landing, transportation and payments for the contraband jewels, protection from arrest for retailers, and the liquidation of informers(V. Kumar, Skaperdas, & Garoupa, 2008)”. Kumar has alleged that one of the largest and well-known syndicates initially was based in Bombay and presently operating from Dubai. Its leader had an 'army' of dedicated killers who would not hesitate to liquidate any rivals. A long gang war between this leader and a rival led between August 1977 and June 1991 to 40 murders.

Legal Control of Black Money: Law and Policy

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The term of black money is in consonance with the definition used by the National Institute ofPublic Finance and Policy (NIPFP). In its 1985 report on Aspects of Black Economy, the NIPFP stated 'black income' as 'the aggregates of incomes which are taxable but not reported to the tax authorities(*White Paper, May 2012, Black Money, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi*, n.d.).Further, black incomes or unaccounted incomes are 'the extent to which estimates of national income andoutput are biased downwards because of deliberate, false reporting of incomes, output and transactionsfor reasons of tax evasion, flouting of other economic controls and relative motives'.

Black money is jeopardy to the society. "There are three main sources of black money iscrime, corruption and business. The criminal module of black money normallyincludes proceeds from a range of activities including racketeering, trafficking incounterfeit and contraband goods, forgery, securities fraud, embezzlement, sexualexploitation and prostitution, drug money, bank frauds and illegal trade in arms. Thecorrupt module of such money stems from bribery and theft by those holding public office such as by grant of business, bribes to alter land use or to regularizeunauthorized construction, leakages from government social spending programmes,speed money to circumvent or fast-track procedures, black marketing of price controlled services, etc. (Das & Law, 2019)".

Indian parliament for prevention of black moneybefore the advent of Prevention of money laundering act, 2002 (PMLA), the statutes that were framed to address the problem of money laundering are:

- The Income Tax Act, 1961
- Benami Transaction (Prohibition) Act
- Black Money and Imposition of Tax Act, 2015 (Undisclosed Foreign Income and Assets or the UFIA)
- Foreign Exchange Management Act
- Prevention of Money Laundering Act

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The Income Tax Act, 1961

Section 131: The powers under section 131 of IT Act are co-existent with that of a Civil Court trying a suit.Under Section 30 of CPC read with Rule 12, 14 & 15 of Order – XI, the powers of a court are: -

- Discovery and inspection - order XI
- Summoning and attendance of witness - order XVI
- Issue of commission to examine a witness - order XXVI (Rules 1 to 8)

Section 132: An officer of rank of Commissioner or above can only authorize Search. Some conditions required to be fulfilled before authorizing a search. Powers under section 132include power to seize books, documents, cash, jewellery; other valuables etc. and the same can beretained for a certain period of time(Government of India, 2012)".

Section 133A: Survey at business premises for inspecting books of accounts, tallying stock,verification of cash, etc.

Section 133B: Collection of information from taxpayers.

Section 133: Power to requisition information from third parties.

Section 136: Declares income tax proceedings as judicial proceedings in case of

- Section 193 of IPC – furnishing or fabricating false evidence;
- Section 196 of IPC – using evidence known to be false;
- Section 228 of IPC – intentional insult or interruption to public servant sitting in a judicial proceeding;
- Section 195 of Cr PC – taking cognizance of an offence of giving false evidence, fabrication ofevidence, abetment or criminal conspiracy to fabricate evidence (complaint to be made to Judicial Magistrate as Chapter XXVI of Cr PC is excluded).

Chapter XXI of the Income Tax Act, 1961: Provides for monetary penalties at different rates forvarious defaults such as concealment of income; failure to comply with statutory notices, file tax returns/sign statements, maintain / retain books of

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account or documents, deduct/collect taxes at source etc.Maximum penalty prescribed is 300% for the tax sought to be evaded.

Chapter XXII of the Income Tax Act, 1961: Provides for prosecutions against various offencessuch as willful evasion of tax; failure to furnish tax returns or produce accounts / documents, falsificationof accounts / false statement in affidavit; failure to deduct and deposit taxes; etc. The maximum sentenceis for 7 years rigorous imprisonment with fine.

Benami Transaction (Prohibition) Act

In the execution of the Income Tax Act it was found that many persons went into benami transactions, in the execution of the Income Tax Act it was found that many persons went into benami exchanges."In this case a'benami' purchase is a purchase in name of another person, who does not pay the consideration but merely lends his name, while the controlvests in another person who actually purchases the property and he is the beneficial owner(Government of India, 2012)". "The LawCommission was requested to examine the subject of benami transactions and its implications. To implement the recommendations of the 57thReport of the Law Commission, the Benami Transactions(Prohibition) Bill was introduced in Parliament, which became Benami Transactions (Prohibition) Actafter receiving assent of the President on 5th September 1988(*Report No. 057 (Benami transaction).pdf*, n.d.)".

Black Money and Imposition of Tax Act, 2015 (UFIA)

"This Act is known as the 'Black Money and Imposition of Tax Act, 2015 Undisclosed Foreign Income and Assets(UFIA)' became effective from July 1, 2015 with thestarting of the one-time compliance window (initially it was prescribed to be effectivefrom April 1, 2016)(Das & Law, 2019)". Black money in the form of unrevealed foreign income and assets comes under thepurview of this law. "The UFIA Act gives an opportunity to the black income holders toreveal black money and pay a tax within a compliance window time. After this time, black income holders will come under severe penal and prosecution measures prescribedunder the law(A. Kumar, 2012)".

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Foreign Exchange Management Act, 2002[1]

"Enforcement Directorate takes up investigations under Foreign Exchange management Act (FEMA) in specific cases relating to contraventionsin foreign exchange transactions, generally by persons resident in India. Unauthorized holding of funds outside India by any person resident in India, is a contravention of section 4 of FEMA(Das & Law, 2019)". "Upon coming to theconclusion of such a charge being established in adjudication proceedings under FEMA, in terms ofsection 13(1) of the Act, a suitable penalty can be imposed. Further, besides the imposition of penalty, interms of section 13(2) of FEMA, the adjudicating authority can order confiscation of the amounts lyingabroad and direct the bringing back into India of such foreign exchange holdings(Lalit et al., 2018)". FEMA is a civil law andhence no criminal prosecution can be launched(Government of India, 2012).

Prevention of Money Laundering Act, 2002[2]

Prevention of Money Laundering Act comes under the criminal law, whichexecuted since 1.7.2005. Under the scheme of the Act, money laundering linked to the predicate scheduled offences is liable for punishment. There are 156 offences in28 different statutes, which are Scheduled Offences under PMLA. "Section 3 of this Act defines the offenceof money laundering. Once the agency concerned with a predicate scheduled offence registers a case,Enforcement Directorate takes up investigations under PMLA to ascertain the proceeds of crime generatedfrom the predicate offence booked by the Law Enforcement Agency(Government of India, 2012)". In case, a prima-facie case ofgeneration of proceeds of crime and laundering thereof is made out, PMLA provides for seizure (section17) and attachment of laundered properties (section 5). The action of seizure and attachment is requiredto be adjudged by the Adjudicating Authority under PMLA (section 8). "The persons, both natural and legalentities, who are accused of the offence of money laundering linked to the scheduled offence can beprosecuted in Special Courts as per section 44 of PMLA(A. Kumar, 2016)". "Section 4 of this Act provides for rigorousimprisonment of minimum three years, which can extend up to seven years and a fine of up to Rs.5 lakhson conviction by the Court of persons who have been accused of the offence of

1Inputs from Directorate of Enforcement
2Inputs from Directorate of Enforcement

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money laundering. Theconviction can extend up to 10 years if the offence of money laundering is linked to narcotic trafficking.The property attached under PMLA can be confiscated by the Adjudicating Authority (section 8) after theconviction by the Court of the accused in the trial for scheduled offence(Varma, 2011)". "In terms of PMLA, the tainted proceeds, if found parked overseas, can also be restituted through Mutual Legal Assistance after thecollection of such evidence through the process of Letter of Requests with the foreign administration.Chapter IX of PMLA sets out the procedure for reciprocal arrangements with Contracting States forseizure, attachment and confiscation of assets found lying overseas. India has signed Mutual LegalAssistance Treaty (MLAT) with 26 countries and by virtue of the provisions of PMLA, Government of Indiais fully armed with legal measures to get the tainted assets repatriated back to the country on conviction of persons accused of money laundering. Till the conviction, the assets traced overseas can be requested to be seized or frozen by foreign jurisdictions(Government of India, 2012)".

Prevention of Corruption Act & United Nations Convention Against

Corruption (UNCAC)

"The Prevention of Corruption Act, 1988 (No.49 of 1988) has been enacted to consolidate andamend the law relating to the prevention of corruption and for matters connected therewith. It came intoforce with effect from 9th September 1988. The maximum punishment under the P C Act is 7 yearsrigorous imprisonment with fine. This is less than maximum sentence of 10 years for serious fiscal crimessuch as narcotics and laundering proceeds of crime(Lalit et al., 2018)".

"India has ratified the United Nations Convention against Transnational Organized Crime and itsthree protocols and the United Nations Convention against Corruption(Glynn, Kobrin, & Naim, 1997)". "The Convention enumerates indetail the measures to prevent corruption, including the application of prevention policies and practices,the establishment of bodies for that purpose, the application of codes of conduct for public servants, andpublic procurement(Glynn et al., 1997)". "It recommends promoting transparency and accountability in the management ofpublic finances and in the private sector, with tougher accounting and auditing standards. Measures toprevent 'money-laundering' are also provided for, together with measures to secure the independence ofthe judiciary(Alldridge, 2008)". Public reporting and

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participation of society are encouraged as preventive measures. TheConventionrecommends the State Parties to adopt such legislative and other measures as may benecessary to establish a whole series of criminal offences. These are:

- Corruption of national or foreign public officials and officials of public international organizations;
- Embezzlement, misappropriation or other diversion by a public official of any public or privateproperty;
- Trading in Abuse of functions and illicit enrichment

In the private sector, “the Convention calls for the creation of offences of embezzlement andcorruption. There are other offences relating to ‘laundering’ the proceeds of crime, handling stolen property,obstructing the administration of justice, and participating in and attempting embezzlement or corruption (Chanda, 2017)”.Following ratification of UNCAC, “the Prevention of Bribery of Foreign Public Officials and Officials ofPublic International Organizations Bill, 2011 was introduced in the LokSabha in the private sector, the Convention calls for the creation of offences of embezzlement andcorruption(Gundlach & Paldam, 2009)”. “There are other offences relating to ‘laundering’ the proceeds of crime, handling stolen property,obstructing the administration of justice, and participating in and attempting embezzlement or corruption Following ratification of UNCAC, the Prevention of Bribery of Foreign Public Officials and Officials ofPublic International Organizations Bill, 2011 was introduced in the LokSabha on March 25, 2011. The Billempowers the Central Government to enter into agreements with other countries (contracting states) forenforcing this law and for exchange of investigative information on March 25, 2011(Government of India, 2012 p.25)”. The Billempowers the Central Government to enter into agreements with other countries (contracting states) forenforcing this law and for exchange of investigative information.In the private sector, the Convention calls for the creation of offences of embezzlement andcorruption. There are other offences relating to ‘laundering’ the proceeds of crime, handling stolen property,obstructing the administration of justice, and participating in and attempting embezzlement or corruption.Following ratification of UNCAC, the Prevention of Bribery of Foreign Public Officials and Officials ofPublic International Organizations Bill, 2011 was introduced in the LokSabha on March 25, 2011. The Billempowers the

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Central Government to enter into agreements with other countries (contracting states) forenforcing this law and for exchange of investigative information(Khanna, Renu John, 2015).

Customs & Narcotic Drugs and Psychotropic Substances (NDPS) laws[3]

The penal provisions under the Customs Act1962 are Section 112 (fine for improper importationof goods), Section 114 (fine for attempt to export goods improperly), Section 114A (penalty for shortlevy or non levy of duty) under which punishmentcorrespondent to the value of the offended goods can beenacted. Under Section 114AA (fine for use of false and incorrect material), punishmentcorrespondent to fivetimes of the value of the offending goods may be enacted.

Besides imposing penalty any person who has contravened any provision of the Customs Act,1962, can be prosecuted for committing such offence under the provisions of Section 132 and Section 135 of the Act. Under Section 132 of the Act the offender is punishable with imprisonment for a term, which may extend to two years or with fine or with both. Under Section 135 of the Act the offender is punishable with imprisonment for a term, which may extend to seven years.

Similarly, under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, stringentpenal provisions exist under Section 21 to Section 32 of the Act for imprisonment varying between sixmonths and twenty years, depending on the quantity of the illegal imports and seriousness of offence. Inaddition to this a fine may be imposed on the accused, which may vary between Rs.10000 and Rs.2, 00,000.In the case of subsequent conviction death sentence can also be awarded under Section 31A of the Act.

The offences under the Customs Act, 1962 and the NDPS Act 1985 are “Predicate Offence”under the PML Act, 2002. Hence the tainted proceeds acquired by contravening the provisions of theCustoms Act, 1962 and the NDPS Act, 1985, can be attached and confiscated under the PML Act, 2002.The existing provisions relating to confiscation and punishments are considered adequate, but the problemis found to lie

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3Inputs from Directorate of Revenue Intelligence

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in having proper administrative framework, implementation and cooperation among variousagencies(Government of India, 2012 p.25).

Institutional Design, Right to Information and Anti-Corruption in India:

Conclusion, Critique, and Limits

The institutional design of political systems to the excellence of governance run by a government, or perhaps more precisely the quality of governance that is run by the overall system of governing(Ramachandran, 2002). That is, we need to extend questions of institutional design beyond the formal limits of governments also to consider how to design the interface between state and society in ways that simplify the quality of governance, defined broadly, as well as to reduce the corrupt exercises. Indeed, somewhat paradoxically, some attempts to enhance efficiency and democracy have had the unintended consequence of creating more opportunities for corruption.

Right to Information and Anti-Corruption in India

A nation's progress varies on some factors, which is free flow of information within the government and to the citizenry one of them. The right to information is a unique human right and is a strong weapon in the hands of the general public who can use it to keep a check on the organization that govern them. Information is power. 'Sunlight is the best disinfectant' and in the modern democratic world an informed citizenry forms the heart. Armed with information the citizens are skillful of participating in the process of government decision making and policy interpretation, thereby adhering to the true meaning of a democracy (Mendel, 2003)". It is important to note that the United Nation General Assembly (UNGA) in one of its early resolution 59 (1) in 1946 state that "Freedom of information is a fundamental human right and the touchstone of all the freedoms to which the UN is consecrated.

The United States of America implemented the Freedom of Information Act (FOIA) in 1966, the federal government agencies started to provide the information under this Act. "Strengthened after the resignation of President Richard M. Nixon in 1974, FOIA turn out to be the model for dozens of statutes implemented by U.S. state governments. FOI Act also turns out to be a model for other countries, such as Canada, Australia, and New Zealand all of which implemented alike laws in 1982.

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By 1990, 15 other countries mainly wealthy advanced democracies in Europe or the Commonwealth had similar statutes(Roberts, 2006)".

After few years later, however, enthusiasm for FOIA like laws exploded (Banisar, 2006)”. Some of the other European country as the United Kingdom, Germany, and Japan finally implemented similar law. Many countries such as South Africa, Mexico, and states in Central and Eastern Europe implemented freedom of information laws as a way of expressing a new commitment to democratic governance (Roberts, 2010)”. Some governments also implemented freedom of information laws to control corruption, often acting on advice from international organizations such as the World Bank or Transparency International.

By 2010, more than 70 nations had national laws comparable to the United States FOI Act. Even China had implemented regulations establishing a right to government held information. Most of the countries that have implemented laws over the last two decades differ in important ways from the United States and other early adopters. On the whole, they are less well-off, less politically stable, have weaker administrative and legal systems, and are more prone to corruption An important question only now being answered is how well FOI Act-style laws will work under these more difficult conditions.

India is one of the most important recent adopters of FOI Act style legislation. India's Parliament has been approved as the Right to Information Act in May 2005 and went into effect in October 2005 (Roberts, 2010). The RTI Act gives Indian citizens a right to get information held by public authorities like the United States FOI Act. However, the RTI Act is broader in scope. While the FIO Act applies only to U.S national government, the RTI Act applies to all of India’s state and local governments as well.

India, is a largest democratic country in the world, faces challenges in economic and political development unknown to the well-off nations that first implemented FOI Act-style laws. Its per capita gross domestic product is roughly one-twentieth that of the United States. “Two-thirds of its 1.2 billion people still live in rural areas, although the country is urbanizing rapidly. Forty percent of the population is illiterate, and many belong to oppressed social groups (Worthy, 2010)”. There is

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recurrent sectional and political violence (Nussbaum, 2009). Government programs to promote social and economic development are often undermined by mismanagement and systemic corruption (Langseth, 2006). The Indian bureaucracy, whose fundamental features were founded during the era of British colonial rule, is very powerful, and shares the British bureaucracy's affinity for furtiveness (Mungui-Pippidi, 2013).

Use of the RTI Act

RTI Act was produced in 2009 at two large-scale assessments. One was completed by the private consultancy PricewaterhouseCoopers (PwC) for the Indian government's Department of Personnel and Training. Department of personnel and Training was the leading organization within the central government for implementation of RTI Act, took financial help from the United Kingdom's Department for International Development (A. K. Jain, 2001). Second assessment was undertaken with the help of civil society organizations, which is called the RTI Assessment and Analysis Group (RAAG). Both studies trusted on surveys or interviews of thousands of Indian officials and citizens, and both reached broadly similar assumptions about the state of the RTI Act.

Most of the requests have reached directly to offices of state and local government through online portal, and are often filed with the aim of redressing grievances about the failure to provide public services or complete public works. The kind of complaints is open, reflecting the fact that the Indian state continues to have a vast role in provision of services. For example, citizens have used the RTI Act to prod authorities to provide rationed food to the poor, pay wages and pensions, deliver scholarships and school uniforms, complete roads and housing projects, correct bank statements, restore electricity service, and take disciplinary action against delinquent teacher(Diwan, Kotwal, & Nayak, 2009; Roberts, 2010).

Through RTI applications expose corruption in public services in so many cases. The Orissa State Information Commission provides the illustration of two nongovernmental organizations that used the RTI Act to expose that government official and businessmen had stolen 4 million kilograms of rice intended for distribution to the poor. The two organizations organized public protests to press home their demand for information, braved harassment and threats, and eventually

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restored the supply of rice (Kaushik, 2012). This is far from an isolated case. Many advocacy groups have integrated RTI Act into their campaigns for improved delivery of services to the poor (Centre for Good Governance, 2007). A group of MazdoorKisan Shakti Sangathan did hard work for the society and became famous for adding Rajasthan's state RTI Act, implemented in 2000, into its campaigns for the rural poor (Roberts, 2010).

Problems of Administrative Capacity

The main reason to bring RTI law was to improve administrative system to promote betterment of the country. Many of the complaints filed under RTI Act related to delays especially in settling service conditions, etc. Some are intentional delays to promote corruption while others are problems in procedural practice. According to RAAG survey, one-third of Public Information Officer's positions are recruited in rural areas and acknowledged they did not want the task because they did not get any benefit but might be pose the personal fine in cases of nonconformity (Peters, 2010). Most urban Public Information Officers merely denied answering the question. Most of the cases found Public Information Officers duties are given to junior staff, whose lack of experience makes it difficult to gather and reveal the information. Turnover among Public Information Officers also weakens their talent to learn on the job (PricewaterhouseCoopers, 2009).Based upon the information generated, the Government should change the procedures, which stand in the way of responsive administration, e.g. privatizing ticket reservation in railways can remove delays and intentional corruption.

Capacity building at the frontline level has been "particularly weak," according to the Commissioners Committee (Centre for Good Governance, 2007). The PricewaterhouseCoopers study found that only half of Public Information Officers had received training about the RTI Act (PricewaterhouseCoopers, 2009). RAAG's survey of urban and rural Public Information Officers found that only 40 percent had been trained, while half of rural Public Information Officers admitted that they did not even have a copy of the law, But the RAAG survey also shows that a significant proportion of government officials recognize the need for further training (Sudhansu, 2009).

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There are other administrative difficulties. Some offices, particularly at lower levels of government, lack the equipment needed to respond properly to requests, such as computers, photocopiers, or even typewriters. And compliance is widely known to be undermining by the "primitive" state of records administration in many authorities(Information, 2008; PricewaterhouseCoopers, 2009).

But many studies regard these administrative problems as symptoms of a much larger difficulty, the absence of top-level leadership and planning. As the Commissioners' Committee observes, there is “a lack of seriousness and commitment among departments and public authorities in general toward implementing this Act an abject lack of whole-of-the-organization thinking (Diwan et al., 2009). The need for a more forceful and systemic approach to implementation is also a key theme in PricewaterhouseCoopers recommendations (Schneider, 2009). PRIA suggests that in key areas of implementation, central and state governments “pay lip service to transparency and accountability in government (International, 2008).

Good governance and Right to Information

Governance is the method in which authority, control and power of government is implemented in organizing a socio-economic resources to address the issues of public interest (A. K. Jain, 2001). It is the skill of governing, connected with the exercise of authority within specific jurisdiction, and is implanted in the make-up of authority. Good governance is characterised by, among other things, expected, open and educated policy-making. It can be safeguarded by sound, responsive and competent administration, respect to basic human rights and values, strengthened democratic, institutional as well as structural framework to certify liability and limpidity. Government, after all, is a encounter with reliance, a assurance of the people for the people, a social agreement for the highest decent, and the collective integrity of the society. It is not the achievement of willful politicians or handmaiden of bureaucrats, or the property of the corrupt hands that manipulate minority at majority's cost; people must have interest in the government, for people have an interest in their future. Future is the place where all of us will live after the resurrection (Goel, 2007).

The trial of good governance lies in the objectives destination of a government, in its strategies and plans, in the manner of their implementation, in the results

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accomplished and above all, in the general perception of the people about the quality of performance of its various agencies, their attitudes and behaviour towards the public, their seriousness, honesty, and guarantees towards public duties. It is also important to see that there is no unnecessary grouping of intensity. It means developing a bond of mutual relationships between people and administration through sharing of Information (Matter, 2015).

The characteristics of good governance include core values of rule of law, fairness, equity, participation, transparency, responsiveness, consensus, economy, efficiency and effectiveness, and above all impeachable accountability and rule of law. As people are Sovereign and all the operations in Government are designed for people in a democracy, responsiveness to people is the hallmark of democratic governance. Corruption in public institutions has adversely affected good governance. Human beings have weaknesses; and it can be argued that no system can be free of man-made vices; yet many countries have shown successful transition from poor governance to good governance. Singapore is one such example in India's vicinity. With strong dedicated leadership, the country has covered a long journey to attain Corruption Perception Index of 9.4 with fifth rank among 133 countries globally (Sudhansu, 2009).

Good governance and Right to Information are complimentary and the success of one depends upon the other. There are large numbers of problems in the Indian administration, which goes un-noticed, and the administration rather than changing continues in its grooves. Right to Information Act, 2005 would make the civil servants alert to provide the information to public challenges and as a bye product would make administration responsive and transparent which mean good governance. The cherished aim of all Government, whatever its form or level, have always been the service of the people and governance of the people to their entire satisfaction. Good government is the bedrock of our stability (Sudhansu, 2009). There is increasing emphasis on development with participatory democracy meaning thereby that needs and aspirations receive adequate attention of those who finally decide and act for the welfare and all round development of the people.

We are wedded to the concept of welfare state, which has led to tremendous increase in the number and varieties of governmental activities. The governmental

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administration today is called upon to manage the entire affairs of the socio-economic life of the people. The enormous expansion of public service has led to the expansion of bureaucracy. This has also resulted in the multiplication of the administrative processes where by administrative powers and discretions are vested at different levels of the executive. It cannot be denied that where there are powers and discretion, there is always the possibility of their abuse in the form of maladministration and corruption. Despite its dangers, we cannot eliminate discretion from administration (Krishan, 2006).What is therefore, necessary is to devise adequate methods of control over the exercise of discretion so that the chances of maladministration and corruption arising out of its misuse are considerably reduced.

The Right to Information law of 2005 signals a radical shift in our governance culture and permanently impacts all agencies of state. The effective implementation of this law depends on three fundamental shifts:

- From the prevailing culture of secrecy to a new culture of openness;
- From personalized despotism to authority coupled with accountability; and
- From unilateral decision-making to participative governance.

Obviously one single law cannot change everything. But this fine legislation is an important beginning to change. Its effective application depends largely on the institutions created, early traditions and practices, attendant changes in laws and procedures, and adequate participation of people and the public servants.

4.5 Conclusion

The former President of the U.S.A., Abraham Lincoln, expressed about democracy that "it is of the people, by the people, for the people". Democracy in India has been, most probably, up to the level of "by the people". By pioneering the RTI Act, the range of democracy extended up to "of the people". Introduction of the RTI Act in India supportsthe opinion of Sir Crips, a renowned philosopher that "democracy is a type of government in which every citizen has the equal right and freedom to express its opinion and deliver its thought in a fearless manner". RTI Act in our Country is at an infant stage.The Act seems to be a unique weapon to check corruption. We should wait for some timeto reap the desired result.

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Black money does not limit itself to the geopolitical boundaries. It transcends borders and has become a global problem. The countries across the world have started a concerted global effort, and as a part of the global effort against black money, India has played a proactive role in pointing out deficiencies in the assessment of various countries by the Peer Review Group of the Global Forum. Government is also playing an active role in ensuring that these countries remove the deficiencies to bring more transparency.

In this paper discussed the different laws and acts with reference tocorruption and black money in India. The sections discussed are adoptedmethodology and thematic analysis. The research methodologyassumed secondarycase study analyses for the analysis of different laws and acts with reference tocorruption and black money in India.The thematic analysis section briefly discussed about legal controlof corruption in India, corruption laws in India, The Benami Transactions(Prohibition) Act, 1988, India and the United Nations Convention against Corruption2003 (UNCAC), Right to information Act. Furthermore, Initiatives by government todisclose black money are discussed on the basis of Global crusade against blackmoney and Comprehensive bill to bring black money from abroad. Finally,effectiveness of Laws and Acts in India are analyzed and observed issues arerepresented.

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