

Indian Black Money Abroad
In Secret Banks and Tax Havens

Second Report

Of

The Task Force on the steps to be taken by India

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BHARATIYA JANATA PARTY

I. The First Interim Report

The first Interim Report of the Task Force appointed by the Bharatiya Janata Party was released to the public on 17-04-2009. Afterward different world governments, particularly those in the West, have increasingly begun targeting tax havens and intensely began pursuing black money. The US, and France particularly began a huge campaign against the evil of black money. The estimates black money lodged in tax havens by global financial institutions like the International Monetary Fund reached as high as \$18 trillion. The instability in the global financial order itself was traced to the evil money. So the issue has now acquired a totally different dimension.

In the first Interim Report, the Task Force had suggested broad national and global strategy for dealing with the menace of black money out of the country. The substance of the recommendations of the Task Force in the First Interim Report is summarized here:

Global Strategy:

- Creating a powerful public opinion and broad national consensus on the issue. Those who do not support the move should be seen as supporters of black economy.
- India must become a very active player in the G-20 efforts against secret banking and tax havens.
- India must urge the German government to provide the details of the Indian names from the LGT bank's secret records. The BJP, if voted to power, must

send a special emissary to Germany, which is willing to give the details of Indian names in the LGT bank's secret records.

- India must strive for a coordinated global and multilateral effort, which is the only solution to undo the regime of banking secrecy.
- India should work with the West to get the OECD rules on internationally agreed tax standards and disclosures
- India must appoint a special ambassador with adequate knowledge of tax havens and secret banking issues to work with the G-20 specifically for framing India-friendly rules.

National Strategy:

- Collection of travel information about persons visiting Switzerland and other tax havens. This should start with cabinet ministers and other high-profile political personalities
- Monitoring tax havens that have high transaction frequency with India
- India to become a full-fledged member of the Financial Action Task Force
- Use of financial intelligence sharing for security purposes
- Legislative support: Just as the Obama Administration is planning specific anti-tax haven laws, India should also target tax havens and secret destinations
- Government should constitute a high level Task Force with representatives from Finance Ministry, National Intelligence Agencies, Ministry of Law, RBI, SEBI, Economic Intelligence Units, Central Vigilance Commission, CBI and other experts to collect and process the information and start legal action wherever feasible
- The history of the illicit wealth holders should be brought out

When this issue came up before last general elections to Parliament, the initial reaction of some of the leaders in the ruling establishment was outright denial of the issue. They even questioned the existence of such money. But when the issue deepened with the progress of the campaign for the general elections and it became an important election issue with the BJP-led National Democratic Alliance and other opposition parties taking up the issue in a big way, the Ruling Congress-led UPA Alliance was also forced to admit that huge Indian black money had been stashed away abroad and the Chairman of the United Progressive Alliance Smt Gandhi committed in her address to her party workers meeting at Mangalore on April 27, 2009 that the UPA, if elected, would work to bring the black monies illegally stashed away by Indians abroad. The Prime Minister Dr Man Mohan Singh also came out with similar undertaking to the people of India that the monies illegally stashed away abroad would be brought back.

II. Now, it is a national commitment by all; and yet...

Thus almost the entire political spectrum without exception – from the ruling UPA to the opposition NDA and all other opposition parties – has committed to the people of India to bring back the black money illegally stashed away abroad by Indians. So it is no more an exclusive issue of one party or another. The Task Force regards that this is a commitment by the political system as a whole to the people of India. The Task Force is of the view that only an unwavering national commitment and will can unravel this riddle of huge amount of Indian black money lodged abroad.

The media has begun highlighting and pursuing the issue of black money stashed by Indians abroad as never before. With the stench of 2G spectrum scam and Commonwealth Games scam dominating of the national scene, the wealth stashed abroad is being increasingly linked to bribery and kickbacks. Added to these are the un-pursued and unresolved instances of Indian wealth stashed away abroad like the Hasan Ali case, Quattrocchi affair and the Lichtenstein Bank matter. The perceived inaction of the United Progressive Government on the twin and linked issues of corruption and the money stashed away abroad compelled well-meaning citizens to alert the highest judiciary with public interest litigations to compel the government to act on the issues. This has put the political class under moral and legal pressure. The public opinion is rising, like it did in late 1980s against corruption as well as Indian wealth illegally secreted away abroad.

Despite the media, judiciary, opposition parties and the public opinion getting increasingly committed to unravel the evil of illegal wealth of Indians abroad, the commitment of the Indian government led by the UPA is concerned seems to be only on paper as explained in some detail in this report. This is a matter of great concern because the Indian government appears to be the only exception to the decisive and determined governments in different parts of the world to pursue their national wealth illicitly stashed abroad. And before that unfortunate chapter is opened, it is necessary to survey the developments at the global level, including the steps that different nations are taking to unearth their black monies buried in secrecy in tax havens and non-transparent banks. Also the estimates of the untaxed and unsupervised black money is no admitted to be unbelievably large and larger than the earlier estimates forcing the governments in the Western part of the world seriously concerned about the volume and the quality of the challenge it poses.

III. Recent and ongoing global developments

First let us look at the volume of the untaxed black money that is estimated to circulate in and dominate the global financial markets unquestioned and unsupervised. These monies, which have no declared or known owners, are laundered into the official financial markets of the world through the intervention of tax havens, which are countries that levy no tax or levy what is an apology for tax, so as to attract capital to their countries. These tax havens are largely tiny tots in the global geography and demography but they hold the rest of the world to ransom, as explained in detailed later. These are currently called “Secretive Jurisdictions”. Now, let us see the latest estimate of the volume of the black money that traverses through the financial system of the world.

1. IMF estimates global black money – excluding Switzerland, China, Taiwan and Oil Exporting economies -- at \$18 trillion; that still an underestimate, says IMF!

This estimate of responsible financial bodies of the world has shocked the world. The extent of black and unsupervised financial economy in the world is now believed to be almost a third of the global GDP. The study reports that there may be as much as \$18 trillion of foreign dollars parked in small international financial centers, which does not include Switzerland. This does not exhaust the world economies, particularly those economies, which generate lots of export and cash surplus. Leading, cash-rich economies such as China, Taiwan and many of the oil-exporting countries do not participate in the IMF’s survey.

Gian Maria Milesi-Ferretti, an economist for the IMF in Washington, said statistical information on Luxembourg, one of the largest offshore financial centers in Europe, illustrated the extent of the problem. He said: *“Luxembourg is one of the few offshore centers that disclose detailed statistics on assets and liabilities held in the financial sector, which makes it invaluable to understand cross-border money flows.”*

The latest available IMF figures show portfolio assets held by foreigners in Luxembourg to be worth \$1.5 trillion at the end of 2008. But looking at statistics provided by the Luxembourg Government on portfolio investment liabilities for the country – the mirror image of the asset information held by the IMF – there is a big discrepancy. The investment liabilities in Luxembourg were \$2.5 trillion – \$1 trillion (€726bn) more than the assets reported.

Milesi-Ferretti said: *“This is a huge difference, almost 40%, and is unlikely to be entirely accounted for by the fact that some countries do not report their portfolio investments or their destination to the fund.”*

Richard Murphy, the well-known Economist and accountant and founder of Tax Justice Network, commented:

“I admit I can’t resist the temptation to say that some of us have been saying this for a long time. The Tax Justice Network wrote on this in 2005, suggesting there were £11.5 trillion of assets offshore. Time and again this has been attacked by organizations that should have known better and by academics with a right wing axe to grind. But now, like so much else I and others have argued, it is being

validated. And the issue itself, once dismissed as inconsequential is now being considered seriously.

The IMF's \$18 trillion number dramatically exceeds previous studies, and even it acknowledges that it probably underestimates the amount of money floating around in tax havens."

Ref: <http://www.financialtaskforce.org/2010/03/15/imf-trillions-of-undeclared-funds-offshore/>

Author: EJ Fagan--is a communications intern at Global Financial Integrity and [Wealth Bulletin](#), on the recently released IMF study: [Cross-Border Investment in Small International Financial Centers \(via Richard Murphy\)\]](#)

This money, besides being tax evaded, is entirely unsupervised. It does not need to pontificate on the evil effect of this kind of untaxed, unmonitored and uncontrolled money, to the global financial system. The Western world, which was winking at their rich indulging in this costly luxury for decades, was rudely shaken and woke up to this evil money when the global financial system has been fatally hit to near death, from which it is struggling to recover even now. It is the shock that this evil money had administered to the global financial system that has made the governments in the West to realize the damage that untaxed and unsupervised money can inflict on them and on the world. This has led to a powerful campaign against tax havens and secret banking.

2. Global campaign against Tax Havens:

US officials have tried to crack down on this off-shore tax abuse at least since 1961, when President Kennedy asked Congress for legislation to drive these Tax

havens “out of existence”. [Users of Tax Havens beaten by Political Gale-- New York Times 26th Feb 1961]. The US Government as well its Congress are most concerned about these tax havens due to the severe economic crisis faced by the country and also due to pressure from sections of economists etc to “clean up” the global financial system. There are also concerns regarding the financing of terror groups by some of the tainted money from tax havens. How seriously countries like the US have taken up the issue of under-the-ground economy, which undermines the over-the-ground economy, can be judged by how they are preparing to tackle and tracking this evil money

The detailed inputs on tax havens have been provided by Internal Revenue Service [IRS] of United States Department of Treasury, in a paper [2008] on “abusive Offshore Tax Avoidance schemes –Talking points”.

[\[http://www.irs.gov/businesses/small/article/0,,id=106568,00.html\]](http://www.irs.gov/businesses/small/article/0,,id=106568,00.html)

We quote from that paper:

Quote

These are foreign jurisdictions that offer financial secrecy laws in an effort to attract investment from outside their borders. These jurisdictions are commonly referred to as “tax havens”, because in addition to the financial secrecy they provide, they impose little or no tax on income from sources outside these jurisdictions.

It is difficult to quantify the amount of assets being held offshore or the rate at which the industry is growing. But it is estimated that some USD 5 trillion in assets is held “offshore “in tax havens. One authority estimate that the annual revenue loss to the USA at a minimum of USD 70 billion.

Tax haven service providers and their clients know their actions are veiled from tax authorities by banking and commercial secrecy laws and by lack of tax treaties or tax information exchange agreements. They create paper entities to disguise the real parties to the transactions, and many are willing to create false documents to disguise the real nature of transactions.

At least forty countries aggressively market themselves as tax havens. Some have gone so far as to offer asylum or immunity to criminals who invest sufficient funds. They permit the formation of companies without any proof of identity perhaps even by remote

computer connections. Generally though such extremes are found in emerging nations where the stability and security of the financial, legal, political systems is questionable

The largest concentrations of assets are attracted to the stable secure environments of the established tax havens –those that have existed a number of years and enjoy the diplomatic protection of former colonial powers.

Unquote

These tax havens are estimated to number more than 70 but as the IRS discussion reveals that around forty of them aggressively market themselves as tax havens. The popular one is Switzerland, besides Luxemburg, Lichtenstein, Channel Islands, and Bahamas etc.

The US President Barrack Hussein Obama is concerned about it, the German Chancellor Angelina Merkel is furious about it and the French President Sarkozy wants to regulate it. They are off shore financial centers where the ill-gotten wealth of tax evaders of many countries is hoarded. But surprisingly the leaders of one of the most affected country, namely India, are not making the least noises about them and doing virtually nothing about them. These Secretive Jurisdictions are now in the headlines news since developed economies like USA, Germany, France etc wants them to return the ill gotten wealth from their citizens. This rising noise and the consequently rising public opinion and political anger against the Secretive Jurisdictions in different countries have led the government and secret banks of Switzerland, the most popular secretive jurisdiction, increasingly frightened and this fear has helped the angry and indignant countries to recover their lost wealth as the Swiss Government and the Swiss secret banks have tended to respond to the demands made on them to share information about the tax evaders.

While powerful countries like the USA have used their geo-political power to arm-twist the Swiss banks to part with the information and recover their lost wealth and even coerce them and extract penalties for abetting in the evasion of tax by their citizens, the less powerful ones have sought and aroused empathetic public opinion to force the Swiss banks to part with the information about the wealth illegitimately stashed away by their corrupt rulers and recover the same, as explained now.

IV. Chasing black money – the success stories of other countries:

In the last few years many countries in Europe as well as USA have taken several steps that included geo-political coercion, financial penalties and bribes, to secure information and get back their illegal funds from abroad. The USA forced and got names of more than US 4000 clients of UBS bank from Switzerland by sheer geo-political force, after persuasion first, threat next and related legal actions later. Similar is the story of France and Germany. The latter even 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. The stories of how different countries go about their agenda to track and take back their wealth illicitly secreted abroad are an interesting exposition for the Indian public.

1. The US coerced and threatened the UBS to cough out the details

Under pressure from federal authorities, the Swiss bank UBS is closing the hidden offshore accounts of its well-heeled American clients, potentially allowing their secrets to spill into the open. In a step that would have once been unthinkable in the rarefied world of Swiss banking, UBS has agreed to shut about 19,000 accounts

that prosecutors suspect have gone undeclared to the US Internal Revenue Service. UBS has agreed to transfer the assets to other banks or other divisions within UBS, or would mail checks directly to the account holders, creating paper trails for federal prosecutors who are examining whether UBS clients used such accounts to evade taxes.

This has forced the clients to face two stark choices, with no third: they can cash their cheques, and thereby own up their secret monies and alert the authorities, or not cash them, effectively losing their money. If they can transfer the money to new banks, a procedure which, in the case of foreign banks, requires depositors of more than \$10,000 to report the new account to the Treasury Department, the consequence is the same as in the first case.

Under sheer geo-political pressure and coercive national measures taken by USA, UBS – the largest Banking Institution from Switzerland -- has also committed to provide names of top 250 persons who have kept money in offshore account out of 19,000 accounts mentioned earlier, to US authorities. UBS has also originally committed to pay a fine of USD 780 million to settle claims that it has abetted in defrauding US Internal Revenue service. Now US State department is compelling it to disclose about 52000 American accounts kept with UBS. The original charges are that the UBS off shore accounts have helped Americans to hide USD 18 billion in 19,000 accounts. As of now the settlement is that anyone opening off-shore account has to do it through US regulatory bodies.

Traditionally Swiss authorities used to argue that if there is no criminality under Swiss laws [which never recognized currency violations and tax evasion as

offences] the information on offshore accounts could not be divulged. The same position was taken in Bofors case also. Now that wall has been breached by this US agreement with Swiss authorities. The Swiss banks now recognize tax evasion in any country as amounting to an offence in Switzerland. This breakthrough accomplished by the US has opened up a huge possibility for the rest of the world to access the tax-evaded funds of their countrymen secreted in Swiss banks.

The tough measures of USA have led to the UBS, the world's largest private bank, also declaring that it would stop offering to American clients offshore private banking services that are not declared to the I.R.S.

The US Inland Revenue prosecutors contend that UBS helped wealthy Americans hide about \$18 billion, thereby evading taxes of \$300 million each year. UBS is struggling to maintain its centuries-old tradition of Swiss banking secrecy amid mounting legal pressure from the Justice Department to turn over client records. It began handing over some records last summer, causing consternation in the Swiss banking community. The cheques and transfers insisted upon by the US authorities will create paper trails because they move through bank clearing systems. So the US has almost plugged the future secreting of black wealth from the US into Swiss and other secret jurisdictions.

2. Other stories of successful chase by less powerful countries

It has also been successfully demonstrated by countries, which are comparatively less powerful and less influential in geo-politics that monies illegally stashed abroad by their corrupt leaders and businessmen could be recovered.

They had been able to accomplish it by exposing and prosecuting the corrupt leaders of their countries who had stashed and secreted away their national wealth in Swiss banks and making their judiciary to seek the cooperation of Swiss government and banks.

They had also appealed to the conscience of the world generating the empathy of the world. This feat has been accomplished by small and insignificant countries, like those as under:

- **Philippines** slogged for 18 years but finally successfully got repatriated the bribe money of its former President Ferdinand Marcos (\$ 624 million) held in Swiss Bank accounts.
- Between 2001-2004, **Peru** recovered \$180 millions stashed away in tax havens by Vladimiro Montesinos.
- Between 2005-2006, **Nigeria** recovered USD 505 million of the Sani Abacha money frozen and forfeited by Swiss authorities.
- The **Jews** got back the money [in 2002] appropriated by these banks from Jews in the 1936-1945 period of Hitler's dictatorship and mass deaths.

[Ref: Prof R.Vaidyanathan Get Back the Money Illegally Held abroad--Eternal India April 2009
-New Delhi]

This could be accomplished by these countries by first exposing the corruption and the corrupt leaders of their countries and thereafter by tracking their corrupt wealth into the secret banks.

3. Recent Tunisian Example

Recently, private, but publicly motivated, citizens of Tunisia were able to freeze the ill-gotten wealth of its rulers and their fellow buccaneers in Swiss banks. The following report of Associated Press in Chicago Tribune is very instructive.

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Quote

[BERN, Switzerland](#) (AP) — Switzerland on Wednesday immediately froze assets linked to [Tunisia's](#) ousted president and about 40 people in his entourage, as well as funds tied to the president of [Ivory Coast](#), who is refusing to step down.

Swiss President and Foreign Minister Micheline Calmy-Rey announced the new measures targeting Tunisia's former president, [Zine El Abidine Ben Ali](#), who was ousted Friday by a popular revolt, and Ivory Coast incumbent leader Laurent Gbagbo, who refuses to cede power to the man who beat him in an election.

"The Federal Council wanted to act very quickly," Calmy-Rey told a news conference in the Swiss capital. Calmy-Rey said she and the other six members of Switzerland's governing federal council agreed the measures should encourage those two African nations to seek help from Western nations in putting together a possible criminal case against the leaders.

"These measures are aimed at encouraging the two countries to present requests for judicial assistance in a criminal matter," said Calmy-Rey, whose post is a largely ceremonial one. "Switzerland wants to avoid our financial center being used to hide funds illegally."

Switzerland is trying hard to shed its reputation as a favored location for "potentate" money because of its banking secrecy rules, and has set up an investigative unit to help track down hidden funds. The assets will be frozen for three years so the nations can prepare criminal cases.

Ben Ali fled Tunisia on Friday amid massive public protests — and Swiss officials estimate Tunisian government officials have put about \$620 million into Swiss banks.

It was not clear how many assets Gbagbo had in Switzerland. He recently sold a \$15 million villa in Geneva and he might have had access to millions

in assets belonging to the late former Ivory Coast president Felix Houphouet-Boigny. Swiss officials gave no concrete figure.

The Swiss government was acting under a constitutional measure because a new law affecting the seizure of assets doesn't go into effect until Feb 1.

The government's reforms over two decades have made it harder to hide money in Switzerland, and the country has become a world leader in returning such cash.

Unquote

[\[http://www.chicagotribune.com/news/nationworld/sns-ap-eu-switzerland-frozen-assets,0,5236590.story\]](http://www.chicagotribune.com/news/nationworld/sns-ap-eu-switzerland-frozen-assets,0,5236590.story)

The examples of successful recovery of black monies by the powerful US and the less powerful other nations show that any country can do it, if it has the will and the determination to pursue its wealth secreted abroad. Such actions not only help recover the lost wealth but also act as a deterrent to generate black wealth in future. Viewed in this background the India emerges as a contrast to the trend in the world to hot pursue the black money. India is neither doing anything within India to expose and prosecute the corrupt and the offenders nor take geopolitical or legal steps outside to recover the black wealth of India stashed away abroad.

V. The Indian scene – a contrast

In the background of how the world nations are pursuing the black wealth belonging to their nationals stashed away abroad, the Indian scene presents a depressing contrast. The leaders of the Congress which leads the UPA first denied the existence of such huge amount of illicit Indian wealth abroad; then they

reluctantly accepted that fact which was becoming undeniable; then they promised that they would take efforts to recover the Indian wealth illegally stashed abroad; the President of India's address to Parliament which in substance means the commitment of the UPA government to the people, in specific terms mentioned this commitment; but when it came to actually doing something to implement this commitment, there has been no action on the ground. In fact what is seen is an effort to prevaricate, procrastinate, and even bury the issue. The well-known and well-publicized instances of the existence of illegal Indian monies abroad – like the Hasan Ali case, Quattrocchi issue, the Lichtenstein Bank disclosures and the alleged secret Swiss banks accounts in the name of the family of the President of the Congress and the Chairperson of the UPA and National Advisory Council of the UPA government as detailed later in the Report -- have not only not been pursued, the government of the day is keen to bury them and is shamefully burying them to the view of the entire nation. More about these instances latter in this Report.

VI. Indian black wealth abroad \$500 billions, says Global Financial Integrity

The Global financial Integrity – a Non-profit research organization – working in the area of Tax Havens has estimated for India that the present value of illegal financial flows held abroad is \$500 Billions. This means that almost three-quarters of the illicit assets comprising India's underground economy—which has been estimated to account for 50 percent of India's GDP (approximately \$640 billion at the end of 2008)—ends up outside of the country. [<http://india.gfip.org/>]. This seems to have settled the issue about the volume of the Indian black wealth abroad. At the time of the general elections in 2009, the experts of the Congress Party had disputed the very existence of large volume of black Indian wealth abroad. So now

there can be no dispute about the amount of Indian wealth stashed away abroad. GFI says that more than two-thirds of this amount has been stashed away after the liberalization of the Indian economy in 1990s. It means that those aspects of the liberalization policies, which must have facilitated this process, must be scrutinized as part of the preventive efforts needed to tackle the accumulation of Indian black wealth abroad on an ongoing basis.

VII. “Bribes, corruption, kickbacks, criminal activities and tax evasion”

And what is the kind of money, which the GFI says has been hoarded abroad by Indians? This is what the GFI says about the character of the loot. “From 1948 through 2008, India lost a total of US \$213 billion in illicit financial flows (or illegal capital flight)” through “tax evasion, **corruption, bribery and kickbacks**, and **criminal activities**”. Tax evasion is only one aspect of the illicit monies Indian nationals and corporates have hoarded abroad. There appears to be more intimate link between monies stashed away abroad and bribes, corruption, kickbacks and criminal activities. Still the government of India seems to be keen to treat the issue as a tax evasion issue only. This is clear from the manner in which the government of India had treated, as explained here, the details of illegal money held by Indians in a Lichtenstein Bank--LGT

VIII. Not just tax evasion, but “theft” and “plunder” – says the Supreme Court

But on the 19th of January-2011 [Wednesday] the Supreme Court of India made an historic observation about this shameful phenomenon of Indian funds kept illegally abroad and the obstructionist attitude of the Central Government in unraveling the truth. The Bench was observing on the Petition filed by Ram Jethmalani and others

with reference to the illegal money kept by Indians in the Lichtenstein bank
[explained later by us]

Quote

Describing black money stashed away abroad by Indians as “pure and simple theft of national money,” the Supreme Court on Wednesday questioned the Centre's approach to tackling this menace and retrieving the huge amount kept in foreign banks.

When Solicitor-General Gopal Subramaniam furnished in a sealed cover a list of 26 names who had accounts with Liechtenstein Bank, a Bench of Justices B. Sudershan Reddy and S.S. Nijjar was not convinced of the steps taken by the government for getting back black money.

Justice Reddy, after perusing the list, told the SG: “This is all the information you have or you have something more! We are talking about the huge money. It is a plunder of the nation. It is a pure and simple theft of the national money. We are talking about mind-boggling crime. We are not on niceties of various treaties.”

The Bench was hearing a petition filed by the former Union Law Minister, Ram Jethmalani, and others. Appearing for them, senior counsel Anil Divan earlier alleged inaction on the part of the Centre in bringing back black money parked in foreign banks.

[<http://www.thehindu.com/news/national/article1102403.ece>]

Unquote

The Supreme court in its wisdom has very correctly analyzed the malaise as the “plunder of the nation” and not a simple tax avoidance issue.

Let us go back a little in understanding the prevarication and procrastination of the Government in this issue and later elaborate what can or should be done by the

Government to protect our sovereignty and place our self as a responsible and proud member of the comity of civilized nations.

IX. Bribes as important source of Indian black monies stashed abroad

Corruption in our country has a historical perspective of its own. As pointed out by the Supreme Court (State of MP vs. Ram Singh 2000 (5) SCC 88):

Quote

Corruption is termed as a plague, which is not only contagious but if not controlled, spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as royal thievery. The sociopolitical system exposed to such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti-people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence – shaking the socioeconomic- political system in an otherwise healthy, wealthy, and effective and vibrating society.

Unquote

There are various categories of culprits. Some are traditional business leaders who have been accumulating money since the 50s; some are new rich entrepreneurs and politicians and bureaucrats who influence decision making for large global purchases. The third category is the money launderers for nefarious purposes including financing of terrorism.

There is a need to look at the larger issues of not only corruption but also the impact on our foreign exchange, inflation and interest rates due to these illegal funds stashed abroad. Had these funds been available to India, its foreign exchange

situation would have been totally different and the exchange rates would also be very favorable to India. Groups would be more than willing to bring it back – already they are suspected of doing this through the Participatory Note process in the stock market. [http://www.dnaindia.com/opinion/main-article_scam-tainted-money-may-be-moving-the-markets_1470560]

The returns in India are very attractive and India is one of the few countries, which are growing at more than 9 per cent even in the midst of a global meltdown. Plus, the severe actions contemplated against the tax havens by the OECD countries etc. will also be a cause of concern for the Indian holders of illegal funds.

X. The Indian government suppresses the basic facts about Indian black wealth abroad

First, the Indian government is keen to suppress the information relating to the issue of Illegal Indian monies abroad. The government is not interested in disclosing even basic, and non-specific and general, facts about the phenomenon illicit Indian monies abroad. The Enforcement Directorate is not inclined to reveal even the “total volume” of illegal Indian monies abroad to an applicant under the Right to Information Act. During the hearing at Chief Information Commissioner, Enforcement Directorate stated that they could either confirm or deny media reports about the likely volume of black money stashed away in foreign banks illegally by Indian nationals.

[<http://www.rtiindia.org/forum/61563-enforcement-directorate-directed-give-details-swiss-bank-c.html>]

There is not total lack of transparency in regard to black wealth abroad but a commitment to suppress all information. In fact the government has to be not only transparent it has to help to create powerful public opinion against any kind of

illicit wealth hoarding outside India by Indians. When the GFI comes out with astounding numbers of illegal Indian monies abroad, the government owes a duty to the people to either confirm or deny or give alternative estimates of the black wealth of Indians abroad. By not providing the public the correct information that government is clearly trying to suppress the very issue and prevent all debates in the public domain.

If this were the state of the Enforcement Directorate response to the issue, the approach and response of the Reserve Bank of India, which is the authority to control and supervise the Indian financial economy with which the illegal money is intimately connected, surprisingly appear no different. Regarding the questions related to illegal investment by Indians in foreign countries and money stashed away in banks abroad, the RBI again said it had no information on the issue.

[\[http://business.rediff.com/report/2010/aug/10/no-info-on-illegal-gold-trade.htm\]](http://business.rediff.com/report/2010/aug/10/no-info-on-illegal-gold-trade.htm)

XI. Presidential address – commitment to act against illegal monies – seems an empty promise

When this is the attitude of the government on the ground, it is important to recall that our Honorable President in her address to joint session of Parliament on 4th June 2009, after the UPA II government took over immediately after the Lok Sabha elections 2009 when the illegal Indian monies abroad had become an election issue and the Congress Party after denying its existence had to promise to bring back illegal Indian monies abroad, states as under:

“[36]. My Government has been able to significantly increase realization of direct taxes as a result of improved and simplified tax administration and this process will continue. The roadmap for moving towards a Goods and Services Tax will be vigorously pursued. My Government is fully seized of the issue of illegal money of Indian citizens outside the country in secret bank accounts. It will vigorously pursue all necessary steps in coordination with the countries concerned.”

[<http://presidentofindia.nic.in/sp040609.html>]

But the actions of this Government, detailed hereunder, do not match “the vigorous steps” promised by the honorable President.

XII. Shockingly India has not ratified the United Nations Convention against Corruption even now.

India and Switzerland are signatories to the United Nations Convention Against Corruption. Yet India has not ratified the UN Convention till today. This would have enabled India to seek the co-operation of world nations including Switzerland to tackle corruption at all levels. According to global anti-graft watchdog Transparency International, India should endorse the United Nations Convention Against Corruption for the recovery of India’s wealth, which has be hoarded in foreign banks. The Transparency International says:

Quote:

"It is absolutely imperative to sign the UNCAC to get our money stashed in foreign banks," said Admiral (ret'd) R.H. Tahiliani, the head of Transparency International India chapter before the Doha meeting where the nations who have signed the UNCAC will review the endorsement of the same.

Adopted by UN in 2003, UNCAC has ranked India at 85 in the corrupt countries list. Even though India had signed the UNCAC, it has still not endorsed it.

The UNCAC provides recovery of assets as the 'fundamental principle' of the convention. The provisions on asset recovery lay a framework, in both civil and criminal law, for tracing, freezing, forfeiting and returning funds obtained through corrupt activities. The states who request for the asset recovery will be able to recover the assets only if they are able to prove the ownership. Once the act is endorsed, the nation will be made eligible for the prevention, criminalization and law enforcement, international co-operation, asset recovery, technical assistance and information exchange, and mechanisms for endorsement of the UNCAC.

According to Tahiliani, this fundamental principle is major trigger for the ratification and signing of the UNCAC by the nations, along with "some vested interests in the government don't want the country to ratify the act."

Anupama Jha, the executive director of the Transparency International, India, said "Switzerland, Bahamas and Jamaica have already ratified the UN Act and if India ratifies it, we can use it as an instrument to get the details about Indian money stashed there".

"Not ratifying the act doesn't show us in a good light. The government should ratify it to demonstrate its commitment to effectively fight corruption and get back the Indian tax payers' wealth hidden abroad," Jha told.

<http://www.india-server.com/news/transparency-international-urges-india-15282.html>

How the UN Convention helps the country, which seeks to recover the assets stashed away, has been set out in the Wikipedia as under:

Asset Recovery (Chapter V, Articles 51-59)

Main article: [International asset recovery](#)

The agreement on asset recovery is considered a major breakthrough and many observers claim that it is also the reason for why so many developing countries have signed the UNCAC.^[14] Asset recovery is indeed a very important issue for many developing countries where high-level corruption has plundered the national

wealth. Reaching an agreement on this Chapter involved intensive negotiations, as the needs of countries seeking the illicit assets had to be reconciled with the legal and procedural safeguards of the countries whose assistance was sought.^[15] Generally, countries seeking assets sought to establish presumptions that would make clear their ownership of the assets and give priority for return over other means of disposal. Countries from which return was likely to be sought, on the other hand, had concerns about the language that might have compromised basic human rights and procedural protections associated with criminal liability and the freezing, seizure, forfeiture and return of such assets.

Chapter V of the UNCAC establishes asset recovery as a "fundamental principle" of the Convention. The provisions on asset recovery lay a framework, in both civil and criminal law, for tracing, freezing, forfeiting and returning funds obtained through corrupt activities. The requesting state will in most cases receive the recovered funds as long as it can prove ownership. In some cases, the funds may be returned directly to individual victims.

If no other arrangement is in place, UNCAC signatories may use the Convention itself as a legal basis for enforcing confiscation orders obtained in a foreign criminal court. Specifically, Article 54(1)(a) of the UNCAC provides that: "Each State Party (shall)... take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another state party"[9] ^ United Nations Convention against Corruption Article 54 Section 1A,2A. Indeed, Article 54(2)(a) of the UNCAC also provides for the provisional freezing or seizing of property where there are sufficient grounds for taking such actions in advance of a formal request being received.^[16]

Recognizing that recovering assets once transferred and concealed is an exceedingly costly, complex and all-too-often unsuccessful process, this Chapter also incorporates elements intended to prevent illicit transfers and generate records that can be used where illicit transfers eventually have to be traced, frozen, seized and confiscated (Article 52). The identification of experts who can assist developing countries in this process is also included as a form of technical assistance (Article 60(5)).

[http://en.wikipedia.org/wiki/United_Nations_Convention_against_Corruption]

This single act shows that the Government of India is not keen on securing global co-operation to tackle corruption in India, which would mean tracking and bringing back corrupt funds stashed away abroad.

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XIII. The Double Taxation Treaty with Switzerland – an impotent instrument

The proposed – as it is not yet notified – Double Taxation Treaty with Switzerland is being claimed by the government as a great step in the direction of securing the black money of Indians stashed away in Switzerland back. How such a claim is far fetched can be easily demonstrated. Actually Double taxation treaty is only a small part of the solution. Many of these tax havens do not consider tax evasion in host countries by depositors as a crime. Also these tax havens have stringent laws to punish Bankers providing any information regarding the depositors. It is the Bankers who hold the secrets, not the governments.

The Swiss government for instance cannot order the Swiss banks to disclose any name under the Swiss law. So the so-called Double Taxation Treaty with Switzerland is no more than a PR exercise. That will yield practically nothing. And India is only thinking of even the watered down treaty to “prospective” transactions, which means that the past frauds, crimes, kickbacks, bribes and corruption are to be glossed over!

Now let us look at what kind of black money from elsewhere is lodged in secret Swiss bank accounts. Nearly one trillion out of 2.8 trillion of Swiss money – CHR—is black money says Konrad Hummler –The Chairman of the Swiss private

Bankers association.[see August 2009 Swiss review. In the article “Atlantic hurricane hits Switzerland in full force” Konrad Hummler says:

Quote

Black day for banking confidentiality.

Switzerland has become a paradise for foreign capital on which tax is not paid. The uproar from foreign governments is understandable.”

These are not the words of a critic of the banks, but of private banker Konrad Hummler. He says that around 30%, or CHF.1000 billion, of the CHF 2800 billion or so of foreign assets in Swiss banks is untaxed “black money”.

Unquote

[\[http://www.revue.ch/files/SRV_03_09_ENG_LOW.pdf\]](http://www.revue.ch/files/SRV_03_09_ENG_LOW.pdf)

As to what this means, in August 2009 one Swiss franc –CHR- is nearly same as one US dollar. It means that one trillion US dollars out of the \$2.8 trillion kept in Swiss banks is black money. **Out of this one trillion [1000 billion] India’s share of the Funds in Switzerland alone could easily be at least 250 billion [which is nearly Rs. 12 Lakh crore and it is 20 percent of our GDP in the last year]**

XIV. Terrorism and secret money

The issue of global black money is not just an issue of tax evasion, or bribe or kickbacks. It is also related to global and national security. The global black funds also finance terror and affect national security. Therefore steps needed to monitor and control unsupervised and unmonitored black funds, which are diverted and used for terror financing from these Tax havens. To recall, as early as 2007 the concern expressed by our own National Security Advisor -Mr. M.K Narayanan- regarding possibility of terror funds coming through financial markets.

[See his speech "Link between world of finance and terrorism": at Munich Security Conference on 11.02.2007)

<http://www.fedpol.admin.ch/fedpol/en/home/themen/kriminalitaet/geldwaesc.html>

The financing can destabilize banking system or capital markets with significant consequences. Recent reports suggest that large sums of money are drawn using ATM's in India and these funds are stashed abroad. To quote another recent report on the terrorism issue and foreign flows in India

Quote

"On instructions from Finance Minister Pranab Mukherjee the Intelligence Bureau has taken up the task of identifying sudden quantum jump in the foreign money flowing in the country through withdrawals by foreigners on credit and debit cards issued by the foreign banks.

In his monthly review meetings Pranab Mukherjee makes it clear to get updates on this subject. The IB warned that such money poses a serious security risk as it can be pumped into terrorist and other anti-national activities. It started probing withdrawals after intercepting a highly volatile terrorist conversation on transfer of funds through credit cards. Investigations led to eight states in particular, including Andhra Pradesh, Goa Gujarat and Maharashtra that have witnessed in recent times withdrawal of large sums of money by foreigners using the cards.

There is no way to track down the source of money and there is all possibility that some such withdrawals may be from funds transferred by the terrorist organizations, sources said.

"If a terrorist outfit anywhere in the world deposits huge funds in a foreigner's account and he withdraws them daily in India in small quantum, we have no help from our banks to plug the mischief," the sources said.

They point out that the small withdrawals do not create suspicion, but totaling all such money taken out on the daily basis will throw up a mind-boggling figure.”

Unquote

[\[http://www.rediff.com/news/report/fm-braces-to-curb-inflow-of-foreign-terror-funds/20101212.htm\]](http://www.rediff.com/news/report/fm-braces-to-curb-inflow-of-foreign-terror-funds/20101212.htm)

XV. Why does India not act like other countries?

Why does India then not act like other countries? Why does it not partner the US, Germany, France and other countries, which are chasing their black wealth outside their territories? Why does it not follow the examples of such small countries like Philippines, Peru, Nigeria, and Tunisia, which have chased the corrupt wealth of their rulers? Why does it not use its increasing geo-political power to bring back the black monies stashed abroad by Indian nations? Why does the UPA government show obvious reluctance to handle this matter aggressively, contrary to its own commitment through the Presidential Speech to Parliament in June 2009?

To find answers to these questions we must contrast how India is handling the known cases of alleged illicit money hoarded abroad by Indians and how these other countries have handled them as explained above. There are four known cases of illicit monies allegedly hoarded by Indians or for their benefit in Swiss and other secret tax havens. The first case is of the names of Indian citizens holding funds in Lichtenstein Bank; the second is the Hasan Ali hawala case; the third the pay off to Ottavio Quattrocchi in Bofors in which the family of the President of the Congress figured very prominently; and the fourth is the case of the family of the Congress President itself. Given the prevarication and procrastination by the Indian

government on the issue, despite the admonition by the Hon'ble Supreme Court itself there are serious apprehensions about its sincerity and capacity to handle the issue.

This apprehension arises, apart from the general suspicion in the public mind that the bigwigs of the ruling party are involved in stashing away money, because of the specific instances of Bofors bribe monies in the name of Quattrocchi, who is known to be very close to the family of the President of the Congress Party who is also the Chairperson of the UPA and National Advisory Council and also of the alleged secret Swiss bank accounts in the names of the family as explained in detail here. The India Today magazine **[Issue dated January 17, 2011]** has said that an official of the Special Protection Group which was the statutory security for the family of the President of the Congress has told the CBI that Ottavio Quattrocchi had free access and had visited the residence of the President of the Congress 21 times after the demise of the late Shri Rajiv Gandhi. He had also testified that 'some times Mrs. Sonia Gandhi had also stayed in the house of Ottavio Quattrochi when the SPG used to perform its security functions at that place'. He had also said that during the time of Rajiv Gandhi's Prime Minister ship, the children of Rajiv Gandhi also used to stay in the house of Quattrocchi during the foreign and domestic visits of the Prime Minister. So the intimacy between the two families is obvious.

Therefore, unless the President of the Congress Party and the Chairperson of the UPA and NAC comes out with the full facts regarding the Bofors bribe monies stashed away in the name of Quattrocchi, the apprehension that there is something to be hidden abroad will remain. In the same way the reported secret Swiss bank

accounts and funds of the family of the President of the Congress Party who is also the head of the UPA and the NAC also create apprehension that the government is not serious and is reticent to act like the other governments in the world. Therefore, in the context of the way the rest of the world including a tiny tot like Tunisia are chasing the illicit wealth of their country men in secret banking systems and tax havens, it is necessary to know how the India under the UPA government is handling the known cases of illicit wealth that have come to the notice of the government. These aspects, which are critical to the debate on the huge illegal Indian monies stashed away abroad, are explained hereunder.

XVI. Lichtenstein Bank Affair

As early as February 2008- German authorities have collected information about illegal money kept by citizens of various countries in the Lichtenstein bank and the German Finance Minister offered to provide the names to any Government interested in the list The UPA Government –version 1- unfortunately did not act for many months and after much prodding by opposition, asked for the list in late 2008.

Germany's intelligence agency seems to have paid an unnamed informer more than USD 6 million for confidential and secret data about clients of LGT group a bank owned by the Liechtenstein Prince's family. The revelations have already led to the resignation of the head of Deutsche Post which is currently the world's largest logistics company in the world. The Lichtenstein leaders were furious and have focused all their ire at the theft of the data rather than on the facts of the case. The German Government has announced that it would share information on accounts held in the tax haven with any Government that wanted it.

They had a list of 1400 clients of whom 600 are only Germans. The spokesman for the German Finance ministry Thorstein Albig has indicated that they would respond to requests without charging any fees for the information. Finland, Sweden, and Norway have got the data. But our Government has been lukewarm in this issue. It should have despatched immediately senior officials/ministers to get the names. Finally due to lots of public pressure our Government wrote to German Government and got nearly 100 Indian names but has not revealed the names in India. When Ram Jethmalani and others in the well known case on Tax Havens demanded the names are made public the government maintain that it cannot reveal the names since it has been obtained under the double taxation treaty. But the government says that it is proceeding against the account holders under tax laws. A report in *Economic Times* (June 4, 2009) suggests that out of 50 names in the LGT list, 25 belong to Mumbai. It also says that none of the 25 account holders are big industrialists or well-known individuals. Why did the GoI ask for information under the Double Taxation Treaty with Germany when the issue – stolen data from Liechtenstein Bank by Germany – does not have any link to that? Did the government think that Germany would not respond if it was asked under the Double Taxation Treaty? Where is the issue of confidentiality vis-a-vis criminals? These details have been secured by the government of India under the Double Taxation Avoidance Agreement [DTAA] with the German government, under which the details secured would have to be kept confidential, when the German government was willing to offer it openly, under which route the information would have been available to the public. Actually it is wealth kept illegally in the Bank in Lichtenstein which is another country and not in Germany. The DTAA generally prevents the use of the information supplied under the Treaty for any purpose other than for purpose of levy and recovery of tax. It would be doubtful

whether the Income Tax Department could share the details it had secured under the DTAA with the Enforcement Directorate or the National Investigation Agency which tracks terror cases or the National Security Advisor. That is why the Supreme Court of India before which some public-spirited citizens [Ram Jethmalani and others] have filed a public interest litigation to compel the government to act to bring the monies stashed abroad had refused to regard it purely an issue of tax evasion.

The Ministry of Finance [MoF] says it has names but will not reveal them. The reply affidavit by MoF suggests that the petitioners should seek the RTI route – may be to be rejected under the RTI. The government argues for the RTI route and then gets the application thrown out. These are not domestic tax evaders etc. for showing confidentiality. These are international crooks that have deprived our land of huge financial resources through capital flight. It is an unpatriotic act which can be equated to financial terrorism.

As reported in *Economic Times* dated June 4, 2009, of the 50 Indians who have stashed funds in LGT bank in Liechtenstein, 25 belong to Mumbai. Tax authorities have re-opened assessment of these 25 tax evaders under Section 148 of the IT Act. This implies that the government is treating it as tax evasion and not capital flight and crime with associated implications

[India's Illegal Wealth abroad is Not Just a Tax Issue R Vaidyanathan Eternal India July 2009].

Recently it did agree in the Supreme Court in response to a petition by Ram Jethmalani and others that “18 Indians have put Rs 43.83 Crore in Liechtenstein bank.” The list was to have contained more than 100 names of Indians.

[\[http://timesofindia.indiatimes.com/articleshow/7079347.cms?prtpage=1\]](http://timesofindia.indiatimes.com/articleshow/7079347.cms?prtpage=1)

The observation of the Supreme Court quoted at the outset in this report is in reference to this case, which was filed by the senior lawyer Mr. Ram Jethmalani and others. Again on January 27, 2011 the Supreme Court again cornered the government on the issue.

Quote

The Supreme Court on Thursday asked the government what it was doing about Indians with large amounts of black money in Swiss banks and other tax havens as it sought to broaden the ambit of its probing queries and demanded an “action taken” report on all “faceless” Indians who had moved their ill-gotten money overseas.

A bench of Justices B. Sudershan Reddy and S.S. Nijjar, which was so far focused on the names of 26 Indians with “black accounts” in Liechtenstein’s LGT Bank, said: “We would like to further know about faceless persons who stashed huge amounts in banks abroad. What action would you take to know who these persons are? This is the long and short question — we want a reply.”

“Tell us by Monday. This is very simple matter. The information is with you,” said the bench, which was not impressed with repeated references by the solicitor-general, Mr Gopal Subramaniam, to double taxation avoidance agreements and the laws of “tax haven” countries.

While referring to the 26 names with Liechtenstein accounts which the government had got from Germany and placed in a “sealed cover” before the court, the bench

said it wanted information beyond this — given that several rich Indians had stashed money abroad in violation of various laws. “They are amenable to the laws of this country,” the court said, reminding the law officer that the petition had been pending two years.

“We have a list containing some names, there are some figures known to you. What are the inquiries made about these individuals and the nature of the contents you know,” the bench pointedly asked the solicitor-general.

Unquote

[<http://www.asianage.com/india/sc-govt-you-know-their-names-what-will-you-do-455>]

Hopefully the Liechtenstein saga of denial, procrastination; prevarication, and outright half truths by the Government will be a wakeup call to supreme Court and to large sections of Indian middle class who pay their taxes and who expect the Government to protect, preserve and safe guard their hard earned freedom.

XVII. The Hasan Ali Ali Affair -- a multi-billion dollar cover up – the smocking gun

Interestingly, in the well-known case of Hasan Ali Ali – on record a horse breeder from Pune - who was found to have Swiss accounts, the response of the Union government in the Supreme Court treats is as if it were just tax case. It indicated that tax demands of Rs 71,848 crore have been raised against the said person, his wife and other associates. The facts that have emerged in the Hasan Ali Ali case clearly lead to the disconcerting inferences that ruling party leaders were involved

in Havala and stashing away national wealth illegally abroad; that there was undeniable nexus between politicians and criminal world; that the probe was derailed, stymied and rendered meaningless by delay and prevarication thanks to the involvement of the ruling party leaders; that the present government has no interest in recovering back the national wealth stashed abroad; that on the contrary, it is clearly interested in not exposing those who had stashed their wealth abroad.

1. Hasan Ali case – an introduction:

The Hasan Ali [‘Ali’ for short] case, which broke out in the year 2007, was not only sensational, the facts that tumbled out of the Enforcement Directorate probe in the public domain into the media clearly showed that:

- a) Ali had a criminal record starting with attacking his neighbour, when he was grown up and 31, with acid and disfiguring him causing 30 stitching on his face for which probably he was neither arrested or convicted;
- b) His record brought out in the media showed that he was a small time businessman from Hyderabad and began his criminal activities by cheating banks and private individuals;
- c) He was overtly involved in businesses like car renting, horse racing and stud farm; and the last business was the one he was doing when the Income Tax Department and Enforcement Directorate struck at him January 2007;
- d) Ali began to be involved in Havala business in billions in 1990s;
- e) Ali was involved with Adnan Khassogi, the international arms dealer, who was found in the probe into the assassination of Rajiv Gandhi in 1991 to have supplied to arms to LTTE, in business and finance from 1982;

- f) He was involved with politicians, particularly the ruling congress party leaders;
- g) He had respectable local associates like Kasinath Tapuria, a Kolkata based businessman, and his wife to front for him;
- h) He, who had nothing twenty years back, had billions in his and his associates' account by end 2006;
- i) The probe into him was delayed and rendered directionless and almost purposeless, which indicated that the government was keen, even desperate, to bury the Ali case as detailed herein later;
- j) The Solicitor General of India has in an extraordinary step written to the Government of India that the Ali case must be investigated from national security angle also, which he could not have done without some critical material that must have been brought to his attention;
- k) Yet, the attitude of the government to Ali probe is a clear testimony to the fact that the government, far from pursuing and bringing out the national wealth stashed away abroad, is aiding and collaborating with the buccaneers who have criminally misappropriated the national wealth.

The shocking details of the Ali probe tumbled into the public domain through the media obviously because as the officials, who were investigating the case found that the political establishment was not keen to pursue the case, began to leak out the details. Whatever information the public has today is not through any detail given out by the government to Parliament or to the public. The media reports, sourced in the details leaked out to the media by the Enforcement Directorate and the Income Tax department are the only information available to the people. Yet the details which have appeared in the

last four years, when seen collectively, shows a shocking fraud on the people of India by the ruling establishment which has clearly subverted the Ali money laundering probe involving over \$8 billions.

2. From petty crimes to global havala in billions

Ali's record showed the stunning transformation of a petty local criminal of Hyderabad into a global havala operator in a span of two decades. An important fact, which emerges in the media reports, is that Ali was but not just a white collar criminal. Besides the acid attack in which he disfigured and caused 30 surgeries on his doctor neighbour, when he cheated some four persons to the tune of over 70 lacs in the year 1991 promising them that he would give them banks draft in Dollars for cash paid to him in rupees so that they could take advantage of the voluntary disclosure scheme then in force to bring in undisclosed monies from abroad, none of them were willing to pursue the case against him out of fear. This meant that he was connected to the underworld. The history of Ali, his evolution into a global havala operator, and the details of the case against him are brought out in an investigative reports appearing in different newspapers and magazines since 2007.

The recent issue of **India Today [07-02-11]** gives details of the five Letters Rogatory sent by India [in 2008] to different countries like US; UK; Singapore UAE and Hong Kong and three years have passed and Khan is still a freeman and not a penny has been repatriated.

The following are the references to the media reports downloaded from their respective internet editions:

- (i) <http://economictimes.indiatimes.com/news/politics/nation/hassan-ali-may-face-several-cases/articleshow/7376133.cms>
- (ii) <http://www.deccanchronicle.com//national/indians-have-put-away-around-rs-45-lakh-crores-414>
- (iii) <http://timesofindia.indiatimes.com/india/Hasan-Ali-located-in-Pune-summoned-to-police-HQ/articleshow/1746713.cms>
- (iv) <http://www.livemint.com/2009/01/12010853/Rs40000-crore-incometax-noti.html>
- (v) <http://www.allvoices.com/contributed-news/3196980-hassan-ali-Ali-episode-exposed-upa-character-arun-shourie>
- (vi) Sanjay Kapoor Hard News
<http://www.hardnewsmedia.com/2011/01/3817>
- (vii) http://timesofindia.indiatimes.com/Cities/Mumbai/Hassan_Ali_trail_Worli_police_hunt_for_wife_bro-in-law/articleshow/3372431.cms
- (viii) <http://www.ndtv.com/convergence/ndtv/story.aspx?id=NEWEN20080040040&ch=2/1/2008%2011:47:00%20AM>
- (ix) <http://www.hindustantimes.com/StoryPage/Print/273272.aspx>
- (x) <http://www.rediff.com/news/2007/mar/13ali.htm>
- (xi) <http://economictimes.indiatimes.com/LATEST-NEWS/Pune-tycoon-may-face-Rs-1-L-cr-fine-for-acquiring-Rs-36000-cr/articleshow/3917046.cms>

- (xii) <http://www.indiatoday.com/itoday/20070326/nation.html>
- (xiii) <http://www.indianexpress.com/news/mystery-millionaire/414865/0>
- (xiv) <http://www.livemint.com/2010/07/12230923/Hasan-Ali-investigation-uncove.html?h=B>

The investigative information contained in the above media reports, which alluded to the information they had secured mainly from the investigating agencies, is summarized here:

a) Income Tax and Enforcement raid on Ali in 2007

It all started with raids by Income Tax Department and Enforcement Directorate on Ali on January 2 and 7 in the year 2007. He was under scrutiny for his involvement in Havala from 2003 and that matured into action against him in 2007. The raid yielded shocking revelations about three secret Swiss bank accounts in the name of Ali with deposits aggregating to over \$8 billions. It was also found that Kasinath Tapuriah, a businessman from Kolkata and his wife Chandrika Tapuriah were also found to be fronting for Ali. It was also found that one Phillip Anandaraj, alleged to be a hotelier in Switzerland, was also an accomplice, and he was found to be with Ali in Mumbai residence when he was raided by the IT/ED in January. Documents seized also brought out the fact that Ali was associated in huge financial deals with the international arms smuggler Adnan Khassogi, since about 1982. It is believed that he was highly politically connected and he was most knowledgeable about the foreign transactions of Ali. The IT/ED believed that Ali could never have made that kind of money, as

he had all along been a failed businessman with a continuous criminal record. It was believed that he was fronting for some politicians.

b) Ali probe stymied deliberately from the word go

The ED took the first step, but almost after two years, in December 2008. This is a shocking delay as despite the recovery of the documents in Ali's possession indicating the existence of huge, undisclosed deposits in Swiss bank accounts and investment plans by Ali with Khassogi, which should have merited instant action, the ED took almost two years to make its first move, that is, to issue a show cause notice. In any case of this magnitude, Ali would have been arrested forthwith and subjected to custodial interrogation, which would have yielded supporting and tracing evidence immediately. The documents seized indicated that Ali had liquid funds of \$6 billion, which could be transferred immediately, and another \$2 billion, which could be free by January 15, 2007, that is about 13 days from the date of the first raid and 8 days from the date of the second. The ED report on the Ali funds cited a letter from M. Rohner, the wealth management executive at UBS in 2006, which stated that Ali "can withdraw \$6 billion and was free to invest this amount as and when he chooses to do so, and that the balance amount of \$2.04 billion would be bound with the UBS until 15.1.2007 and after which Ali was free to invest the same as and when he chooses to do so". That means on January 7, 2007 the Government of India knew that \$6 billion could disappear forthwith and \$2 billion in 10 days from the date of the raid. This should have called for immediate

registration of an FIR under Unlawful Activities Prevention (Amendment) Act 2004, which would have enabled the immediate freezing of Ali's assets as terror related funds. This was precisely what the VP Singh government acted under the Prevention of Corruption Act when it directed the CBI to register an FIR in the Bofors case in January 1988 and immediately sent its request for freezing of the bank balances of Hindujas and others in Switzerland. The Swiss government immediately obliged. That was an action under the anti-bribery law; the UPA government could have acted under the anti-terrorism law. In fact from the beginning there was an apprehension of terror angle to the Ali probe. This was kept concealed and just now the Solicitor General of India has written to the government to examine the Ali case from the national security angle. Despite all the possibility to act immediately and arrest the illegal funds, the way the ED acted in the Ali case and the IT department never acted showed that the case was being monitored from above to ensure that action.

c) From \$1.5 million in 1982 to \$8 billion in 2006

By its 18-page show-cause notice of the Enforcement Directorate [ED] dated 22.12.2008, the ED had demanded that Ali immediately repatriate the amount, with updated interest, through banking channels to India, the staggering amount of \$8.04 billion stashed away by him and his associates. The notice charges Ali with acquiring and holding \$8 billion in a single account in Zurich in Switzerland. The ED gave Ali one month's

time to reply to the show-cause notice and also explain how his funds grew from an initial deposit of \$1.5 million in 1982 to a low of just \$560 in 1997 to \$ 969 million in 1997, to \$8 billion by 2006. Along with his front man Kasinath Tapuriah, Ali opened two fictitious companies, Autumn holdings and Paysons, in Virgin Islands and laundered money to the tune of \$280 millions.

d) The Adnan Khassogi connection from 1982:

A more disturbing aspect of the Ali case is his deep involvement with Adnan Khassogi, the infamous international arms dealer whose name figured in the assassination case of Rajiv Gandhi in 1991 as an arms supplier to the LTTE which masterminded the killing of Rajiv Gandhi. The ED officials have evidence that Ali had first opened his account with UBS Singapore through Retro Hartmann of UBS Singapore. This recommendation was organized through Adnan Khassogi. It means that from 1982 at least Ali was associated with Khassogi. Thereafter Dr. Peter Willey, portfolio manager of Khassogi virtually took over as the fund manager of Ali. The link to Khassogi adds to new dimension to Ali.

e) Ali receives \$300 millions from Khassogi as “Funds from Weapons Sale”

It was in his account with UBS in Zurich that Ali received \$ 300 millions from Khassogi, who transferred it from his account in Chase Manhattan Bank New York. It is not clear to the ED when these funds were transferred. These Funds, which were designated as “Funds from weapons sale”, were frozen by the Swiss authorities, and stood frozen. Ali and his close associate Kasinath Tapuriah

then adopted different techniques to unfreeze the account and make it operational. The ED report quotes the notation “funds from weapon sale” made by UBS AG, a top-tier investment banking and securities firm, following the transfer to Ali from Khassogi. ED has traced Ali’s alleged transaction with Adnan Khassogi through a notarized statement of Ali signed on June 29, 2003 in London. This document contains a letter written by Ali to Prabhu Guptara, director, Organizational Development, Woflsberg Executive Development Centre, Switzerland (a subsidiary of UBS) explaining why one of his Swiss accounts had been tagged with the remark “Funds from weapons sale” and had been made inoperable.

f) UBS refuses to comment on the notation of “funds from weapons sale”

What is the response of UBS? “I would prefer not to talk about this” said UBS India managing director and Chairperson Manisha Girotra, referring all questions to bank’s spokespersons. “As truly global entity, our policy on such issues is to comply with the laws and regulations in each host country, while at the same time, complying with the banking laws in Switzerland”, said that UBS spokesperson in an email. The spokesperson refused to comment specifically on the arms sale notation. All the money transfers were found recorded in the laptop seized from Ali’s residence in Pune and while investigators believe this is laundered money, there was no direct evidence. They felt that they would also need corroboratory evidence to establish that these transfers have anything to do with terror networks. That the Swiss government acted suo moto and froze the Ali account with \$300 millions as from arms sale indicates that even in Switzerland he was a suspect. Had the Government of India sent in its request to the Swiss government for freeze order immediately on the discovery

of the huge undisclosed riches of Ali in secret accounts, there was every possibility that the Swiss government would have obliged. The evidence that the Swiss government had frozen an Ali account for suspected arms dealing emerged in the course of the raid on Ali; that means that the ED and the IT department had had this evidence in their possession to act before Ali and his associates, probably the true owners of the money, made the money disappear from his accounts.

g) Tapuriah had confessed to involvement of Congress leaders

The examination of Kasinath Tapuriah, an Ali front, had yielded valuable information about the involvement of Congress party leaders. Tapuriah had said that two politicians, one of them a senior Congressman, had referred Ali to him during his days of financial difficulties. The names of the two congress leaders named by Tapuriah were living at that time, but not now. So the ED could have examined their relation with Ali to get more involvement about Ali's relation with political leaders. The statements of Tapuriah and Philip Anandraj proved to be very damaging since they spilled the beans about several of Ali's connections and foreign transactions. This information was available to the Government almost immediately after the raid. For instance, the very next day after the raid on January 7, 2007, Tapuriah had confirmed the existence of documents proving the \$8 billion illegal deposits, and also revealed Ali's links with others in the money laundering scandal. The Ali-Tapuriah duo ran the havala business as partners and money was routed through Tapuriah to the beneficiaries. They also invested the illegal monies in Indian stock and commodity markets through participatory notes mechanism.

h) Funds linked to terror, organized crime, gun-running and bribes; why anti-terror law was not invoked?

The ED show cause notice also stated: “It is suspected that the accounts with such huge deposits of money originating from various international destinations are proceeds of heinous crimes such as terrorism, arms trade, gun-running, corruption and organized forgery, fraud and others”. These are grounds fit for action under the anti terror law of India in force then, the Unlawful Activities Prevention (Amendment) Act 2004 [which had replaced the Prevention Of Terrorism Act]. Under that law, the Ali funds could have been frozen as “proceeds of terrorism” and confiscated under section 24 of the law and pending the due legal process, by registering an FIR under the law, the Swiss government could have been requested to freeze the Ali/Tapuriah/Chandrika accounts. Action could also have been taken under the Unlawful Activities Prevention (Amendment) Act in the matter and all the suspects -- Ali, Tapuriah, and Philip Anandaraj – and they could have been examined in custody under the stricter anti-terror law than under the benevolent Foreign Exchange Management Act or under the Income Tax Act which are intended for white collar crimes, and not hard crimes like what Ali was believed from day one to have engaged in.

i) Investigate Ali from National Security angle, tells Additional Solicitor General to Finance Minister

This issue assumes added significance after the reported letter written by the Solicitor General of India with reference to the Writ Petition filed by Shri Ram Jethmalani and other public spirited persons in 2009 in regard to the monies stashed away by Indians abroad. “Hasan Ali, the absconding Pune-based

businessman, could be charged under various national security laws, a top official involved in investigations told ET on the condition of anonymity. Solicitor-General Gopal Subramanian, in a confidential letter to Finance Minister Pranab Mukherjee, has emphasized that the matter of Hasan Ali be examined from the point of view of national security. Subramanian gave this opinion with regard to a writ petition filed in court in 2009. Investigators had seized notarized affidavit signed by Hasan Ali, which contain references to financial transactions related to overseas accounts.”

j) The way Ali case was handled showed that ruling party bigwigs were involved with him

When such a huge and unprecedented recovery of documents showing illegal funds abroad had come to the notice of the authorities the action there should have been a lightening action against Ali and his associates. But since Tapuria had spilled the names of Congress leaders the very next day after the raid on January 7, 2007, the IT probe never took off and the Enforcement probe, which led the issue of final show cause notice in December 2008 constituted action after the horses had bolted. Ali was arrested not for money laundering but for securing three passports from the government of India. He had secured his second passport from Patna in 1997 and the third from Mumbai in 2008. In fact, it is evident that the idea was that the huge funds should disappear and they did. Reports about way the government moved showed the deliberate laxity in the pursuit.

- Ali was arrested in fake passport case and was granted bail by a Mumbai Court on 2.1.2007;
- It was this case that led to the raid on Ali;

- Ali checks into hospital for heart and lung complaints immediately after the raid and remains in hospital for three weeks;
- Ali is not traceable for the Pune or Mumbai police;
- Suddenly Inspector [crime] Bhanu Pratap Barge in Pune says that, following orders from Additional City Police Commissioner Shri Rajinder Singh he had served notice u/s161 of the CrPC [as witness to crime] at a “discreet location” in Pune;
- Nothing happens almost for a year;
- The ED “issued” a show cause notice in December 2007;
- Then it was “preparing to issue” another notice in January 2008;
- The Government tells the Bombay High Court in February 2008 in response to Ali’s plea for the return of the seized passports that Ali was absconding and if he left the country the probe would collapse;
- Information comes to light in February 2008 that he and his wife had applied for Swiss citizenship;
- Maharashtra police raids Ali’s residence and seizes his passports;
- Ali flees with his wife and son immediately and absconds;
- He stays in Yusuf Lakdawalla’s house in Madh-Island;
- Then he stays in a Bungalow in Lonavala from July to October 2008;
- Ali tells the Mumbai police that while he was absconding he met Ahmed Patel the Political Advisor to the Congress President, the Chief Minister of Maharashtra, the Commissioner of Police and the Home Minister of Maharashtra in Centaur Hotel on 8.11.2008 [the transcript of the video recording of this meeting is separately dealt with]
- Ali surrenders thereafter, and the Maharashtra police arrests him

- Then the ED issues a show cause notice in December 2008;
- Ali is granted bail by the lower court
- The government appeals to the High Court for the cancellation of the bail
- The Bombay High Court slams the Maharashtra police in February 2010 for not being interested in getting Ali's bail cancelled;
- The IT Department sends Letter Rogatory to the Swiss authorities;
- The Swiss government declares that the documents attached to the Letter Rogatory request were forged;
- The IT department then sends in request asking for information from Swiss authorities on the ground that Ali had not filed IT returns, and not on the ground of tax evasion;
- In December 2010 The Swiss authorities refuse assistance saying that non-filing of return is not an offence under the Swiss law and therefore no assistance can be provided in the Ali case.

The above summary of the way the ruling establishment has treated Ali leads to the inevitable inference that there is bound to be the involvement some one so important and so powerful that the probe had to be scuttled despite the fact that it involves national security issues as suggested by the Solicitor General of India

k) Is Ali fronting for a leading politician?

On the very next day after the raid on January 7, 2007, Ali's collaborator Kasinath Tapuriah told the ED/IT department that two congress leaders had introduced him to Ali. The government did not and would not pursue this significant lead information. Ali's Swiss associate Philips Anandaraj also had

told the police about the involvement of politicians in the billions held by Ali in secret. The Economic Times reported: “Investigators are also trying to ascertain the real beneficiary behind Hasan Ali's spectacular wealth. **Investigators say funds might have been amassed from defense deals and Hasan Ali could be a front for a politician.** The main reason for suspicion is Hasan Ali amassed 36,000 crore in overseas bank accounts in less than 15 years with no known sources of income”. But the most important circumstantial evidence is provided by the manner in which such sensational case of money laundering which involved sums, which rank as big international fraud has been handled by the authorities. Unless some extremely powerful person or persons were involved this kind of laxity, which is deliberate and contrived, is unthinkable and impossible. The very fact that neither Ali or his associates have not been put in custody and interrogated immediately or ever thereafter when persons with one millionth of the volume of the sums involved in Ali’s case speaks volumes about the powerful forces which must have worked to stymie the case. What kind of forces would have worked to undermine the investigation and render it almost meaningless may be judged from the extremely significant information given here below.

1) Ali case a mega cover-up

The Hasan Ali case has created serious apprehensions in the mind of the people about why Hasan Ali is being protected by the government. Writing on what he calls as “another mega scam cover-up” and asking “Protecting Hasan Ali and Who else?” Shri Rajinder Puri wrote in his column on March 10, 2010 as under:

Quote

On October 20, 2009 this scribe explained how the government was not pursuing the Hassan Ali money laundering mega scam. The cover-up continues. LK Advani is elated because the President's address in parliament referred to the issue of Indian black money stashed in foreign banks. Advani has demanded a White Paper on the subject and has expressed satisfaction that the government has taken note of his concerns. However, his joy may be premature. A distinguished Chennai based chartered accountant, Mr. M.R. Venkatesh, who closely studied the current budget, has raised some pertinent questions that need clarification.

The budget gave figures of the tax revenues raised but not realized by the government of India. This provides details of the unrealized dues on various taxes, such as Income Tax, Excise, Customs and Service tax. These are further categorized under amounts under disputes where the assessee has filed an appeal, and those not under any dispute. According to Budget 2010-11, the Tax revenues raised but not realized aggregates to Rs 117,065 crores.

Now recall the strange case of Hassan Ali. In January 2007, the income-tax department first raided Hassan Ali Ali's residences across the country and seized documents that revealed he had a sum of USD 8 billion deposited in the UBS AG bank, Zurich. The department also found that Ali had not filed income-tax returns since 1999. Later, the Enforcement Directorate (ED) got into the act and started investigation, as it was also a case of suspected money laundering.

Subsequently, income-tax department had issued notices to Hassan Ali, along with others, alleging money laundering to the tune of several billion dollars for suspected tax evasion. According to press reports a show-cause notice was issued by the IT department demanding Rs 40,000 crores in taxes alone against Hassan Ali for not disclosing several foreign bank accounts, including the above-mentioned USD 8 billion stashed in UBS AG bank, Zurich.

Hassan Ali is out on bail on a fake passport case. On February 10, 2010 media reported that the Bombay High Court had dismissed the appeal of the state government to cancel this bail. The court observed that the state itself was not interested in cancelling the bail granted to Hassan Ali. Justice D G Karnik said, "The state government is not interested in serving notice (to the accused) even after six months of filing an appeal." Justice Karnik added that if the

government was not keen on pursuing its own appeal, the court had no reason to waste time on it.

On August 4 2009 while disclosing the list of tax defaulters in the Rajya Sabha the government stated that Hassan Ali topped the list of tax defaulters with an outstanding arrear of more than Rs 50,000 crores. The tax due after adding interest for belated payment of tax according to rough estimates presently exceeds Rs 70,000 crores. This amount totaled with his money-laundering associates could add up to staggering Rs 100,000 crores. Yet, the entire tax dues of the government of India stated in this Budget for all taxes (disputed and non-disputed) as per the statement of tax revenues raised but not realized aggregates to a mere Rs 117,065 crores. And the income tax due from individuals (both disputed and undisputed) alone is even much lower at Rs 50,000 crores. Where did the Rs 100,000 crores due from Hassan Ali and his associates disappear?

Could Hassan Ali and his associates have paid their taxes aggregating to approximately Rs 100,000 crores by February 26th 2010 when the Budget was delivered? The Week in its issue dated 14th March 2010 interviewed Finance Minister Pranab Mukherjee precisely on this subject. The FM asserted that the government recovered the tax dues from Hassan Ali. If true, the revised estimates for 2009-10 do not reflect this. Rs 100,000 crores are too large a sum to be lost even in the government of India's budget. Either the FM was wrong or he was misquoted by The Week.

Things become even murkier. Presently under the existing provisions of the Income Tax Act no application can be made to the Settlement Commission when a search has been initiated under the Act. Budget 2010 has proposed to waive this. Experts think this amendment could help Hassan Ali to approach the Settlement Commission and settle his tax disputes with the IT department without impediment. This escape route for Hassan Ali has profound implications. To appreciate it, note Para 124 of the Budget where the FM stated: " Last year, amendments to the statute enabled Government to enter into tax treaties with specified territories besides sovereign states. We have commenced bi-lateral discussions to enhance the exchange of bank related and other information to effectively track tax evasion and identify undisclosed assets of resident Indians lying abroad."

The gathering global momentum against illegal money in tax havens compels India to disclose the names of tax defaulters who have illegal accounts in such havens. But if, as the FM told The Week, the government had collected taxes from Hassan Ali, the government need not pursue this matter further in other countries. In case he has not yet paid the taxes the escape route provided by the amendment of the Income-Tax act pertaining to the settlement commission will enable government to avoid further pursuit of the case abroad. Either way, the foreign probe of Hassan Ali could be aborted.

In the Hassan Ali case, money was transferred by the Hawala route. It is likely that Hassan Ali, like Abdul Karim Telgi of the stamp paper scam, is just a front man. A mere stud farm owner could not originate such huge funds. The manner in which the government is going soft on him suggests that he could be the conduit for political bigwigs.

So, the questions that need to be addressed are:

- 1. Did the FM mislead the House by giving a false figure of the Tax revenues raised but not realized of Rs 117,065 crores?*
- 2. Did the FM actually tell The Week that Hassan Ali had paid his taxes or was he misquoted?*
- 3. What has impelled the FM to amend the Income Tax Act relating to the Settlement Commission? Pranab Mukherjee needs to answer these questions to dispel doubts that a brazen cover-up of another mega scam has not occurred.*

[\[http://www.boloji.com/myword/mw176.html\]](http://www.boloji.com/myword/mw176.html)

Unquote

What Shri Rajinder Puri has written is precisely the question and the apprehension in the mind of the people of India. Who the government is protecting when it is protecting Hasan Ali? Why the government is disinclined to pursue its appeal against the bail granted to Hasan Ali? These questions are

relevant also in the context of whether the present is keen to recover the monies stashed by Indians abroad.

m) ED proposed arrest in December 2008; no arrest till now

As early as late December 2008, reports appeared in newspapers that the Enforcement Directorate was about to file prosecution against Hasan Ali. The report that appeared in the Indian Express on December 21, 2008 under the heading “Hasan Ali case: ED to file charge sheet within a month” read as under:

Quote:

The Enforcement Directorate (ED), which is probing the economic offences case against Pune-based businessman Hasan Ali, will be filing a charge sheet within a month. ED officials are on the second day of interrogating Ali at Worli police station following his surrender and subsequent arrest last week.

Ali faces up to four charge sheets from the ED, income-tax (I-T) department and the Worli police. A senior ED officer said if Ali cooperates with the agency, it will be filing a charge sheet for alleged offences under the Foreign Exchange Management Act (FEMA) in a month. He said the other three charge sheets will include money laundering case, an I-T department case and a multiple passports case.

The ED is currently probing Ali under the Prevention of Money Laundering Act (PMLA) and FEMA. Ali is wanted by the ED for allegedly holding unaccounted money of up to \$8 billion in Swiss bank accounts and some undisclosed accounts in the UAE.

The ED, however, feels the case of money laundering will take more time to investigate and it may take up to six months to file the charge sheet as more people are involved in the case. “We are not concentrating on where he was during the past one year. We are just confronting him with various

documents regarding his accounts in Switzerland and Dubai,” the ED official said. “We need to interrogate him for a month and we will be seeking for the same from the court during the next hearing,” the official added.

Meanwhile, the ED is still holding on to the passport of Ali’s alleged co-suspect Philip Anandraj. In October, it had told the Bombay High Court that the investigation concerning Anandraj might conclude in two months. The court had directed the ED to dispose of an application filed by Anandraj seeking the release of his passport.

The ED is, however, reluctant to give it on grounds that Anandraj is not fully cooperating with the investigation and now with Ali’s arrest, the statements given by the two appear contradictory. “We will submit all this before the courts. We will also resort to stringent measures if required,” the ED official said.

Unquote

[\[http://www.expressindia.com/latest-news/hasan-ali-case-ed-to-file-chargesheet-in-a-month/401055/\]](http://www.expressindia.com/latest-news/hasan-ali-case-ed-to-file-chargesheet-in-a-month/401055/)

Having proposed to prosecute Hasan Ali as early as in December 2008, it not only did not file any prosecution, the government would not even prosecute its appeal in February 2010 against the bail granted to Hasan Ali.

n) Collusive request to the Swiss authorities for assistance

And the latest position is that the Swiss banks have, refused to give Hasan Ali case details to the Indian government on the ground that the offence of tax evasion allegedly committed in India is no offence under the laws of Switzerland. This shows that by intentionally and deliberately treating the Hasan Ali case not as a case of money laundering by crimes, and not even as a case of tax evasion, but as just as a case of non filing of tax returns, the

government of India has allowed billions of dollars of Indian monies stashed away in Switzerland by Hasan Ali and his co-conspirators to escape Indian laws. The extracts of the report are as under:

Quote

Swiss banks will hold back information on cash allegedly stashed there by Pune-based stud farm owner Hasan Ali on technical grounds.

The Swiss authorities' refusal to part with the information is on the premise that the offence was allegedly committed in India – in this case – not filing returns. This is not an offence under the Swiss laws.

The Swiss laws governing its banking sector stipulate that banks are bound to furnish details of a bank account to a foreign government only if the offence committed by the account holder is an offence under the Swiss laws too. In this case, not filing returns is an offence under the Indian laws, is not an offence under Swiss laws. However, tax evasion is an offence in both the countries.

This is the latest example of how banks in low tax regime countries use feeble technical reasons to blunt a foreign government's investigation into the accounts of unscrupulous elements, who have stashed away huge amounts in violation of the laws, safeguarding their respective economies.

Therefore, the income tax department in India has been told that that it would not get any information on the \$8billion allegedly stashed away by Hasan Ali. His funds are being investigated by the income tax department as well as the Enforcement Directorate (ED) which deals with the violations of the rules governing the use of foreign currency.

The department sought the information through a letter rogatory to Switzerland. The letter rogatory, essentially a request for legal assistance, was sent to the Swiss authorities to furnish the details of Mr. Ali's accounts.

A senior income-tax official expression surprise over choosing “not filing of returns” as the reason for initiating a letter rogatory to Swiss

authorities as it is well known that “not filing of return” is not an offence under the Swiss laws and therefore they are not bound to comply with the request” [emphasis added]

Unquote

[Hasan Ali squeezes through I-T loophole again, holds Rs 50,000 cr tax dues by Economic Times dated 22-01-11]

[\[http://economictimes.indiatimes.com/personal-finance/tax-savers/tax-news/hasan-ali-squeezes-through-i-t-loophole-again-holds-rs-50000-cr-tax-dues/articleshow/7337729.cms\]](http://economictimes.indiatimes.com/personal-finance/tax-savers/tax-news/hasan-ali-squeezes-through-i-t-loophole-again-holds-rs-50000-cr-tax-dues/articleshow/7337729.cms)

The intention behind sending the letter rogatory on the ground that Hasan Ali “has not filed tax returns” is collusive and fraudulent as the authorities sending such a request, as the Economic Times report says, ought to have known that that was not an offence under the Swiss laws and therefore the Swiss government would not provide the details about the \$8 billion stashed away abroad by Hasan Ali. It does not need a seer to say that the direct effect non-filing of the return or the purpose of the non-filing of the return by Hasan Ali was to evade tax. Therefore the offence really is that it is a tax evasion. It is like charging a person who has used an unlicensed pistol to commit murder with not applying for license and not for murder! So the intention is very clear, namely that Hasan Ali has to be protected, because unless he is protected, several others would be left unprotected. Moreover, the Hasan Ali case is not just a case of tax evasion. There is no way Hasan Ali could have earned that kind of money -- \$8.6 billions – through stud-farm which is his only known source of income. The money must be linked to some crime or the other. It could have been easily brought within the

parameters of money laundering and crime. As Shri Rajinder Puri has written, it is probably linked to Hawla that is traceable to the Telgi stamp paper scam in which many political bigwigs are suspected to be involved.

o) The Hasan Ali's case – the smoking gun

It appears that the Congress Party and the UPA government at the highest levels are secretly involved with Hasan Ali in whose Swiss account the \$8 billion loot was found by the Income Tax Department authorities. An irrefutable proof of a secret meeting of the Maharashtra Government and the Political Adviser to the President of the Congress Party Smt Sonia Gandhi with Hasan Ali has been revealed by one of the members of the Task Force, Shri Mahesh Jethmalani, on 25 January 2011 in the debate in the Times Now TV Channel moderated by Shri Arnab Goswami on Black Monies stashed overseas. In his sensational revelation Shri Mahesh Jethmalani said that the Crime Branch of Mumbai Police in Mumbai has a video recording of the secret meeting between Hasan Ali, who was absconding in the Enforcement Case of \$8 billion against him, the then Chief Minister of Maharashtra Vilasrao Deshmukh and the Political Advisor to the Congress Party President Shri Ahmed Patel, and Shri Ghafoor Ahmed Khan, who was later appointed as the Police Commissioner of Mumbai at Hotel Centaur [now known as Tulip] in Mumbai on 8.11.2008 Shri Mahesh Jethmalani has made available a copy of the CD of this audio-video with the transcript of the conversation among the four persons [in which the decision to appoint Shri Gaffoor as the Commissioner of Mumbai Police] to the Task Force. The transcript of the answers given by Hasan Ali to the Police, taken from the

Video available with Shri Mahesh Jethmalani, one of the members of the Task Force is as under:

Quote

[Part 1]

Hasan Ali: During the search conducted by the police at my Pune

Residence in February-March 2008 they seized two official Passports. I fled with my wife and son from there. My mother use to stay there. From there I went to Madh-Island where my friend Yusuf Lakdawala has a bungalow. I resided there from March to June. Thereafter with the reference of my driver I stayed at a bungalow in Lonavala from July to October by paying Rs.5000/- everyday.

Police: Did you stay at Madh-Island or Lonavala

Hasan Ali : Lonavala

Police: He has a home in Bandra also, no?

Hasan Ali : He has a flat in Bandra.....In Madh Island he has a Beach House ... near the Sea.

Police: Did you paid any rent for your stay.....

Hasan Ali : No

Police: As a guest.... as a friend.... Saheb came alone or with his family?

Hasan Ali : With Family

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¶

Police : How many times did he come?

Hasan ali : I don't know.... Sir had a very big project with Irani

Police : Yusuf Lakdawala's ?

Hasan Ali : Yusuf Lakdawalas friend Very big project..... of Water purifier... Honey Irani very big plant.

Police : Is it just like Aqua Guard

Hasan Ali : No, Its a project for filtering sea water

Police : O.K. Actually whats the business of ... Yusuf....

Hasan Ali : Dubbing Theatre

Police : Dubbing Theatre..... ok is he the same connected with film line.... with Bollywood

Police: Such a big personality goes with such a big personality comes in contact with Sonia Gandhi, and you said that new thing came for me.... Where the CM used to come.

Hasan Ali : Ahmed Patel

Police: O.K. Ahmed Patel Her Political Advisor..... C.M. too came there...

Hasan Ali : All these people were there for 4 hrs... at the Centaur Hotel which they opened for.....

Police: Oh my god.... You must have talked with C.P. too....

Hasan Ali : He was in front of me..... I was made to talk to him

Police : By Who Lakdawala?

Hasan Ali : Pune Commissioner

Police:Who ?

Hasan Ali : Two months back..... Three months back.....

Police: Umranikar ?

Hasan Ali : Not Umranikar

Police: Who Satyapalsingh ?

Hasan Ali : Satyapal Singh..... and Home Minister too

Police: which one Delhi Home Minister..... or from here

Hasan ali : Yes

Police: Then R.R. Patil was Home Minister

Hasan Ali : (check) I don't know..... My son told me it will be ours.....

Police: Must have happenedAhmed Patel must have phoned.....

But Ahmed Patel is from Congress C.P. Shivanandan from Thane had done a lot of fielding ... even then Ghafoor Saheb Don't know who is with you.

[Part 2]

Police : What you told yesterday..... Bandra..... How many days you stayed there.....

Hasan Ali: 20 to 15 days

Police : Adnan Kashogi who deposited 3 Billion dollars in your account in exchange what did you pay to him.... Drugs or Arms

Hasan Ali: (Check)

Police : Arrey the Account has been seized.... There is still balance in it.

Hasan Ali: I will give in writing Sir... There was no give and take..

Police : How did Adnan Kashogi deposit in it....

Hasan Ali: No Account.... No Money....

(The Phone Rings)

Police : I am at Ward No.7 I am coming down...

Second Police: You know Adnan Kashogi... Sir says.... Arms dealer

Hasan Ali: Neither I know him ... nor I met him

Police : And you met Russian Mafia..... Russian Ingnaldo.... You lost one passport.... Evidence has come against you and hence we are asking- we are counterchecking..... what is your dealing with the Russian Mafia.... Your passport is lost

Hasan Ali: He is my friend..... had a conversation with them.... I have no involvement with them... My passport was stolen.... These people or who took I don't know....

Police : You had lodged a false complaint of passport being stolen the S.P. Saheb

(Checks)...Yusuf Saheb managed him

Police : How did he do that.... Give me some idea....

Hasan Ali: Saheb told me.....(Check Sonia.....) He was at Saheb's party so.....

Police : Who told whom?

Hasan Ali: C.P Yusuf said He is my friend... Good Officer..

Police : You told me it was Pune C.P.... Don't be afraid tell me who told you...

Hasan Ali: (Check) He is my man... don't worry.

Police : Yusuf Bhai himself said ?

Hasan Ali: Yes

Unquote:

In fact, this information and the video recording was first placed in the public domain by Shri Ram Jethmalani, the well-known senior lawyer [who has filed the Writ in the Supreme Court on the issue of black money abroad] on 15.4.2010 at a press conference addressed by him in Mumbai. The Hindustan Times reported on this press conference thus:

Jethmalani also spoke on the controversial CD footage of Ali telling his interrogator that he was present in a meeting in 2008 where politicians including then chief minister Vilasrao Deshmukh, home minister R.R. Patil and senior Congress leader Ahmed Patel were deciding on Mumbai's police commissioner.

Quote

"I do not care who participated, but what worries me is the presence of Patel," said Jethmalani. "What legitimate reason can be for his [Patel] mixing with Ali?"

Besides reporting the press conference, Nagaland Post also reported on the responses from those against whom the allegations were made thus:

The senior lawyer also alleged that Ali was present at a meeting when the appointment of Hasan Gafoor as Mumbai police commissioner was being discussed.

"What is more alarming and shocking is that Ahmed Patel, the political secretary to Sonia Gandhi, was also present at the meeting - and this thing, Hassan Ali has confessed himself," he said.

"What was he (Patel) doing there, what legitimate reason can there be for his mixing with Hassan Ali?" Jethmalani asked.

Ali has been in the news after Bharatiya Janata Party (BJP) presented a CD, containing content allegedly linking him with several top leaders like union Heavy Industries Minister Vilasrao Deshmukh, Maharashtra Deputy

Chief Minister Chhagan Bhujbal and Home Minister R.R. Patil, in the state assembly earlier this week.

Following the allegations, Patil promptly ordered a CID inquiry into the origins of the CD and vowed to quit from his post if the charges against him were proved. Deshmukh has dismissed the allegations while Bhujbal is silent over the issue.

<http://www.nagalandpost.com/ShowStory.aspx?npoststoryiden=UzEwMjQ2Nzc%3D-8EFSTg4bVUE%3D>

While Ali tells the Police that he met Shri Ahmed Patel in Centaur Hotel, Shri Patel has however denied having been present at any meeting with Ali or ever met him; Vilasrao Deshmukh ordered an inquiry into the affair, but till now nothing contrary has been found out. The Home Minister Maharashtra has denied the meeting. But the video exists and is in the possession of Shri Mahesh Jethmalani one of the members of the Task Force.

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XVIII. Bofors pay off to Quattrocchi and his links with the family of the President of the Congress

Despite all the efforts to bury the Bofors pay off case, it refuses to die. The Income Tax Appellate Tribunal decision on Win Chaddha's tax issues has brought the issue alive back to the public domain. Shockingly the Tribunal decision came the very day the CBI had moved the CBI court for closing the case against Ottavio Quattrocchi. Some recall of the Quattrocchi part of the Bofors pay off case is necessary to know how its continuation impacts on the attitude of the government of India to the illegal monies of Indians stashed away abroad.

The Italian born Ottavio Quattrocchi's association with the family of the Congress President and the Chairperson of the UPA and NAC is more three decades old. The

closeness of the two families has been testified to by the SPG security official mentioned earlier. No one has disputed that Quattrocchi got the first installment of \$ 7.3 millions out of the total bribe of \$36.5 millions [3% of the contract value of \$1.2 billions] from Bofors in the arms deal that he had procured from the government of India as he had promised to them before 31.3.1986, due to his front company for swinging the gun deal for Bofors. The slush money of \$7.3 millions was traced to Quattrocchi's account by the CBI, which got it frozen some 20 years ago. But when the law was closing in on Quattrocchi in early 1990s, the Congress government [led by the late Shri Narasimha Rao] had stealthily allowed him to escape from India. He turned fugitive, but his slush money had continued to remain frozen. Sten Lindstorm, the Swedish police official who, as the head of the Swedish National Investigation Bureau [equal to the CBI here] investigated the Bofors case for 18 years, wrote an article in the Asian Age newspaper in the year 2004, saying that Mrs. Sonia Gandhi should be interrogated in the Bofors case, particularly on her family's relations with Quattrocchi, on who introduced him to Bofors and why did Bofors pay him for deal with India. This article had appeared in most media in India. Subsequently, the CBI obviously under pressure from the UPA government headed at the UPA level by Mrs. Sonia Gandhi as the NAC Chairman, quietly allowed Quattrocchi to withdraw the money he had stashed away from India and which the government had got arrested. The then Solicitor General of India was sent to London to facilitate the release of the money. This was all in the media and in the public domain. This instance demonstrably shows that the present government, far from being keen to recover the Indian slush money lodged abroad, is keen to release such monies arrested on due process of law. The UPA II, with a different political combination, was in power then, with Mrs. Sonia Gandhi as chairperson of the National Advisory Council and also of the UPA. It

was also clear from the media reports in the public domain that Mrs. Sonia Gandhi was keen to protect Quattrocchi and she had asked the previous government as early as 1999, to show evidence against Q, when the most clinching evidence of the loot caught in Q's frozen account, had fixed him conclusively. She had asked the government for evidence even after the Swiss court once, Delhi High court twice and this Hon'ble Supreme Court had held him part of the Bofor's fraud. And in the year 2009, even as the country was approaching the elections, the government of UPA of which Smt Sonia Gandhi was the head, withdrew that Red Corner Notice against Quattrocchi so as to finally allow him to escape the Indian law.

It was in these circumstances that the Income Tax tribunal decision came on the very day the CBI was applying to close the criminal case against Quattrocchi. This is how 'The Hindu' newspaper [January 3, 2011] had carried the following report which is self-explanatory

Quote

In a further embarrassment to the Congress, under whose stewardship the United Progressive Alliance government is already neck-deep in tackling the impact of various scams, an Income- Tax Tribunal has provided fresh powder to fire the Bofors guns.

It ruled that Rs. 41.2 crore was paid as kickbacks to the late Win Chadha and Italian businessman Ottavio Quattrocchi in the Swedish howitzer deal and the two are liable to tax in India on such income.

Dismissing an appeal by Win Chadha's son against the I-T Department's tax claim of Rs. 52 crore and Rs. 85 lakh from his father for the assessment years 1987-88 and 1988-89, the Income Tax Appellate Tribunal (ITAT), in a 98-page order dated December 31, 2010, said: "The investigations revealed that an amount of 242.62 million Swedish kroners [Rs.412.5 million] was paid by M/s. AB Bofors, as commission, to Mr. Quattrocchi and Chadha

through M/s. A.E. Services and M/s. Svenska, in contravention of the policy of the government of India not to allow middlemen/agents in the deal.”

In its order made available on Monday, the ITAT detailed the denials by Bofors on the existence of middlemen in the Rs. 1,437-crore gun deal contracted in 1986, as also the efforts made to open a series of accounts to transfer money in a bid to cover up the original source of the funds.

*Urging serious and concerted steps to recover the tax dues, the two-member ITAT Bench that comprised R.C. Sharma and R.P. Tolani said: “**In our view, to enforce the rule of law, these steps are desirable to bring all the relevant income-tax violations to the logical end by the Income-Tax Department. Inaction in this regard may lead to a non-existent undesirable and detrimental notion that India is a soft State and one can meddle with its tax laws with impunity.**”*

The tribunal order comes on the eve of a scheduled hearing by a Delhi court of a plea by the CBI seeking to drop criminal proceedings against Mr. Quattrocchi, the Italian businessman whom the Opposition says is close to the Gandhi family. Mr. Quattrocchi left India in 1993 even as the CBI lodged a case on the alleged kickbacks in the gun deal.

Bofors, the ITAT said, should have reduced the commissions paid from the contract price while pointing out that the government had to pay an excess amount of Rs. 41.2 crore, which was passed on to Chadha and Mr. Quattrocchi in violation of the terms of contract.

The ITAT noted that a commission of Rs. 32.66 crore was transferred to M/s. Svenska Inc., Panama, which was traced to Chadha, and eventually credited in an account of the Geneva-based Swiss Bank Corporation. Likewise, Rs. 8.57 crore was transferred to the AE Services Limited, c/o Mayo Associates SA, Geneva, which was opened only a fortnight earlier on August 20, 1986.

Moreover, despite the Indian government's insistence on not appointing or paying any agent, Bofors entered into a fresh consultancy agreement with the U.K.-based AE Services at the instance of Mr. Quattrocchi. “This amount of SEK (Swedish Kroner) 50,463,966 works out to be exactly 3 per cent of the amount of advance paid by the Government of India to the Bofors and was, thus, perfectly in accordance with the terms set out in the AE Services Limited-Bofors agreement dated November 15, 1985,” the order

said. In the event, Chadha, as also the entities through which money was transferred as kickbacks to Mr. Quattrocchi, were liable to pay tax in India, the ITAT held.

[\[http://www.thehindu.com/news/national/article1030168.ece\]](http://www.thehindu.com/news/national/article1030168.ece)

Unquote

Not only that, another Report in the recent issue of India Today [17-01-2011] says – based on the testimonies of an SPG officer and driver to CBI as early as 1997 – that Q met Sonia 21 times after Rajiv Gandhi’s death. So we should be clear about the crime. Actually one of our Government lawyers helped Q to de- freeze his accounts in London recently.

This clearly shows the nexus between the Bofors pay-off and the Chairperson of the UPA. And the Quattrocchi episode is a standing testimony for the UPA government’s incapacity to take the agenda of recovering illegal Indian monies stashed abroad.

XIX. The alleged secret Swiss accounts of the family of the UPA chairperson

It is a matter of concern that there have been serious and persistent allegations in the media in and outside India about alleged secret Swiss accounts held by the family of the Chairperson of the UPA, Smt Sonia Gandhi, which have not been even formally denied by any one from the family. Because of that, there is an increasing apprehension in the public mind that it is due to the involvement of leaders close to the UPA and its component ruling parties that the UPA government and therefore India remain the only exception to the global pursuit of illegal monies abroad. The apprehension is that the Indian government is not taking

the aggressive measures in that direction unlike the other countries as explained here in this report. The reports have appeared in the media outside and in India in the last 19 years are catalogued here for ready reference and appreciation:

1. Investigative report in Schweizer Illustrierte [19.11.1991]

Schweizer Illustrierte, which is a popular magazine of Switzerland, did an expose' of the bribes allegedly taken by some 14 leaders of Third World countries, and the name of Late Shri Rajiv Gandhi was found among the 14 leaders who had reportedly stashed away their bribes in secret Swiss bank accounts. The name and the photograph of late Shri Rajiv Gandhi appears along with that of other 13 leaders with a remark that bribes of 2.5 Swiss Francs are kept in secret accounts in Switzerland. The amount of SF 2.5 billions equals \$2.2 billions. This amount was said to have been in existence from prior to June 1988 in the name of Shri Rahul Gandhi who was a minor and became a major then, and was being controlled by Smt Sonia Gandhi. The present value of this amount, which would have appreciated with income earned thereon, is staggering. If the amount had remained invested safe long term US government bonds it would have grown to a huge sum of \$8.41 billion equal to Rs 42345 crores according to www.measuringworth.com, a US website which measures the appreciation in the values of investment over a period of time. This Swiss magazine's report was immediately noticed and brought to the attention of the Parliament by Shri Amal Datta [CPM] Member of Parliament raised the issue in Lok Sabha on 7.12.1991, but the then Speaker Shivraj Patil expunged the reference from the proceedings.

2. Startling revelations in the book “The State within a State: The KGB and its Hold on Russia-Past, Present, and Future”, by Dr Yevgenia Albats [Farrar, Straus and Giroux Paperbacks, 1994; ISBN 0-374-52738-5]

Dr Yevgenia Albats, a Harvard educated journalist and an acclaimed investigator says in the above book that: “A letter signed by Victor Chebrikov, who replaced Andropov, as the KGB head in 1982 noted: “the USSR KGB maintains contact with the son of the Premier Minister, Rajiv Gandhi (of India). R. Gandhi expresses deep gratitude for the benefits accruing to the Prime Minister's family from the commercial dealings of the firm he controls in co-operation with the Soviet Foreign trade organizations. R Gandhi reports confidentially that a substantial portion of the funds obtained through this channel are used to support the party of R Gandhi.” [P.223 of the book]. Dr. Albats has also disclosed that, in December 1985, KGB chief Victor Chebrikov had asked for authorization from the Central Committee of the Communist Party of the Soviet Union, "to make payments in US dollars to the family members of Mr. Rajiv Gandhi, namely Sonia Gandhi, Rahul Gandhi and Ms Paola Maino, mother of Sonia Gandhi."

3. Indian media reports on the Schweizer Illustrierte report and Dr Albats book

The Indian media was slow to pick up and follow the above reports obviously because of the said demise of late Shri Rajiv Gandhi under tragic circumstances even though the leaks by the Russian media about the KGB disclosures were carried in the Indian media. And even before Dr Albats' book came out the Russian media had leaked out the details of the alleged pay offs. Based on the leaks, on July 4, 1992, ‘The Hindu’ newspaper had reported “the Russian Foreign Intelligence Service admits the possibility that the KGB could have been involved in arranging

profitable Soviet contract for the company controlled by Rajiv Gandhi family”. Otherwise, the Indian media’s interest in it began with the entry of Smt Sonia Gandhi, the present UPA Chairman and the National Advisory Council into active politics by assuming leadership of the Congress party. Thereafter the Indian media began pursuing the exposes of Schweizer Illustrierte and Dr Yuvegins Albats as summarized hereunder:

- (a) On 31.12.2008, AG Noorani, a well-known writer, wrote a column in the Statesman Newspaper on the disclosures in both Schweizer Illustrierte and the book on KGB by Dr Yuvegina Albats.
- (b) In the year 2002, Dr Subramanian Swamy, the president of the Janata Party had put out the photocopies of the pages of Schweizer Illustrierte and Dr Albats in the Website of the Janata. He also put on the website, the mail letter of the Swiss magazine dated 23.2.2002 in which the confirming that in its article of November 1991, it had named Rajiv Gandhi with a total of Swiss Franc 2.5 billion [\$2.2 billion] in secret account; it had also offered to supply an original copy of the magazine to Dr Swamy. The mail letter of Schweizer Illustrierte is attached as Annex IV here.

[See: <http://www.janataparty.org/annexures/ann10p43.html>]

- (c) On 15.8.2006, Rajinder Puri, a reputed journalist, also wrote on the KGB disclosures in his column stating that the book of Dr Yuvegina Albats states that the KGB had sought from the Central Committee of the CPSU "authorization to make payments in US dollars to the family members of Mr. Rajiv Gandhi, namely Sonia Gandhi, Rahul Gandhi and Ms Paola Maino, mother of Sonia Gandhi."

(d) On 29.4.2009 the exposes in the Swiss magazine and the book on KGB were recalled and analyzed in an article by S Gurumurthy, one of the members of the Task Force, published in New Indian Express [29.4.2009]. This article was written explicitly in response to Smt Sonia Gandhi speech at Mangalore [27.4.2009] declaring that, “the Congress was taking steps to address the issue of untaxed Indian money in Swiss banks” and questioning how Smt Sonia Gandhi could vow to bring back the Indian monies stashed when there is an un-rebutted allegation in the media that she has inherited some \$2.2 billion in secret Swiss bank accounts`

[\[http://expressbuzz.com/biography/who-will-probe-first-familys-billions/62676.html\]](http://expressbuzz.com/biography/who-will-probe-first-familys-billions/62676.html)

(e) In the recent issue of ‘**India Today dated 27.12.2010**’ the well-known senior lawyer Ram Jethmalani has referred to the Swiss magazine expose’ regarding \$2.2 billions, being the alleged bribes taken by late Shri Rajiv Gandhi having stood deposited in secret banks; the senior lawyer has also asked in his article where that money is now?

(f) On 3.1.2011, in an article titled “Zero Tolerance, Secret billions” published in the New Indian Express, S. Gurumurthy has recalled the above media disclosures in India and abroad.

[\[http://expressbuzz.com/biography/Following-Rajivs-risky-steps/236261.html\]](http://expressbuzz.com/biography/Following-Rajivs-risky-steps/236261.html)

It is evident from the above media reports in India that the stunning disclosures in the Schweizer Illustrierte and in the book of Dr Yuvegina Albats have been

followed up and carried in the media here. Therefore on the ground that such expose's were carried in media outside it cannot possibly be said that the members of the Congress President's family were unaware of the reports and their contents. It must always have been known to them that such serious allegations had been made against them by media investigation outside in Switzerland and in Russia. So they could not deny there were aware of not only exposes but also the serious nature of the allegations against them, which involve more than charge of bribe.

Yet none of the members of the family of the President of the Congress Party and the Chairperson of UPA and NAC have taken any effort to deny, dispute or sue the media in India or outside. It is a matter of serious concern. These allegations are serious enough to warrant civil, criminal and libel action. The UPA government, particularly the Congress Party has a moral and national duty to clear the name of the former Prime minister of India, which stands seriously damaged in view of these media reports. It is important that we hold our heads high about our current and late leaders.

The writers who have referred to the above allegations in the world media have pointed out how when a similar charge was made against the former Prime Minister of India late Shri Morarji Desai by the Pulitzer price winner writer Seymour Hersh, late Shri Desai, ripe old and 87 filed a libel suit for \$50 million in US and when the suit came up, he was 93 and so could not travel. Yet Mr. Henry Kissinger stepped into the witness box and denied all allegations against late Shri Desai. This move saved the reputation of not just late Shri Morarji Desai, but, of the nation itself.

XX. The government suffers from utter lack of credibility

It is evident from the fact that the four instances cited that the UPA government suffers from serious loss of credibility, particularly because the family of the President of the Congress Party who is also the Chairperson of the UPA and the NAC herself is alleged to have Secret account in Swiss banks and also alleged to have accepted bribes from the KGB and such serious allegations have been rebutted nor the media making such allegations have been sued. The declarations of the Congress President and the UPA government that it would take corruption head on and also bring the monies stashed abroad back do not carry conviction with the people. When there are such serious allegations how would the bureaucracy, which is supposed to undertake studies and suggest policies for the recovery of the monies stashed away abroad and execute such to recover the illegal funds of Indians stashed abroad, be free to do its work, even assuming that it is keen and honest enough to undertake the strenuous and difficult task. So the UPA government suffers from serious credibility gap, which it must address first.

When, in this background, the government is unwilling to open the names of Indians who have deposits in Lichtenstein Bank, treat their names confidential and close their case as just tax evasion, the apprehension in the public mind that the government has something to conceal is inevitable. The same applies to the Hasan Ali and Quattrocchi cases where the government is virtually seen to be colluding with the buccaneers to bury their cases. This impression is self evident in the way the UPA government is turning a blind eye to the serious allegations that billions of dollars are lying in secret Swiss bank accounts for the benefit of the family of the Chairperson of the UPA and the NAC who is also the Congress President.

It is in this context the four instances cited, namely the Lichtenstein Bank issue, Hasan Ali affair, Quattrocchi pay off and the alleged Secret Swiss accounts are relevant. Because of these issues the so-called efforts cited by the UPA government to unearth the black money abroad lacks credibility. That the Indian government is not keen on securing the details of the Lichtenstein Bank details; that it is not keen on fixing the slush monies of Quattrocchi and Hasan Ali; and that it is not bothered about the media exposures on the family of Smt Sonia Gandhi's alleged billions abroad is also known the foreign countries, particularly Switzerland from whom the Indian government is "seeking" assistance to track the illegal funds of Indians abroad. Unless the credibility of the government is established within and outside India, there is no way the Indian efforts to get at the huge capital of India that has been looted from India can be traced and brought back to India. Even after establishing the credibility of our pursuit and the sincerity of our efforts it will take a long time to get at the identity of the buccaneers and the actual monies hidden in secrecy, in tax havens and secret banks abroad.

In a recent press conference Shri Pranab Mukherjee unveiled a five point agenda but alas these are good intentions. He was stressing on double taxation treaty. We feel India should take the lead in creating a new global financial architecture instead of harping on existing instrumentalities. Even in that press conference there was some misleading information.

He mentioned that it was a private Deal between US government and UBS bank to get the names of Americans holding money in the UBS Bank. It is not a private deal and our FM has been completely misled. It is a deal between US government

and Swiss Government. Let us quote from a report in Washington Post – August 20 -2009

“The Swiss Government will turn over names of suspected US tax dodgers who have held 4450 secret accounts at Banking giant UBS – accounts at one point contained as much as USD 18 Billion. US official said Wednesday. Further, the SWISS Government promised to assist the United States in similar investigations at other Swiss banks, IRS said.”

[<http://www.washingtonpost.com/wpdyn/content/article/2009/08/19/AR2009081901395.html>]

The FM mentioned about Double Taxation treaties with many secret jurisdictions getting finalized to BRING back black money. All these treaties including with Switzerland are with Prospective effect. This means only those monies flowing out after the treaties are ratified [in the case of Swiss it can be as late as Jan 2013--] can be dealt with. Also under section 147 of IT act if the event is beyond six years no action can be initiated.

If the Asange CD contain information prior to 2002 then also under income tax act no action can be initiated .He mentions about names available at the time of prosecutions—But under amended settlement commission regulations [245A] if the individuals go for settlement commission [for cases below six years] then their names will never come out.

Hence the proposed strategies of the Government make one wonder whether the Government is with the evaders or with the people of this country!

XXI. How can the UPA government regain its lost credibility?

The issue is how the UPA government can reacquire credibility? It is not trust deficit but defunct trust. If the government's credibility is to be restored within and outside the country, the government must act on the three cases – namely the Lichtenstein Bank names, Quattrocchi pay offs Hasan Ali case and respond to the alleged secret bank accounts of the family of Smt Sonia Gandhi – in a credible manner. The government action so far is explicitly to suppress the truth and to bury the cases. How to pursue these known cases in a credible manner?

First the government must forthwith disclose the names of the Indian buccaneers who had stashed away Indian monies in Lichtenstein Bank and not treat their cases as just tax evasion, but initiate criminal proceedings for money laundering and other offences;

Second, the government must register cases of tax evasion, money laundering and crime against Hasan Ali. The government has not even filed an FIR against him despite that the ED had promised as early as 2008 that his prosecution was imminent;

Three, the government must withdraw the application of the CBI to close the case against Quattrocchi on the ground he is not traceable and the government must ask for re-tracing the \$7.3 millions he had illegally stashed away from India by way of bribes and which it had allowed him to withdraw.

This is doable as the monies would have certainly gone only through bank channels to some account or the others and the banking chain would lead to where the monies are today. It is not possible to withdraw \$7.3 millions in cash and secret it;

Four, the government must take action against those in whose names the secret funds are-- if the reports [of Swiss Illustrierte and Dr Albats investigative book] are found to be true. Otherwise the Government must initiate action against these individuals and media for spreading calumny against our past and present leaders.

Unless these steps are forthwith initiated, not only the UPA government's credibility will be questioned, it will also lead to the inevitable inference that the UPA government is hand-in-glove with the buccaneers who have stashed away billions of dollars of Indian people's money abroad.

XXII. The need to restore credibility of the political parties and the political system as a condition precedent

Apart from the UPA government whose credibility in regard to the efforts to recover Indian monies illegally stashed away abroad is completely in ruins, the people of India view with suspicion and apprehension the entire political class, which is supposed to act to recover the Indian monies stashed away abroad. In fact the political class is becoming a hate object. There has to be a morally and ethically sound response to restore the trust and confidence of the people of India. This cannot be achieved by declaring war against corruption or against the funds

stashed away abroad, when the people of India have started believing that the political class is the accused number one in the offence of stashing away Indian monies. The people will even tolerate the business class doing it because they can trust the political class to act and bring them to book. But if the political class itself is seen to be part of or partnering the buccaneers, then the question “if the salt loses its saltiness wherewith shall it be salted” arises.

XXIII. The political class in India in general is facing this credibility gap.

The Task Force therefore suggests that unless there is a moral and ethical response this credibility gap cannot be filled. All moral responses are personal; they are also voluntary. Moral responses are not forced or enforced. But they matter; and in situations like this they alone matter. Let us understand that our republic is in danger. Extra-ordinary times require extra-ordinary responses from leaders who are to be emulated. The Task Force therefore suggests that the political class must set an example. Leaders and office bearers of political parties, ministers and Members of Parliament must declare that they or their families have either no wealth abroad, or if they have they must explain how they had acquired it. In addition they must give letters to the government stating that they authorize the government to ask from any government or bank in the world the details of any money held by them or by their sons and daughters. A voluntary move like this by the leaders of political parties will restore the public confidence in the political system. The leaders and office bearers ministers and members of parliament of all parties must first come forward to show the moral lead which the political system desperately needs.

XXIV. Constitutional, legal, geo-political, moral and ethical measures needed to recover the Indian wealth illegally stashed away abroad

The Prime Minister Dr Man Mohan Singh's recent view in response to the Hon'ble Supreme Court proceedings in regard to the black wealth of India, that the recovery of Indian black monies stashed abroad is not a matter, which can be accomplished in a short period, is not disputed or disputable. When a credible government says so, it would be taken as a statement of fact. Philippines fought to recover the monies illegally stashed by Marcos for almost two decades and got it. But it fought. Such a government could say that it would take a long time. But when the UPA government is seen to be colluding with the buccaneers, such a view as the Prime Minister had expressed would only seem to be hiding behind time and doing nothing in the direction of recovering the illegal monies of India stashed away abroad.

The government of India can take the following constitutional, legal, political and geo-political measures to unearth and bring back the Indian monies illegally stashed abroad.

1. The Government of India can enact a law, recognizing reports of the IMF and GFI etc saying that huge Indian capital has been illegally stashed away from India, declaring that the government of India is the beneficiary of all monies, assets and bank accounts held abroad by or the benefit of Indian nationals without declaring the same to the Indian authorities. The said law ideally should have multi-partisan support and passed unanimously in both houses of Parliament. The

law may also provide that where the concerned Indian national claims and is able to prove with evidence before an impartial tribunal created for the purpose under the law that the asset held outside India had been acquired by him by proper means and the non-declaration is merely a technical offence, the government would restore the asset back to the claimant. There can be no objection by any political party to such a measure as the law provides for due process and does not expropriate the assets of any. It only shifts the onus of proof on the person who has held undeclared wealth abroad.

2. On the basis of the said law, the Government of India can ask the world governments and the different banks committed to secrecy like the Swiss Banks, to recognize Indian government as the beneficiary of the undeclared wealth, bank account and other assets of the Indian nationals till the owner of the wealth, bank accounts and other assets is able to prove that he had acquired it by fair means and from legally valid sources

3. On the basis of various expert reports and other credible information available, there are reasonable grounds to infer that a substantial portion of Indian illegal money stashed in foreign banks owes its origin to criminal activities like corruption, misappropriation of government funds, fraud, cheating, activities of organized criminal gangs, drug mafias, terrorist financing, ransoms etc. All these are cognizable offences punishable under criminal laws of India including the Indian Penal Code, Prevention of Corruption Act, The

Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, Foreign Exchange Management Act, The Narcotic Drugs and Psychotropic Substances Act, Money Laundering Act, The Smugglers and Foreign Exchange Manipulators Forfeiture of Property Act etc.

It is recommended that the Government of India through National Investigative Agency [NIA], suo moto, register an omnibus criminal case against suspected unidentified persons who have been indulging in these activities and unauthorizedly transferring the money to more than 70 tax havens abroad. The case may be transferred to a special team of the CBI and investigated under supervision of the Supreme Court. They must register an FIR like the investigative agency did in the case of Punjab terrorism and Nagaland insurgency against unknown accused persons who had stashed away monies abroad under the money laundering and anti-terror laws and proceed to investigate by inquiry, interrogation and even arrest. Registration of the criminal case will enable the investigating agencies to summon people for questioning, interrogate suspected persons, seize incriminating documents, conduct raids, make arrests, examine documents etc. This omnibus FIR hopefully will facilitate a continuous investigation and continuous progress. This will, as the investigations proceeds, facilitate many, may be hundreds and thousands of specific FIRs and prosecutions, but still continue as the umbrella FIR which will facilitate the continuance of the campaign against black money.

This would also enable them to get assistance of foreign police and investigating agencies for gathering requisite evidence and information. Most importantly, this will empower the government to approach different banks abroad, as also the concerned governments, for information regarding the money trail as they pertain to criminal cases. Following the investigation of the omnibus case, when specific information and evidence is collected against the guilty persons, specific cases can be registered and charge sheeted against them. It needs to be reiterated that the Indian illegal money stashed abroad owes less of its origin to bonafide business activities on which taxes have been evaded and more to criminal money. Its criminal origin renders all subsequent transactions relating to this money part of criminal investigation, irrespective of the fact whether taxes were or were not paid on that money.

4. Lots of monies of Indians in secret bank accounts have been appropriated by the banks, as the account holders cannot by legal and open documentation bequeath them to their progenies and most of them die without informing their progeny about the account. This may run into billions from the 1950s. Sudden death of a political leader or businessman can create such a scene. Such monies should be declared by a special law as escheat and vested in government of India with a provision that the progenies of the account holder may claim the same by providing requisite evidence to show that the monies in such accounts were sourced in legal business or other receipts.

5. Indian political system needs to recognize that India is already a leading power and is also a growing geo-political power which is adjudged to emerge as one of the three leading global powers along with the US and China. These countries, particularly the tiny tots like Switzerland, therefore will have enormous and increasing economic and geo-political stake in our country. The present and potential power of India should be used, like other nations, such as the US and Germany, are using their clout to track the black monies of their nationals stashed abroad. For instance Switzerland has billions of dollars of investment in India. They would not like to jeopardize it by ignoring our laws or wish to recover the illegal funds stashed with them. If our geo-political power is properly used the Swiss government could never behave the way it is behaving as it does now in the Hasan Ali case. It can never do it if the law suggested as above is passed.

6. Every politician should affirm in the affidavit before election that he does not hold illegal money abroad. The same should be applied to appointments like RBI Governor/SEBI Chairman/CBI Director/IB Director/RAW Chief/CVC etc.

7. India must join global efforts against tax havens and secret banking. Recently there was a Task force meeting of the Financial Integrity & Economic Development-- in Bergen Norway 28,29th September. Our Finance ministry representatives also participated in this conclave

The Task Force, a consortium of more than 60 governments, NGOs and foundations, is focused on the need for greater transparency in the global financial system for the benefit of both developing countries and industrialized nations. Governments participating in the Task Force include Norway, Germany, Denmark, the Netherlands, France, Spain, Chile, Canada and the Paris-based Secretariat of the 59 government members of the Leading Group on Innovative Financing for Development. Global Financial Integrity leads the Task Force, with participation from Global Witness, Transparency International, Christian Aid, Tax Justice Network, Tax Research LLP and Eurodad. The Ford Foundation is also aligned with the Task Force.

The task force focused on Achieving Transparency –A dialogue for action. It had presentation by various groups like GFI/Transparency International/Global Witness/Tax Justice Network etc.

Details of the Proposed Priorities as Enunciated by the Financial Integrity Task force—Bergen-- Norway Declaration—September 28/29 2010

Quote

➤ *Curtailment of mispricing in trade imports and exports;*

It is estimated that half of all illicit financial flows out of developing countries are related to the mispricing of trade. Stricter international

accounting rules and standards for the pricing of goods and services will curtail the flow of illicit money due to trade mispricing

- *Country-by-country accounting of sales, profits, and taxes paid by multinational corporations;*

Under current accounting rules corporations report consolidated financial results for all company operations. This provides an opportunity to shield from view profits attributed to subsidiaries in tax – havens where little or no company activity occurs. Country by country reporting will require firms to be completely transparent about sales, profits, and taxes in every jurisdiction where they are located

- *Confirmation of beneficial ownership in all banking and securities accounts;*

Providing beneficial ownership information will enable national authorities to better tax revenue [and plan for it utilization] and track and address illegal activity. Current and potential investors will have an enhanced understanding of the working of the corporation in which they invest. Banks will be in a better position to determine the credit worthiness of potential customers. Thus, a fully transparent corporate structure will foster a better functioning global financial system.

- *Automatic cross-border exchange of tax information on personal and business accounts;*

The current international standard of tax information exchange between governments requires a high level of certainty of tax evasion before information is provided by the requested state. A system whereby information is automatically exchanged will enable a more efficient collection of tax data.

- *Harmonization of predicate offenses under anti-money laundering laws across all Financial Action Task Force cooperating countries.*

Harmonizing and codifying predicate offenses for a money laundering charge within the OECD will create a bolstered defense against money laundering. The ultimate goal is to see that best practices are embraced by nations that have relatively weak anti-money laundering regimes and that a universal set of standards is adopted by all OECD countries to curb the flow of illicit capital.

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8. The Government of India should take up the issue in international forums like G -20, UNSC, etc forcefully since for every one-Dollar coming as aid ten Dollars go away in this fashion. **We are currently full member of FATF [Financial Action Task Force] and that gives us more elbow room from being an observer in the past.** The FATF provide clues to the nature of issues, which we must raise in global fora and also the type of Action we need to undertake in the domestic front.

[\[http://www.fatf-gafi.org/dataoecd/48/11/45139480.pdf\]](http://www.fatf-gafi.org/dataoecd/48/11/45139480.pdf)

9. Before passing the law suggested at the outset or warning that such law would be passed forthwith, the government may also, if political consensus is possible, think of providing a window of opportunity for businessmen and professionals to bring the money back with suitable grace period and penalty on the quantum of funds and also specifying the instruments (like infrastructure bonds) where the funds should be invested. Beyond the moratorium period of, say six months, the government can decide to completely nationalize any funds kept abroad as per the law suggested.

10. As far as illegal funds kept for nefarious purposes are concerned, it is imperative that the government raises the issue in multilateral forums like G-20 and even the UNSC and get a common legislation enacted to get these funds from tax havens.

11. Bilateral treaties have their limitations since many of these jurisdictions are non-transparent and, to start with, created with a purpose of holding illegal wealth. The Government of India may also create a 'Truth and Reconciliation Commission', which would facilitate distinguishing between the funds and the holders. It will also help in voluntary confessions with penalty for those who have accumulated funds abroad to evade taxes. It can distinguish between different shades of criminals and recommend to the government for acting accordingly.

12. The Government may constitute an inter-ministerial task force including representatives of SEBI/RBI/RAW/IB/LAW and outside experts to consider ways of dealing with the billions of dollars expected to be brought in over a period of time. It could de-stabilize forex rates or fuel further inflation etc.

13. Also the persons who have accumulated funds abroad should be barred from holding any public office and getting loans from banks etc. as a form of punishment. Even cancellation of citizenship can be considered. If all fund holders are treated only as tax evaders, as is currently done in the case of LGT bank list, then they will continue to have every privilege like access to bank funds etc. and hence the criminal nature.

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14. The Indian government should look at the issue as a criminal act against the interest of the State since some portion of the stashed away

money is suspected to be also funding terror related activities. Our clean political leaders have to muster courage to act and act now. In the recent issue of **India Today [31-01-2011]** it is mentioned that “Sometimes, the money is physically transferred abroad. The CEO of a Mumbai-based equity firm says that the money is flown abroad in "specialflights" or chartered aircraft out of Mumbai and Delhi airports to Zurich.Perhaps this is one reason behind the demand for private planes.” This reveals the gigantic dimension of the problem.

15. There was a report in **India Today (February 18, 2008)** regarding foreign travels of Central ministers. It stated that a large numbers of them visited Switzerland, including on personal trips, certainly not for skiing in the Alps. **Hence the PM should take the nation in to confidence and inform about foreign travels to tax havens by his cabinet ministers.**

16. There are associated issues of Centre –State relations since State Governments may also have lost substantially due to commercial tax or entertainment tax or registration revenue due to the actions of tax evaders keeping funds abroad. Hence it is not just the issue pertaining to Central Government alone.

17. Very often the discussions veer round to domestic black money. Domestic black or unaccounted money is definitely important. At least Domestic black money is used in our economy and to that extent it is productive. But the money kept in Swiss Banks is neither useful

to India nor it benefits Indians. **Domestic black money is a vote of no confidence on the Government only while as illegal Indian wealth abroad is a vote of no confidence on India as a country and hence treason**

18. All measures are conditioned on the sincerity, commitment and honesty of purpose in the Government and in the political system. More importantly public opinion has to be generated against this kind of buccaneering and the political parties have a role in creating the necessary climate for generating public opinion against this evil. Aroused public opinion in any country, like in Philippines in the past and in Tunisia now, will have a great impact on the world. The political parties have a special role in arousing public opinion on the issue. The issue has the potentiality to become a huge national issue and even a mighty electoral issue, like the Bofors bribery became an issue in the 1989 elections and brought down a mighty Congress Party government with almost 4/5 majority in Parliament. Here the role of the media is also important. This movement can facilitate India to lead the world in altering the existing Financial Architecture favoring the “plunderers”

19. The Media has a special role in creating awareness about the evil phenomenon, and arouse the public opinion against it. This will also force the political parties and the Government to act. In a democracy the political systems reacts more to pressure than act on its own

especially when it concerns deep-rooted maladies like the illicit monies abroad.

20. The intellectuals and well-meaning citizens, including former judges of Supreme Court and high courts and also members of the bar besides academics and professionals of various hues also have a critical role to play in shaping the opinion of the people, political parties, and governments and also to appeal to the global institutions and diverse governments of the world. In the case of Tunisia, ahead of the Tunisian government it is the well-meaning citizens of Tunisia who have acted to compel the Swiss government to act against the illicit monies stashed by the Tunisian rulers.

21. The middle class which was in the forefront of the struggle for freedom and which was in the struggle against corruption and fought for freedom against emergency in the 1970s and against Corruption in the 1980s has retreated from the public domain and into seeking comfort in their private lives and careers. This is precisely how the dishonest political parties and leaders want them to be engaged in. The middle class will have to come out in the open and demand action. If this happens then it will percolate down to the masses.

22. The spiritual leaders should also take a clear position as the evil capital flight from India affects our whole nation, its civilization and also its future. They must also come out openly and demand that the

political system should act and further exert pressure on the Government for action along the lines mentioned here.

23. India as a major emerging power should play an important role in enunciating New Global financial Architecture altering the architecture evolved in the twentieth century by Anglo-Saxon laws which facilitated development of these secretive jurisdictions. We need to evolve a new architecture suiting Asian value systems for the twenty first century based on transparency and integrity. Since the economic power is shifting to Asia we need new financial architecture for the coming decades. As indicated above we should stress on Geographical disclosure of sources and uses of Funds by Global banks and based on that “automatic information sharing” should be done by the recipient nations. In other words closing down of the secretive tax jurisdictions should be one of the objectives of India for a non-conflicting civilizational future. As a responsible member of G-20 and FATE, UNSC etc we should take the lead for all emerging markets.

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Many more things can be done, once the critical elements in different segments of the Indian discourse get committed to the agenda of bringing the illicit monies stashes away outside. This should and will become a national mission, which the political system cannot ignore once the trans-political sections of the society take the agenda into their hands.

XXV. Conclusion

Our Republic is under siege. Our polity is in shambles. We are at cross roads. Wiki leaks mocks at us in terms of revealing the names of our current icons as men who plundered. It is possible that foreign spy agencies know the names. Our leadership may be under blackmail and our policy formulations may have been compromised. We are in an extraordinary time. This ancient nation rebuilt by Mahatma Gandhi; Sardar Patel; Pundit Nehru; Babasaheb Ambedkar; Netaji Bose; Rajaji and many other eminent men who towered over our mother earth is in crisis because of these plunderers. As a nation, we owe it to the deprived and ordinary people of India and its future citizens to perform the sacred duty of unearthing these vast national resources hidden abroad which has the potential to transform the country into a developed nation much sooner than we can otherwise do. India is not only a country, but, also a great civilization, which has from time immemorial propagated non conflicting ideas and practiced non-conflicting methods. As a rising nation, we need to set proper standards for ourselves so that we become the alternative model for the world of conflict in search of peace and harmony. Being viewed as a corrupt and dishonest nation, and being seen as a nation of buccaneers who bolt away with hundreds and thousands of billions of Dollars when a vast section of the ordinary people of this country are in penury, will hardly give us the moral and ethical authority to be of example to the world. The time is propitious. The entire world opinion is converging against tax havens, secret banking and evil monies. The issue spills beyond economic stability; it has the potential to dynamite the economic system itself; it has potential to destroy the global security itself as the terrorists are funded by secret and not open financial system. The Task Force is of the view that the information and the ideas contained in this and in its earlier report must be taken to the people of India at various levels. The Task Force hopes that

the BJP will dedicate itself to the cause and associate as many critical forces, in and outside politics, in the sacred agenda.

Dated 31st January 2011

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